



AGENDA

Greater Asheville Regional Airport Authority Regular Meeting
Friday, November 18, 2022, 8:30 a.m.
Conference Room at Administrative Offices

NOTICE TO THE PUBLIC: The Airport Authority welcomes comments from the public on any agenda item. Comments are received prior to the Board's discussion of the agenda item. Comments are limited to five minutes. If you wish to comment on an agenda item, please deliver a request card (available in the meeting room) to the Clerk to the Board prior to the agenda item being called by the Chair.

- I. CALL TO ORDER
- II. SERVICE AWARD PRESENTATION:
 - A. David Nantz – 25 Years
- III. PRESENTATIONS:
 - A. Hotel Design – Zeke Cooper ([document](#))
- IV. FINANCIAL REPORT ([document](#))
- V. CONSENT ITEMS:
 - A. Approval of the Greater Asheville Regional Airport Authority October 7, 2022 Regular Meeting Minutes ([document](#))
 - B. Approval of the Greater Asheville Regional Airport Authority November 3, 2022 Special Meeting Minutes ([document](#))
 - C. Approval of the Greater Asheville Regional Airport Authority November 3, 2022 Closed Session Minutes
- VI. OLD BUSINESS: None



VII. NEW BUSINESS:

- A. Approval of Construction Contract for the Air Traffic Control Tower and Associated Facilities Project ([document](#))
- B. Adoption of the Asheville Regional Airport Five-Year Capital Improvement Plan (CIP) for FY2024-2028 ([document](#))
- C. Approval of Bond Post-Issuance Compliance Policies ([document](#))
- D. Approval of Updates to Purchasing/Procurement Policy ([document](#))

VIII. PRESIDENT'S REPORT:

- A. Update on ACI World Board Meeting

IX. INFORMATION SECTION:

(Staff presentations will not be made on these items. Staff will be available to address questions from the Board.)

- A. September 2022 Traffic Report ([document](#))
- B. September 2022 Monthly Financial Report ([document](#))
- C. November 2022 Development/Project Status Report ([document](#))
- D. Potential Board Items for the Next Regular Meeting:
 - Presentation on Strategic Plan
 - Presentation of Audited Financial Report for FY21/22

X. PUBLIC AND TENANTS' COMMENTS

XI. CALL FOR NEXT MEETING: December 9, 2022

XII. CLOSED SESSION:

Pursuant to Subsections 143-318.11 (a) (3) and (4) of the General Statutes of North Carolina to Consult with Legal Counsel in Order to Preserve the Attorney-Client Privilege and to Discuss Matters Relating to the Location and/or Expansion of Industries or Other Businesses in the Area Served by the Authority, Including Agreement on a Tentative List of Economic Development Incentives that may be Offered by the Authority in Negotiations.



XIII. AUTHORITY MEMBER REPORTS:

- A. Key Strategic Elements ([document](#))

XIV. ADJOURNMENT

This agenda of the Greater Asheville Regional Airport Authority is provided as a matter of convenience to the public. It is not the official agenda. Although every effort is made to provide complete and accurate information in this agenda, the Greater Asheville Regional Airport Authority does not warrant or guarantee its accuracy or completeness for any purpose. The agenda is subject to change before and/or during the Board meeting.



DreamCatcher™ Hotels

Hotel Development *and Ownership* Redefined



Overview

Introducing DreamCatcher Hotels

Over the last decade, DreamCatcher has successfully developed over 2,000 rooms for owners through our turnkey development solution. These properties range from small boutique hotels to large high-rise convention hotels. We're experts in developing hotels that fit our clients needs, brands and locale. We've saved millions, all while creating beautiful properties that are grounded in providing an amazing guest experience and giving the owner a competitive advantage within their market.



Our Beliefs

We all desire affordable luxury, and we know travelers crave it. Our franchise model is built to achieve it. We want our guests to feel caught up in the delight of an elevated experience.

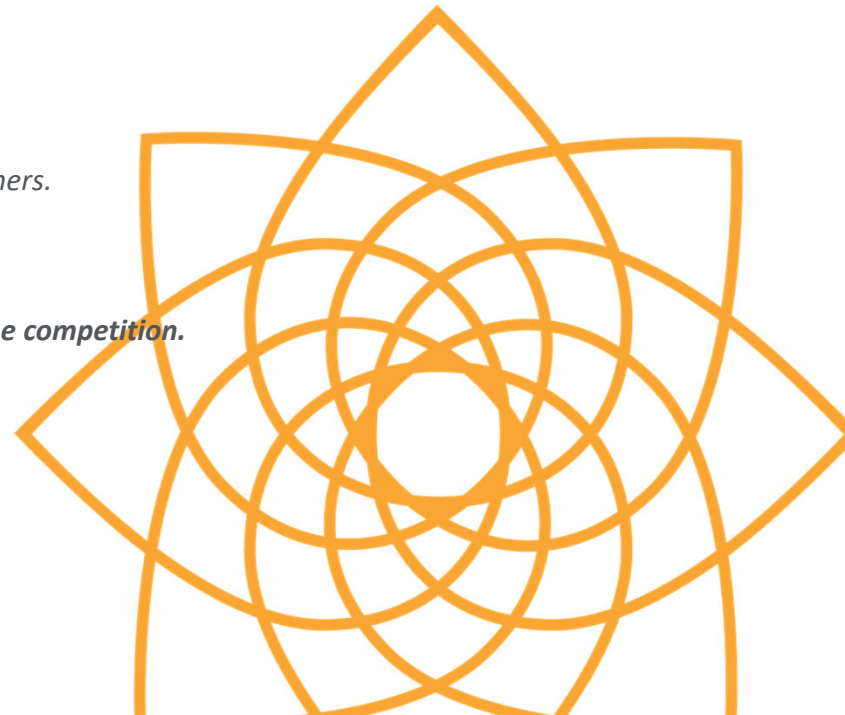
We believe in...

...delivering the highest perceived value to our guests.

...providing the lowest development cost per key to our owners.

...consistently challenging the norms of the industry.

...providing owners ADR's and Occupancy's that exceed the competition.





DreamCatcher Hotels
Featured Projects

DreamCatcher Hotels Projects

Name:
The Cherokee at Harrah's Cherokee
Cherokee, North Carolina

Client:
Eastern Band of Cherokee Indians

Total Investment:
\$332 Million Dollar Development

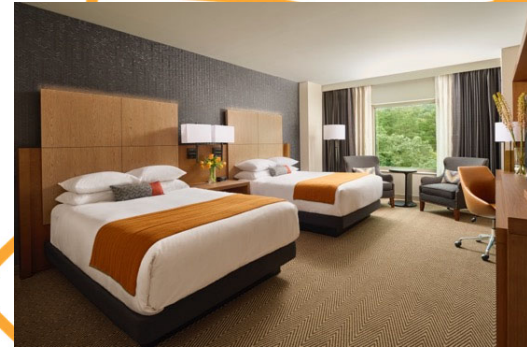
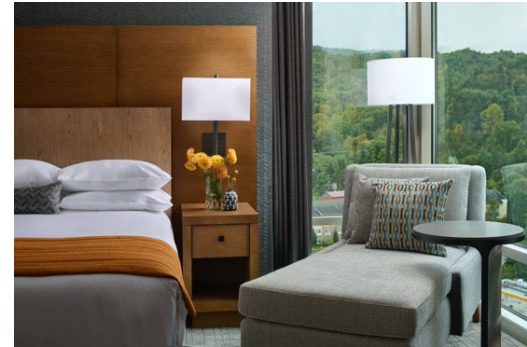
Details:

- 725 AAA Rated Four Diamond Hotel
- 100,000 Sq. Ft. Convention Center
- 2,600 Space Parking Garage
- Guy Fieri Restaurant & Starbucks

Completed:
October 2021



THE CHEROKEE



DreamCatcher Hotels Projects



DreamCatcher Hotels Projects

Name:

The Guest House at Graceland
Memphis, Tennessee

Client:

Elvis Presley Enterprises

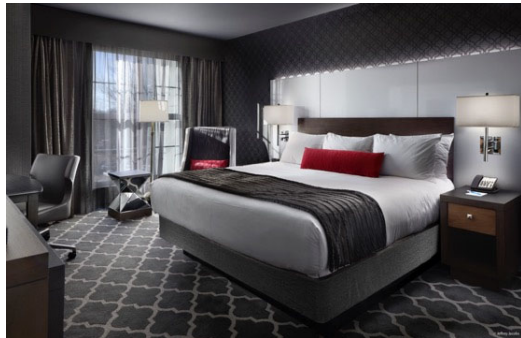
Details:

- 450 Rooms AAA Rated Four Diamond Hotel
- Theater & Meeting Space
- Two Full Service Restaurants
- Lobby Bar & VIP Lounge

Completed: Opened 2016

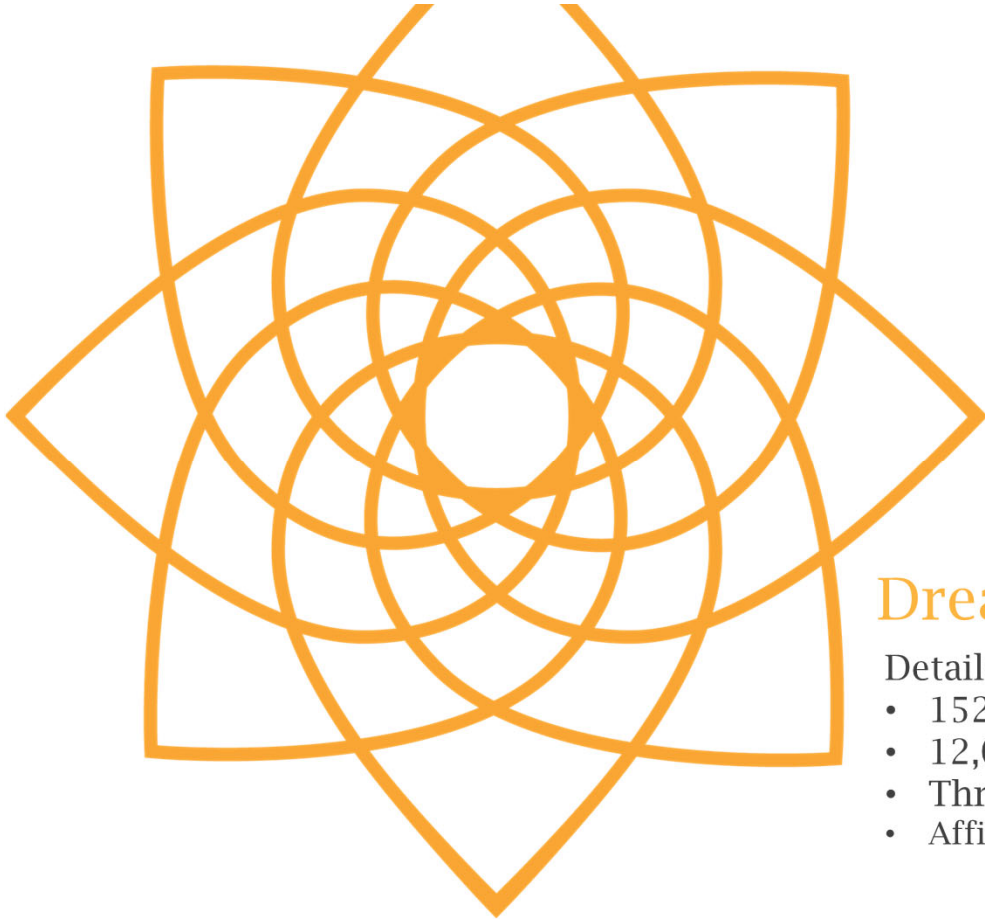


Guest House at Graceland



DreamCatcher Hotels Projects





DreamCatcher - Asheville

Details:

- 152 Room, Upscale Full-Service Hotel
- 12,000 Sq. Ft. of Meeting/Conference Space
- Three Meal Restaurant
- Affiliation with a Multi-National Hotel Company

SITE &
BUILDING
PLANS



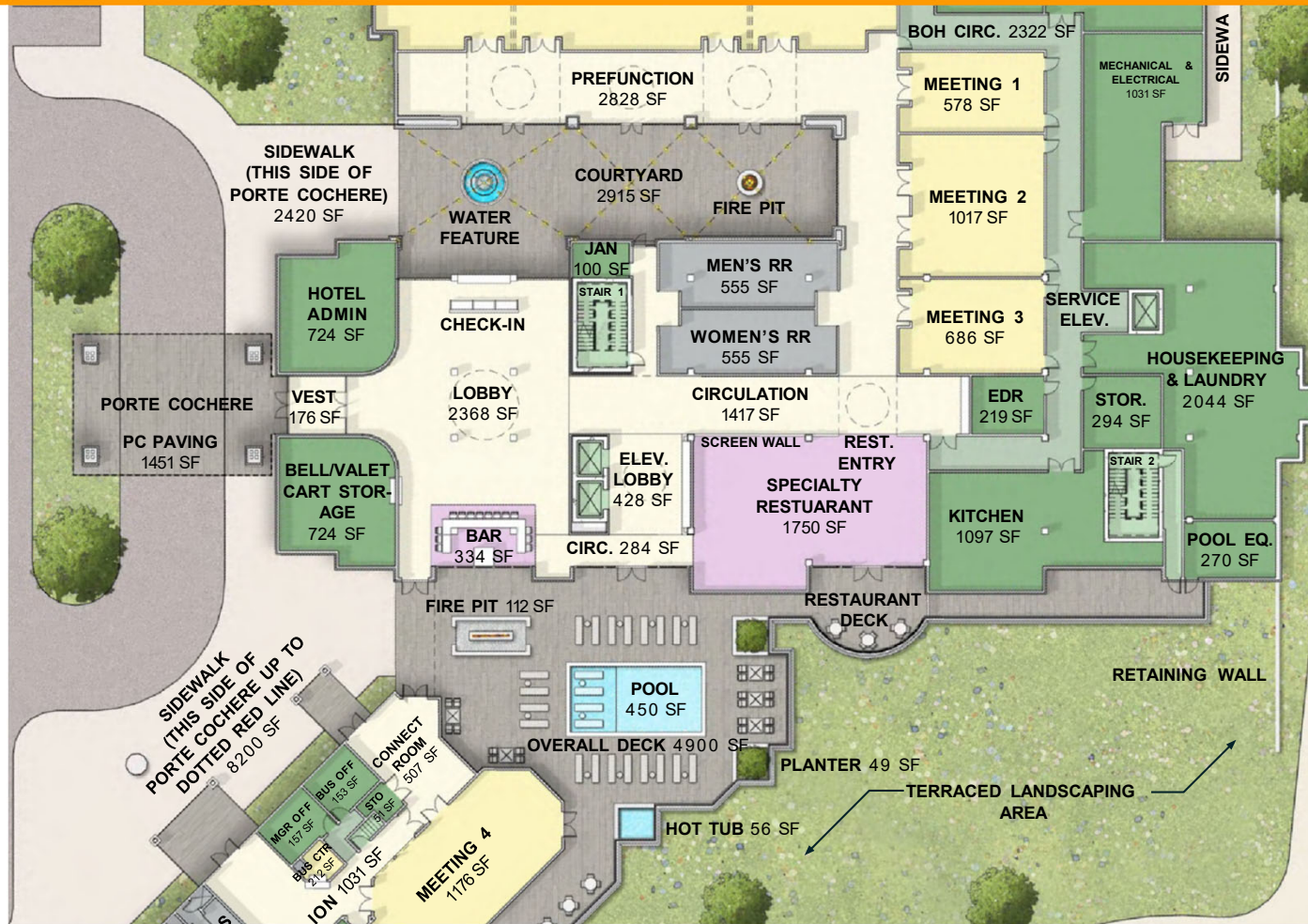
SITE PLAN



ENLARGED SITE PLAN



FIRST FLOOR – PLAN VIEW



FLOOR 2 – PLAN VIEW



ROOM TYPE DISTRIBUTION

KING ROOMS	62
KING EXTENDED	11
KING PARLOR	10
DOUBLE QUEEN ROOMS	56
2 BAY HOSPITALITY SUITES	2
1.5 BAY SUITES	7
2 BAY SUITES	3
3 BAY SUITES	1

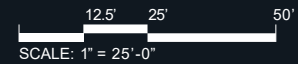
TOTAL KEYS 152

GROSS SQUARE FOOTAGE PER LEVEL

LVL 01	34,247
LVL 02	11,400
LVL 03	11,400
LVL 04	11,400
LVL 05	11,400
LVL 06	11,400
LVL 07	11,400
LVL 08	11,400

TOTAL SF 114,047

*INCLUDES ELEVATOR & STAIR CORE FOOTPRINTS



FLOORS 3-5 – PLAN VIEW



ROOM TYPE DISTRIBUTION

KING ROOMS	62
KING EXTENDED	11
KING PARLOR	10
DOUBLE QUEEN ROOMS	56
2 BAY HOSPITALITY SUITES	2
1.5 BAY SUITES	7
2 BAY SUITES	3
3 BAY SUITES	1

TOTAL KEYS 152

GROSS SQUARE FOOTAGE PER LEVEL

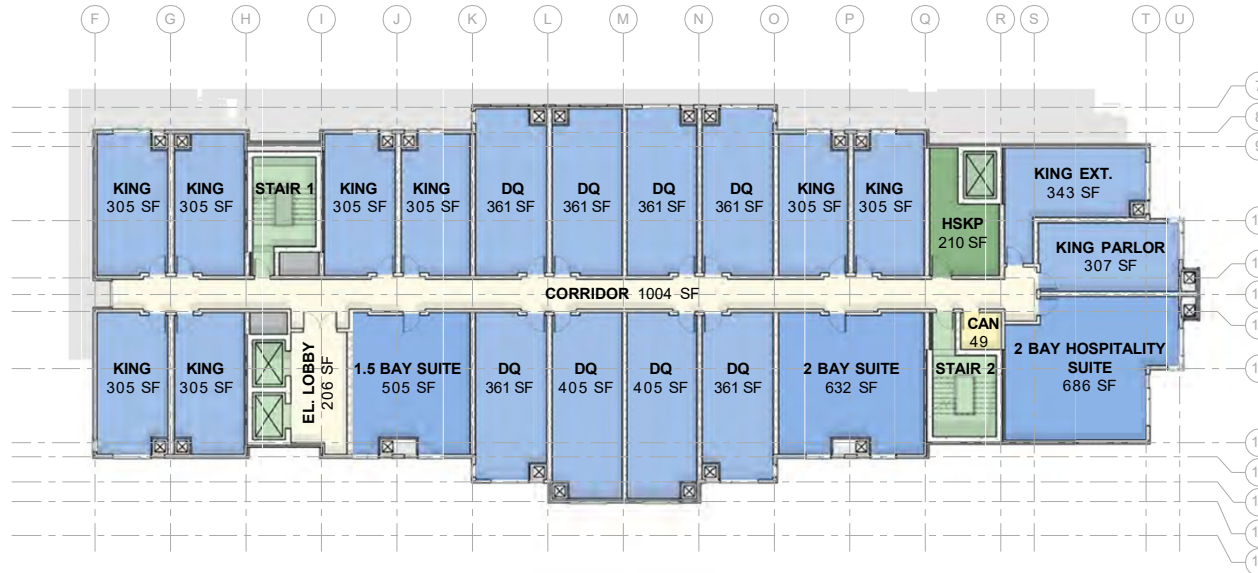
LVL 01	34,247
LVL 02	11,400
LVL 03	11,400
LVL 04	11,400
LVL 05	11,400
LVL 06	11,400
LVL 07	11,400
LVL 08	11,400

TOTAL SF 114,047

*INCLUDES ELEVATOR & STAIR CORE FOOTPRINTS



FLOORS 6-7- PLAN VIEW



ROOM TYPE DISTRIBUTION

KING ROOMS	62
KING EXTENDED	11
KING PARLOR	10
DOUBLE QUEEN ROOMS	56
2 BAY HOSPITALITY SUITES	2
1.5 BAY SUITES	7
2 BAY SUITES	3
3 BAY SUITES	1

TOTAL KEYS 152

GROSS SQUARE FOOTAGE PER LEVEL

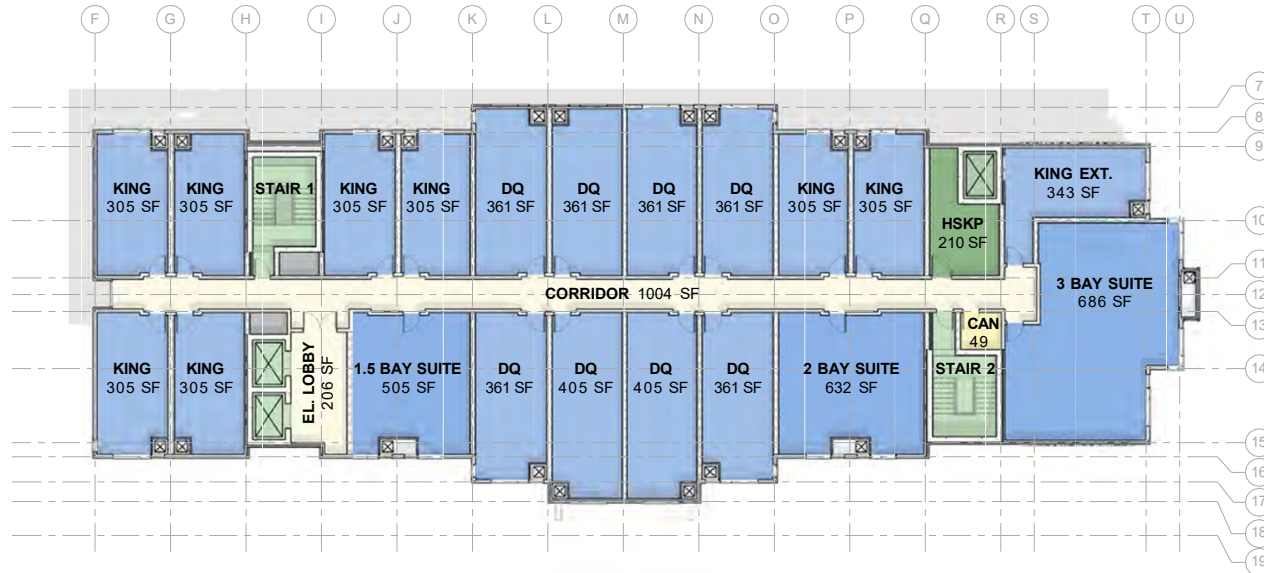
LVL 01	34,247
LVL 02	11,400
LVL 03	11,400
LVL 04	11,400
LVL 05	11,400
LVL 06	11,400
LVL 07	11,400
LVL 08	11,400

TOTAL SF 114,047

*INCLUDES ELEVATOR & STAIR CORE FOOTPRINTS



FLOOR 8 – PLAN VIEW



ROOM TYPE DISTRIBUTION

KING ROOMS	62
KING EXTENDED	11
KING PARLOR	10
DOUBLE QUEEN ROOMS	56
2 BAY HOSPITALITY SUITES	2
1.5 BAY SUITES	7
2 BAY SUITES	3
3 BAY SUITES	1

TOTAL KEYS 152

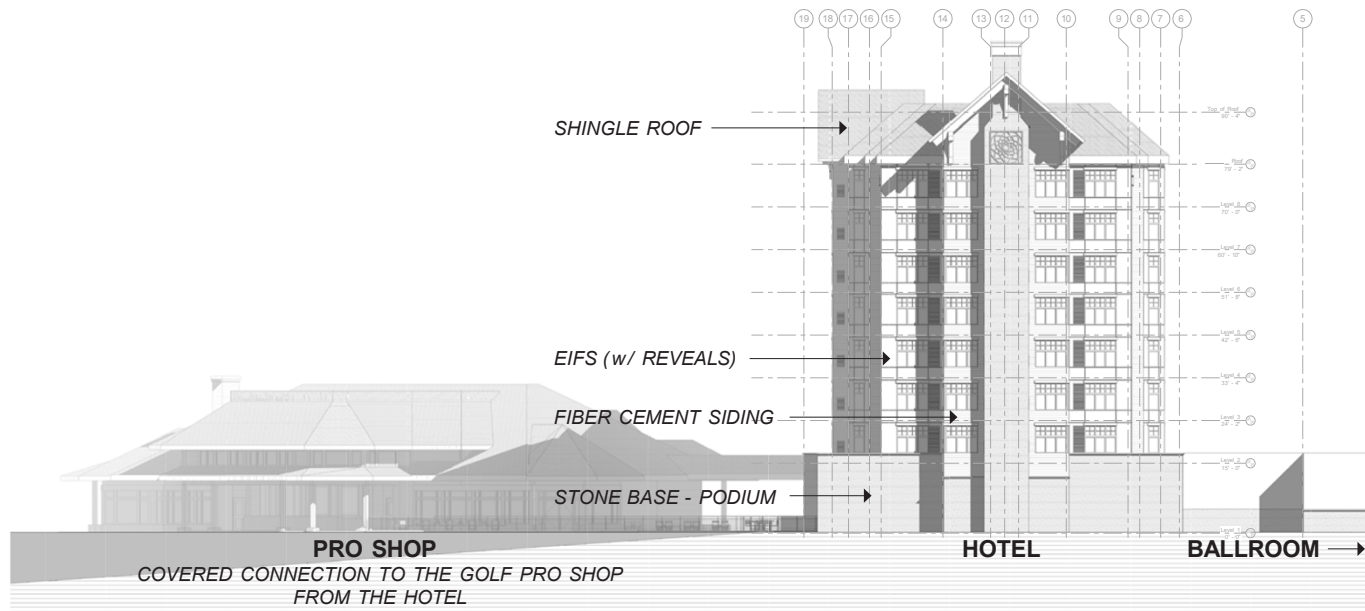
GROSS SQUARE FOOTAGE PER LEVEL

LVL 01	34,247
LVL 02	11,400
LVL 03	11,400
LVL 04	11,400
LVL 05	11,400
LVL 06	11,400
LVL 07	11,400
LVL 08	11,400

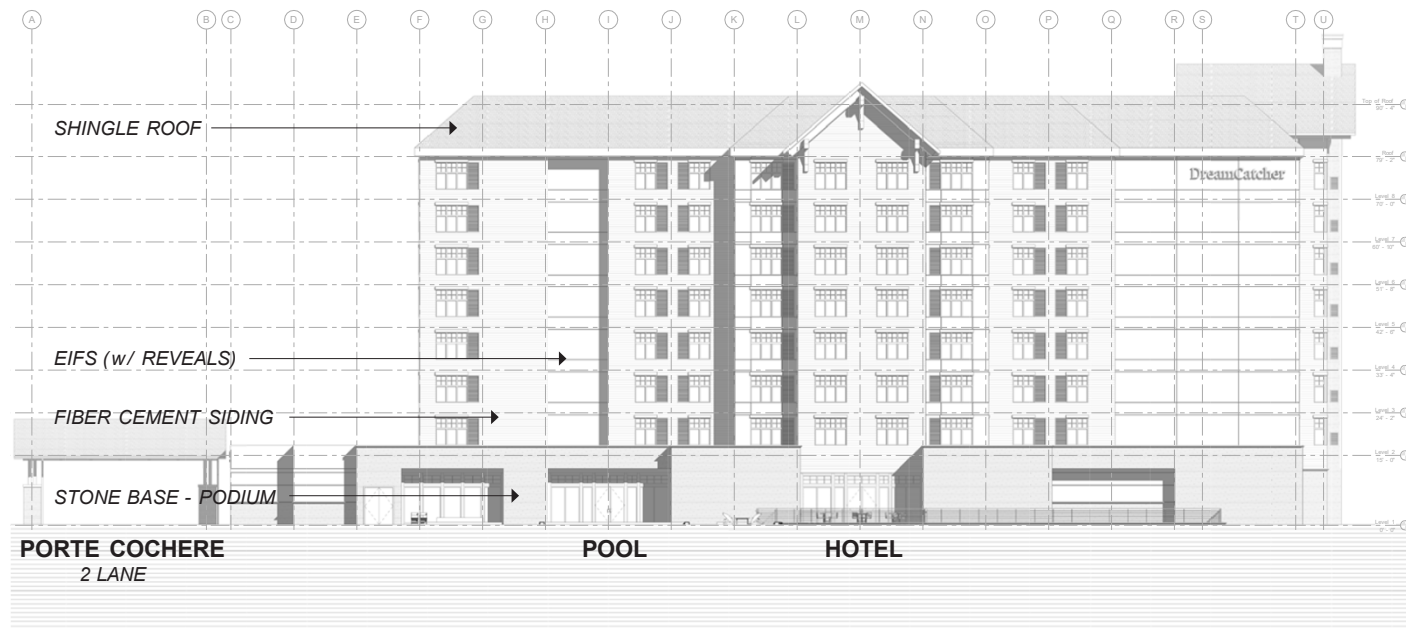
TOTAL SF 114,047

**INCLUDES ELEVATOR & STAIR CORE FOOTPRINTS*

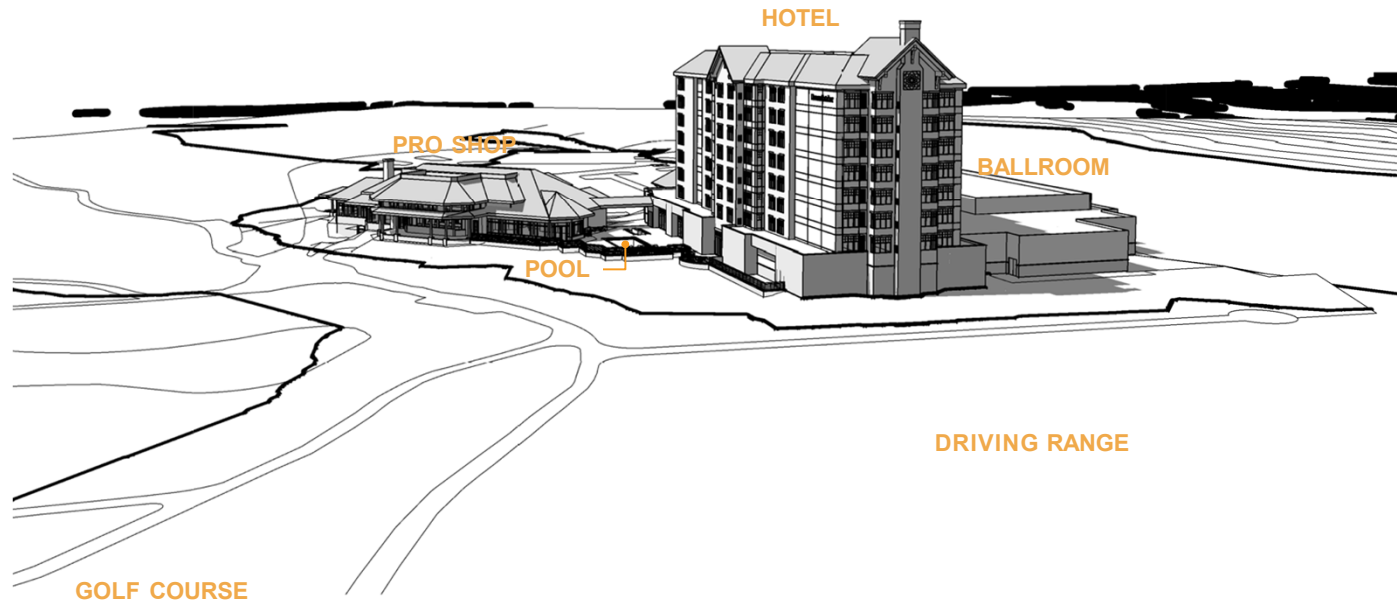
EXTERIOR ELEVATION - EAST



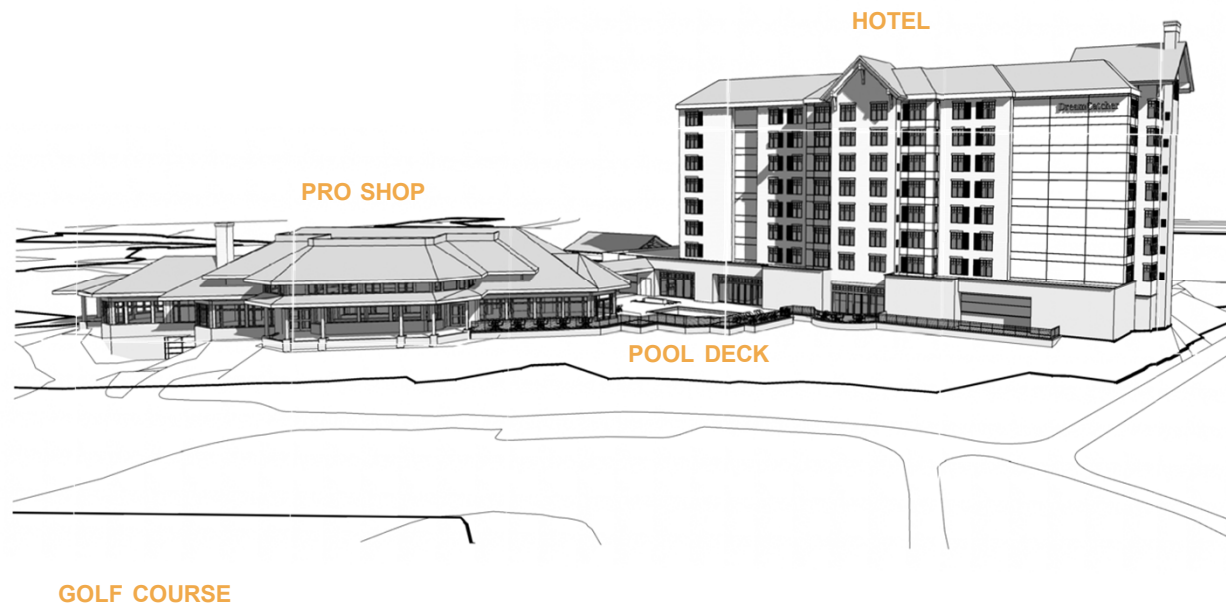
EXTERIOR ELEVATION - SOUTH



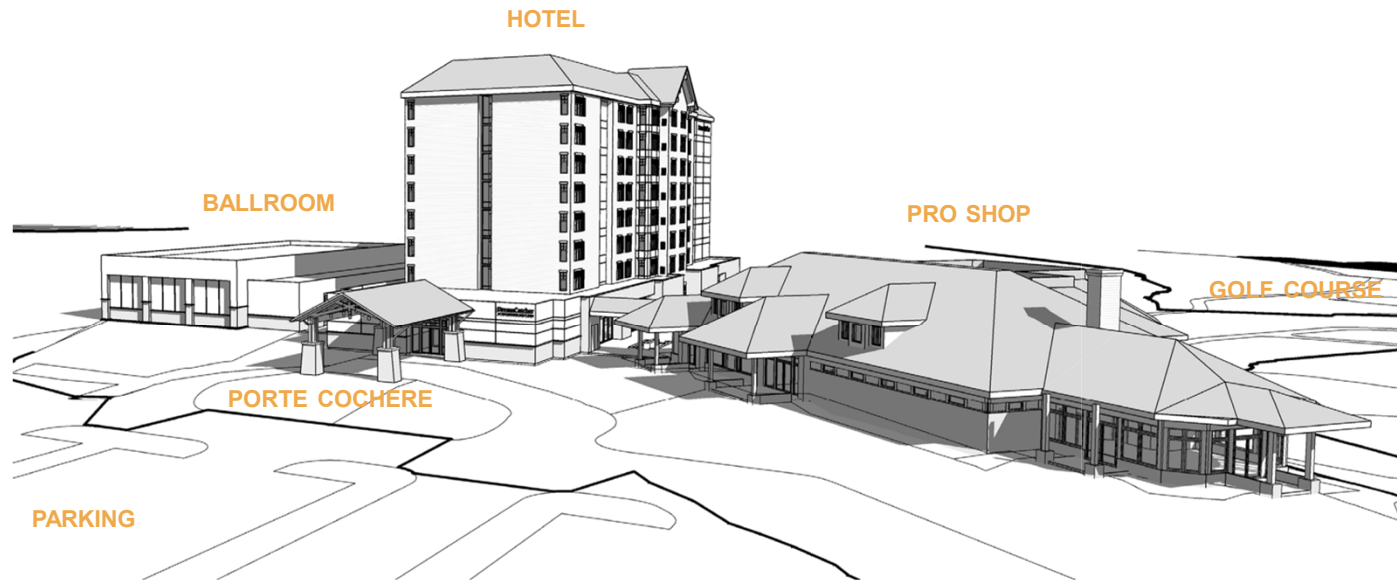
EXTERIOR PERSPECTIVE - MASSING



EXTERIOR PERSPECTIVE - MASSING



EXTERIOR PERSPECTIVE - MASSING



EXTERIOR PERSPECTIVE



**Asheville Regional Airport
Executive Summary
September-22**

AIRPORT ACTIVITY

	Month	Variance to Prior Year	Calendar Year to Date	Variance to Prior Year
Passenger Enplanements	78,972	21.3%	668,326	33.3%
Aircraft Operations				
* Commercial	2,598	4.3%	19,740	(1.0%)
Scheduled Flights	905	(1.9%)		
Flight Cancellations	49			
Seats	92,454	8.0%	805,483	10.8%
Load Factor	85.4%	12.3%	83.0%	20.3%
General Aviation	4,303	(0.9%)	36,285	7.4%
Military	343	2.1%	3,887	30.0%

* Current year commercial operations include charter flight data

FINANCIAL RESULTS

	Month	Variance to Budget	Fiscal Year to Date	Variance to Budget
Operating Revenues	\$ 1,981,276	17.1%	\$ 6,303,309	24.2%
Operating Expenses	1,352,214	(8.5%)	2,973,553	(22.7%)
Net Operating Revenues before Depreciation	<u>\$ 629,062</u>		<u>\$ 3,329,756</u>	
Net Non-Operating Revenues	<u>\$ 1,936,914</u> *		<u>\$ 1,724,109</u>	

* Includes Series 2022A Bond Interest Expense \$983,723 to be paid from the Bond Capitalized Interest account semi-annually and ARPA grant funding \$1,919,514

Grants:				
FAA AIP Grants	\$ 2,799,838		\$ 4,019,672	
NC Dept of Transportation Grants	-		-	
Total	<u>\$ 2,799,838</u>		<u>\$ 4,019,672</u>	

CASH

Restricted - PFC Revenue Account	\$ 14,222,138
Restricted - BNY Mellon (Debt Service Series 2016)	\$ 425,279
Restricted - Bond Series 2022A	\$ 195,861,424
Designated for O&M Reserve	6,970,340
Designated for Emergency Repair	650,000
Unrestricted, Undesignated	23,959,649
Total	<u>\$ 242,088,830</u>

RECEIVABLES PAST DUE

	Total	1-30 Days	31-60 Days	Over 60 Days
Advertising Customers	19,104	6,970	4,436	7,698
Allegiant	161,419	161,419	-	-
American	1,880	980	-	900
Avis	968	874	94	-
Delta	11,143	11,143	-	-
FAA	307	160	-	147
Jet Blue	2,317	2,317	-	-
Paradies	9,424	2,648	6,776	-
Sun Country	7,388	7,388	-	-
TSA	1,985	890	-	1,095
Miscellaneous	380	265	-	115
Total	<u>\$ 216,315</u>	<u>\$ 195,054</u>	<u>\$ 11,306</u>	<u>\$ 9,955</u>
% of Total Receivables	<u>26.71%</u>			

Note: Excludes balances paid subsequent to month-end.

REVENUE BONDS PAYABLE

	Original Amount	Current Balance
Parking Garage Revenue Bond, Series 2016A	\$ 15,750,000	\$ 13,645,000
Parking Garage Taxable Revenue Bond, Series 2016B	5,250,000	-
Terminal Revenue Bond, Series 2022A	185,000,000	185,000,000
	<u>\$ 206,000,000</u>	<u>\$ 198,645,000</u>

CAPITAL EXPENDITURES

Annual Budget	\$ 281,017,032
Year-to-Date Spending	\$ 6,967,119

**REGULAR MEETING
GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY
October 7, 2022**

The Greater Asheville Regional Airport Authority ("Authority") met on Friday, October 7, 2022 at 8:30 a.m. in the Conference Room at the Authority's Administrative Offices, Asheville Regional Airport ("Airport"), 61 Terminal Drive, Suite 1, Asheville, NC 28732.

MEMBERS PRESENT: Brad Galbraith, Chair; George H. Erwin, Jr., Vice-Chair; Carl H. Ricker, Jr.; Susan Russo Klein; and Robby Russell

MEMBERS ABSENT: Britt Lovin; Nathan Kennedy

STAFF AND LEGAL COUNSEL PRESENT: Cindy Rice, Authority Legal Counsel; Lew Bleiweis, President & CEO ("president"); Michael Reisman, Chief Operating Officer; Tina Kinsey, VP - Marketing, Public Relations and Air Service Development; Janet Burnette, Chief Financial Officer; John Coon, VP - Operations and Maintenance; Christina Madsen, VP – Business Development and Properties; Jared Merrill, VP – Planning; Samuel Sales, Chief of Public Safety; Angela Wagner, VP - Administration and Human Resources; and Ellen Heywood, Clerk to the Board

ALSO PRESENT: Amanda Sheridan, McFarland Johnson

CALL TO ORDER: The Chair called the meeting to order at 8:30 a.m.

PRESENTATIONS: None

FINANCIAL REPORT: A review of enplanements, aircraft operations, and general aviation activity for the month of August was provided by the president. Janet Burnette reported on the financial activity for the month of August. Mrs. Burnette noted that the Net Non-Operating Revenue was a negative number and explained that this was due to the bond interest that has to be recognized and when the budget was prepared last year, the Authority did not yet have the bond. This will continue to be a negative amount because of the bond interest, but will be included in next year's budget.

CONSENT ITEMS:

A. Approval of the Greater Asheville Regional Airport Authority August 12, 2022 Regular Meeting Minutes:

B. Approval of Amendment to the FY22/23 Budget for Capital Carry-Over:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2023:

Section 1. To amend the appropriations as follows:

EXPENDITURES:

	<u>Decrease</u>	<u>Increase</u>
Carry-over Capital Expenditures		\$16,447,210
Totals	<hr/> <hr/>	<hr/> <hr/> \$16,447,210

This will result in a net increase of \$16,447,210 in the appropriations. Revenues will be revised as follows:

REVENUES:

	<u>Decrease</u>	<u>Increase</u>
Federal Funds – AIP Funds		\$8,197,460
NC DOT Funds		400,431
Transfer from GARAA Cash		7,849,319
Totals	<hr/> <hr/>	<hr/> <hr/> \$16,447,210

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Greater Asheville Regional Airport Authority, and to the Budget Officer and to the Finance Officer for their direction.

Adopted this 7th day of October, 2022.

Brad Galbraith, Chair

Attested by:

Ellen Heywood, Clerk to the Board

Ms. Russo Klein moved to approve Consent Items A and B. Mr. Russell seconded the motion and it carried unanimously.

C. Approval of the Greater Asheville Regional Airport Authority August 12, 2022 Closed Session Minutes: The minutes for the August 12, 2022 Closed Session were distributed and reviewed. Ms. Russo Klein moved to approve the minutes for the August 12, 2022 Closed Session, and to seal and withhold the minutes for the August 12, 2022 Closed Session from public inspection so long as public inspection would frustrate the purpose or purposes thereof. Mr. Ricker seconded the motion and it carried unanimously.

OLD BUSINESS: None

NEW BUSINESS:

A. Approval of the Greater Asheville Regional Airport Authority Board Schedule for 2023: The president stated that the proposed schedule for 2023 Board meetings was included in the agenda package for the Board’s review, and requested approval if the Board was in agreement with the schedule.

Mr. Russell moved to approve the Greater Asheville Regional Airport Authority Board 2023 Schedule as presented by staff. Ms. Russo Klein seconded the motion and it carried unanimously.

B. Approval of Contract with Steer Davies and Gleave, Inc. for Strategic Plan Consulting Work: The president advised the Board that the current strategic plan was adopted by the Board over six years prior and that it was time for an update. Staff has interviewed three consulting firms to provide assistance with creating a new plan and has unanimously selected Steer Davies and Gleave, Inc. (“Steer”). Steer is imbedded in the aviation industry and their perspective of industry trends will be helpful in incorporating this information into the Authority’s strategic plan. The president stated that the cost for the services is a not to exceed amount of \$62,500.00 and that \$12,500.00 was in the budget to pay for part of the contract. The following budget amendment would be necessary to cover the remainder of the contract:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2023:

Section 1. To amend the appropriations as follows:

EXPENDITURES:

	<u>Decrease</u>	<u>Increase</u>
Executive Department	_____	\$50,000.00
Totals	_____	<u>\$50,000.00</u>

This will result in a net increase of \$50,000.00 in the appropriations. Revenues will be revised as follows:

REVENUES:

	<u>Decrease</u>	<u>Increase</u>
Transfer from GARAA Cash	_____	<u>\$50,000.00</u>
Totals	_____	<u><u>\$50,000.00</u></u>

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Greater Asheville Regional Airport Authority, and to the Budget Officer and to the Finance Officer for their direction.

Adopted this 7th day of October 2022.

Brad Galbraith, Chair

Attested by:

Ellen Heywood, Clerk to the Board

Ms. Russo Klein moved to approve the agreement with Steer Davies & Gleave, Inc. for the new strategic plan; to authorize the President & CEO to execute the necessary documents; and to amend the FY2022/2023 budget by adopting the budget ordinance presented by staff. Mr. Russell seconded the motion and it carried unanimously.

C. Approval of Grants Management Policy: Janet Burnette stated that the Authority regularly receives federal and state grant funding and that a formal policy to outline procedures and responsibilities for the application and management of grant funding is needed to ensure grant and audit requirements are followed. Mrs. Burnette explained that the policy outlines the steps currently taken by staff, but that it also places responsibility on the different departments.

Mr. Russel moved to approve the new policy for the Grants Management. Ms. Russo Klein seconded the motion and it carried unanimously.

D. Approval of Construction Contract with Nassiri Development, LLC for the Stormwater Improvements Project: Jared Merrill reported that the Board approved a contract with Avcon Engineers and Planners, Inc. in January to design mitigation measures for storm water drainage problems in several areas of the airport. Two of these areas have caused concern with the North Carolina Department of Environmental Quality ("NCDEQ"). Following completion of design work, the project was bid three times and a

single bid was received from Nassiri Development in the amount of \$1,080,000. The engineers' estimate for the project was \$930,000.00. After review and consideration, staff recommends moving forward with Phases 1, 2 and 5 of the project. The engineers' estimate for these three phases was \$650,000.00 and the bid amount from Nassiri Development for these phases was \$722,980.00. Mr. Merrill stated that airport funds would be used to cover the cost of this project and that the overall project budget available was \$595,000.00. The following budget amendment will be necessary to cover the additional cost:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2023:

Section 1. To amend the appropriations as follows:

EXPENDITURES:

	<u>Decrease</u>	<u>Increase</u>
Capital Improvements		\$200,278
Totals		\$200,278

This will result in a net increase of \$200,278.00 in the appropriations. Revenues will be revised as follows:

REVENUES:

	<u>Decrease</u>	<u>Increase</u>
Transfer from GARAA Cash		\$200,278
Totals		\$200,278

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Greater Asheville Regional Airport Authority, and to the Budget Officer and to the Finance Officer for their direction.

Adopted this 7th day of October 2022.

Brad Galbraith, Chair

Attested by:

Ellen Heywood, Clerk to the Board

The Board questioned whether phases 3 and 4 of the project would eventually be addressed. The president responded that other future projects may incorporate some of that work. The Board also asked if the work done on phases 1, 2 and 5 tackles the issues that were of concern to the NCDEQ. Mr. Merrill confirmed that work on these three phases would take care of those concerns.

Mr. Russell moved to approve the contract with Nassiri Development in the amount of \$795,278.00 (contract cost of \$722,980.00 plus a 10 percent allowance of \$72,298.00); authorize the President & CEO to execute the necessary documents; and to amend the FY2022/2023 Budget by adopting the budget ordinance amendment as presented by staff. Mr. Ricker seconded the motion and it carried unanimously.

E. Ratify Award of Contract with Patton Construction Group, Inc. for the Temporary North Parking Lot:

Jared Merrill reminded the Board that the airport continues to experience parking shortages during peak travel times. Staff recommends utilizing some of the north general aviation apron aircraft parking area as a shuttle lot for passenger parking. With assistance from Avcon, bid documents were created for this project and the scope of work included grading, minor storm drainage, a new gravel drive lane with concrete barriers, and striping the new vehicle parking spaces. Mr. Merrill advised the Board that the lowest responsible bid was received by Patton Construction Group in the amount of \$231,590.00. An additional \$44,732.00 will be spent separately for fencing, bringing the total project cost to \$276,313.00. This new shuttle lot would add 187 revenue-generating parking spaces. To ensure that the new lot was available for parking prior to the holidays, staff needed to move forward with the project immediately. Airport funds will be used to pay for the project and the following budget amendment will be necessary:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2023:

Section 1. To amend the appropriations as follows:

EXPENDITURES:

	<u>Decrease</u>	<u>Increase</u>
Capital Improvements		\$276,313
Totals	<hr/>	<hr/>
		\$276,313

This will result in a net increase of \$276,313.00 in the appropriations. Revenues will be revised as follows:

Mr. Russell moved to approve the Scope of Services No. 7 with Avcon Engineers and Planners, Inc. in the amount of \$344,496.00; to authorize the President & CEO to execute the necessary documents; and to amend the FY2022/2023 Budget by adopting the budget ordinance amendment as presented by staff. Ms. Russo Klein seconded the motion and it carried unanimously.

PRESIDENT'S REPORT: The president stated that he had a couple of additional items to address that were not included on the agenda.

A. Bond Schedule for Next Issuance: The president informed the Board that staff had anticipated going to the market this fall for the second series of bonds for the terminal expansion project. Since the terminal project has been moved by a couple of months, staff plans to bring the major phase of the project to the Board for approval in March. Also, the LGC has a process which the Authority will need to go through to receive approval to issue bonds. The LGC has changed their procedure and now requires receipt of a final audit for their 60-day review before the LGC will take the bond issuance to their board for approval. Since the Authority's FY22 financial audit is currently underway, staff cannot take the bond project to the LGC until after the audit has been accepted by the LGC. Staff anticipates bringing the bond order to the Authority Board for approval and then meeting with rating agencies in February. Staff anticipates LGC approval of the bond issuance at their March 7, 2023 meeting. Staff would then bring a construction agreement to the Authority Board for approval at the March 10, 2023 Board meeting. Bonds would then be issued in late March or early April. The president advised the Board that the airport has received \$15 million from the infrastructure bill for the air traffic control tower. Staff planned to reduce debt service for the next issuance of the bonds by whatever amount grant funding the Authority receives. If additional funding is not received for the terminal expansion project, staff's recommendation will be to continue with the remaining \$90 million for the next bond issuance.

B. Reimbursable Agreement with TSA: The president reported that a grant for just under \$20 million was received from TSA in September for the baggage handling system in the new terminal building.

C. Aviation Industry Conference Schedule: A list of aviation industry conferences was available at the Board Member seats. For purposes of transparency and also preparation of the budget, the president requested the Board review the schedule and mention any interest in attending a particular conference at the November or December Board meeting.

The Chair stated that the Business of Airports conference was of particular interest to him, but that he would defer to other Board Members that would like to attend.

D. Property Swap: The president stated that the closing took place earlier that week on the 3.1-acre airport property that was swapped with Minkles, LLC. for their 1-acre parcel in front of the Wingate Hotel. The 3.1-acre airport property was needed for an expansion of the Electrolux warehouse.

E. Runway 5k: The president reminded the Board that the airport's annual 5k would be held on Saturday, October 15th and encouraged members to attend if their schedules allowed.

INFORMATION SECTION: A question was raised about Delta's 49% growth in the month of August and if this was attributed to a new destination. Tina Kinsey responded that Delta added more seats in the market and that they also fly to three different destinations.

PUBLIC AND TENANTS COMMENTS: None

CALL FOR NEXT MEETING: The Chair stated that the next regular meeting of the Board will be held on November 18, 2022.

AUTHORITY MEMBER REPORTS: None

CLOSED SESSION: None

ADJOURNMENT: Mr. Russell moved to adjourn the meeting at 9:36 a.m. Ms. Russo Klein seconded the motion and it carried unanimously.

Respectfully submitted,

Ellen Heywood
Clerk to the Board

Approved:

Brad Galbraith
Chair

**GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY
SPECIAL MEETING
November 3, 2022**

The Greater Asheville Regional Airport Authority ("Authority") met on Thursday, November 3, 2022 at 3:00 pm in the Conference Room at the Authority's Administrative Offices, Asheville Regional Airport ("Airport"), 61 Terminal Drive, Suite 1, Asheville, NC 28732.

MEMBERS PRESENT BY PHONE: Brad Galbraith, Chair; George H. Erwin, Jr., Vice-Chair; Britt Lovin; and Nathan Kennedy

MEMBERS PRESENT VIA VIDEO: Carl H. Ricker, Jr.

MEMBERS ABSENT: Susan Russo Klein and Robby Russell

STAFF PRESENT IN PERSON: Lew Bleiweis, President & CEO ("President"); Michael Reisman, COO ("COO"); Jared Merrill, VP – Planning; and Ellen Heywood, Clerk to the Board

ALSO PRESENT BY PHONE: Cindy Rice, Authority Legal Counsel

CALL TO ORDER: The Chair called the meeting to order at 3:06 pm.

CLOSED SESSION: At 3:08 p.m. Mr. Lovin moved to go into Closed Session Pursuant to Subsection 143-318.11(a)(3) of the General Statutes of North Carolina to Consult with Legal Counsel and to Preserve the Attorney-Client Privilege. Mr. Ricker seconded the motion and it carried unanimously.

Open Session resumed at approximately 4:13 pm.

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY NOVEMBER 3, 2022

SPECIAL MEETING CLOSED SESSION MINUTES: Mr. Lovin moved to seal the minutes for the Closed Session just completed and to withhold such Closed Session minutes from public inspection so long as public inspection would frustrate the purpose or purposes thereof. Mr. Ricker seconded the motion and it carried unanimously.

ADJOURNMENT: Mr. Kennedy moved to adjourn the meeting at 4:15 p.m. Mr. Lovin seconded the motion and it carried unanimously.

Respectfully submitted,

Ellen M. Heywood
Clerk to the Board

Approved:

Brad Galbraith, Chair



MEMORANDUM

TO: Members of the Airport Authority Board

FROM: Jared Merrill
Vice President – Planning

DATE: November 18, 2022

ITEM DESCRIPTION – New Business Item A

Approval of Construction Contract for the Air Traffic Control Tower and Associated Facilities Project

BACKGROUND

The existing air traffic control tower at AVL, which is integrated into the current terminal complex, is now one of the oldest operating FAA air traffic control towers in the U.S. It lacks the height to provide satisfactory line of sight for air traffic controllers, and is generally in poor condition, having exceeded its useful life. The tower and its associated facilities are also obstacles to the required redevelopment of the terminal complex and require relocation to new facilities that meet present day standards for the FAA. The design, construction, and commissioning of the new air traffic facilities must occur within a stringent time frame in-order-to allow for the phased construction of the terminal complex to remain on schedule. A design team for the project was previously selected by staff and approved by the Airport Board.

Due to the specialized and complex nature of air traffic facilities, the Authority elected to pre-qualify contractors for this project following GARAA and State requirements. A request for pre-qualifications for contractors was published on August 8, 2022 and the Authority received four statements of qualifications on the deadline of August 30, 2022. These were submitted by the Christman Company, Hensel Phelps Construction, Kokolakis Contracting, and the Walsh Group. Upon review and scoring, all four companies were pre-qualified to bid on the project.

On September 27, 2022, the bid documents were made available to all four contractors. Two bids were received on the bid date of November 4, 2022. Two of the pre-qualified contractors notified staff in writing that they intend not to submit bids. The low bid was

New Business – Item A



submitted by Kokolakis Contracting in the amount of \$44,344,052.00. This is approximately 11% higher than the latest engineer's estimate.

ISSUES

Given the current state of the construction industry and the supply chain issues being experienced nationwide, a number of bidder comments were received during the bid process expressing serious concerns about not being able to construct the project within the modified 18-month construction schedule specified in the bid documents. As a result, an addendum was issued that directed bidders to submit their bids based on the 18-month construction schedule, however, with the caveat that once a contract was awarded, if the contractor provided documented proof of its inability to complete the project on schedule due to supply chain issues, then the Authority would extend the contract days accordingly. Assuming this occurs, then additional costs for extended General Conditions incurred by the contractor will also be appropriate and will be based on the Schedule of Values submitted with the original bid.

ALTERNATIVES

The Board could elect to not move forward with this approval. However, this would delay the tower relocation and subsequently delay the terminal project.

FISCAL IMPACT

The total cost for construction of the new Air Traffic Control Tower and Associated Facilities is \$44,344,052.00. Presently, the authority's intent is to utilize FAA funds for a portion of this project. As part of the Bipartisan Infrastructure Law (BIL) the Airport is expected to be awarded \$15,000,000.00 in grant funding this year and will be submitting for additional funds for subsequent years.

RECOMMENDED ACTION

It is respectfully requested that the Airport Authority Board resolve to (1) approve a budget for the Air Traffic Control Tower and Associated Facilities in the amount of \$46,561,255.00 (\$44,344,052.00 bid + 5% allowance of \$2,217,203.00); (2) approve the contract with Kokolakis Contracting in the amount of \$46,561,255.00; and (3) authorize the President and CEO to execute the necessary documents.

Greater Asheville Regional Airport Authority - Bid Tabulation

Project Name: **Airport Traffic Control Tower (ATCT) and Terminal Radar Approach Control (TRACON) Facility**

Date/Time: **November 4, 2022 at 2:00PM EST**

	Company Name & Address	Acknowledgement of Addendum(s)	Bid Bond Provided (Y/N)	Base Bid	Bid Alt 1	DBE Goal
1	Kokolakis Contracting 202 E. Center Street Tarpon Springs, FL 34689	Yes	Yes	\$44,344,052.00	(\$500,000.00)	12.1%
2	Archer Western Contractors LLC 929 West Adams Street Chicago, IL 60607	Yes	Yes	\$52,675,000.00	(\$675,000.00)	16.8%
3	Hensel Phelps 1600 Division Street, Ste 200 Nashville, TN 37203	None	None	0	0	0
4	Christman Company 408 S. Elm Street Greensboro, NC 27358	None	None	0	0	0
5						

The bid summary is certified to be true and correct to the best of my knowledge.



 Jared Merrill, VP-Planning
 Greater Asheville Regional Airport Authority

Date: 11/14/2022



AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Greater Asheville Regional Airport Authority
61 Terminal Drive
Suite 1
Fletcher, North Carolina 28732

and the Contractor:
(Name, legal status, address and other information)

J. Kokolakis Contracting, Incorporated
202 E. Center Street
Tarpon Springs, FL 34689

for the following Project:
(Name, location and detailed description)

New Airport Traffic Control Tower (ATCT) and Base Building Facility

The Architect:
(Name, legal status, address and other information)

Pond & Company, Incorporated
3500 Parkway Lane
Suite 600
Peachtree Corners, Georgia 30092

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101@–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201@–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Not later than 18 Months (487) calendar days from the date of commencement of the Work.

By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Structures shall be dried in and safe for occupancy by FAA for equipment installation.	2 months prior to substantial completion

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be (\$), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
------	-------

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price
N/A	

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
See Attachment		

§ 4.5 Liquidated damages, if any: (Insert terms and conditions for liquidated damages, if any.)

\$2,000.00 per calendar day.

§ 4.6 Other: (Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

N/A

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

N/A

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than (30) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

Init.

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

The Owner shall retain 5% retainage per periodic payment owed to the Contractor. Once the Project is 50% complete, the Owner, with written consent of the surety, shall not retain any further retainage from periodic payments due the Contractor if the Contractor continues to perform satisfactorily and any nonconforming work identified in writing prior to that time by the Architect, Engineer, or Owner has been corrected by the Contractor and accepted by the Architect, Engineer, or Owner. If the Owner determines the Contractor's performance is unsatisfactory, the owner may reinstate retainage for each subsequent periodic payment application as authorized up to the maximum amount of 5%. The Project shall be deemed 50% complete when the Contractor's gross Project invoices, excluding the value of materials stored off-site, equal or exceed 50% of the Contract Sum, except the value of materials stored on-site shall not exceed 20% of the Contractor's gross Project invoices for the purpose of determining whether the Project is 50% complete.

Full payment, less authorized deductions, shall also be made for those trades that have reached one hundred percent (100%) completion of their contract by or before the project is 50% complete if the Contractor has performed satisfactorily. However, payment to the early finishing trades is contingent upon the Owner's receipt of an approval or certification from the Architect or Engineer that the work performed by the subcontractor is acceptable and in accordance with the Contract Documents. At that time, the Owner shall reduce the retainage for such trades to 0.5% of the contract. Payments under this subsection shall be made no later than 60 days following receipt of the subcontractor's request or immediately upon receipt of the surety's consent, whichever occurs later. Early finishing trades under this subsection shall include structural steel, piling, caisson, and demolition. The early finishing trades for which line-item release of retained funds is required shall not be construed to prevent an Owner or an Owner's representative from identifying any other trades not listed in this subsection that are also allowed line-item release of retained funds.

Notwithstanding the foregoing, following 50% completion of the Project, the Owner is authorized to withhold additional retainage from a subsequent periodic payment, not to exceed 5% in order to allow the owner to retain 2.5% total retainage through the completion of the Project. If the Owner elects to withhold additional retainage, the Contractor may also withhold additional retainage from the subcontractors.

Nothing herein shall operate to prevent the Owner from complying with the terms of any federal contract or grant when the requirements of the federal contract or grant conflict with the foregoing.

Further, nothing in this section shall prevent the Owner from withholding payment to the Contractor in addition to the amounts authorized by this section for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the Owner or reasonable evidence that a third-party claim will be filed.

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

0 %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

Init.

None

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:
(Name, address, email address, and other information)

Jared Merrill
Vice President- Planning
jmerrill@flyavl.com
(828) 209-5113 (Work)
(828) 779-0088 (Mobile)

§ 8.3 The Contractor’s representative:
(Name, address, email address, and other information)

Roderick C. Voigt
Executive Vice President
rvoigt@jkkokolakis.com
(727) 942-2211 (Work)

§ 8.4 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days’ prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

8.7.1 E-VERIFY: Pursuant to N.C.G.S 147-33.95(g), the Owner shall not enter into a contract unless the Contractor and each of its sub-contractors comply with the E-Verify requirements of N.C.G. S. Chapter 64, Article 2.

8.7.2 IRAN DIVESTMENT CERTIFICATION: Contractor certifies that it or its subcontractors are not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.60.

Init.

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User Notes:

(1096365641)

8.7.3 ISRAEL BOYCOTT CONTRACTING PROHIBITION CERTIFICATION: Contractor certifies that it or its subcontractors are not listed on the Final Divestment and No Contact List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.81.

8.7.4 If any term, covenant, or condition of the Contract Documents, or the application thereof to any persons or circumstances, is deemed to any extent to be invalid or unenforceable, the remainder of the Contract Documents or the application of the term, covenant, or condition to persons and circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant, and condition of the Contract Documents shall be valid and enforceable to the fullest extent permitted by law.

8.7.5 Contractor represents and warrants that it holds a license, permit, or other special license to perform the Work contemplated by the Contract Documents, as required by law. Contractor shall keep and maintain all such licenses, permits, and special licenses in good standing and in full force and effect at all times while the Contractor is performing Work under this Agreement.

8.7.6 Time is of the essence with respect to this Agreement. Owner and Contractor acknowledge and agree that if Contractor fails to achieve Substantial Completion of any portion of the Work or of the entire Work within the time set forth in in Section 3.3, the Owner will suffer substantial damages that will be difficult to calculate, including public inconvenience, obstruction to air traffic, interference with the use of existing facilities, and increased administrative costs for Owner.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A132-2019, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

- EXHIBIT A – Bid Documents, Plans and Specifications and Addendums
- EXHIBIT B – Bid Submittal from Contractor (Bid Clarification – Supply Chain Disruptions Letter dtd 11/4/2022)
- EXHIBIT C - Mandatory FAA Contract Provisions

- .5 Drawings

Number	Title	Date
See EXHIBIT A	Bid Documents, Plans and Specifications and Addendums	

- .6 Specifications

Section	Title	Date	Pages
See EXHIBIT A	Bid Documents, Plans and Specifications and Addendums		

- .7 Addenda, if any:

Number	Date	Pages
Addendum 1	October 7, 2022	7
Addendum 2	October 12, 2022	48
Addendum 3	October 14, 2022	3

Init.

Addendum 4	October 19, 2022	2
Addendum 5	October 21, 2022	1
Addendum 6	November 1, 2022	2

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
-------	------	-------

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

 Lew Bleiweis President & CEO
(Printed name and title)

CONTRACTOR *(Signature)*

 Roderick C. Voigt Executive Vice President
(Printed name and title)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

 Chief Financial Officer

 Date

Init.



AIA[®] Document A132™ – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the day of in the year
(In words, indicate day, month, and year.)

for the following **PROJECT:**
(Name and location or address)

New Airport Traffic Control Tower (ATCT) and Base Building Facility
146 Westfeldt Road, Mills River, NC 28759

THE OWNER:
(Name, legal status, and address)

Greater Asheville Regional Airport Authority 61 Terminal Drive, Suite 1
Fletcher, NC 28732

THE CONTRACTOR:
(Name, legal status, and address)

TABLE OF ARTICLES

- A.1 GENERAL
- A.2 OWNER'S INSURANCE
- A.3 CONTRACTOR'S INSURANCE AND BONDS
- A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201-20179, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Contractor shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Owner's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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This document is intended to be used in conjunction with AIA Document A232™–2019, General Conditions of the Contract for Construction. Article 11 of A232™–2019 contains additional insurance provisions

§ A.2.3 Required Property Insurance

§ A.2.3.1 The Contractor shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Contractor's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit
----------------	-----------

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to false work and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's, Construction Manager's, and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit
----------	-----------

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Contractor shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Contractor shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing. It is the intent that partial occupancy before substantial completion shall occur in this project, and the Contractor shall take the necessary actions to ensure continuation of coverage needed.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

- § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner’s property, or the inability to conduct normal operations due to a covered cause of loss.

- § A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

- § A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

- § A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

- § A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

- § A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured’s business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

- § A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

[] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, and the Construction Manager and the Construction Manager's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in A201-2017 Article 11 of the General Conditions, unless a different duration is stated below:

1. Contractor shall maintain insurance as stated above or three (3) years, whichever is greater.

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than one million dollars (\$ 1,000,000.00) each occurrence, two million dollars (\$ 2,000,000.00) general aggregate, and two million dollars (\$ 2,000,000.00) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and

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.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than five million dollars (\$ 5,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

Combined Single Limit (CSL) for Bodily Injury (BI) and Property Damage (PD) and ten million dollars (\$10,000,000) CSL for BI and PD for all automobile operations in the airside area of an airport, per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage. (Onsite and Offsite)

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits (onsite and offsite).

§ A.3.2.6 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than five million dollars (\$ 5,000,000.00) per claim and five million dollars (\$ 5,000,000.00) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than five million dollars (\$ 5,000,000.00) per claim and five million dollars (\$ 5,000,000.00) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than five million dollars (\$ 5,000,000.00) per claim and five million dollars (\$ 5,000,000.00) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- § A.3.3.2.1 If there is only one Contractor performing the Work on the Project, property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
- (Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

§ A.3.3.2.2 **Railroad Protective Liability Insurance**, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for Work within fifty (50) feet of railroad property.

§ A.3.3.2.3 **Asbestos Abatement Liability Insurance**, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

§ A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

§ A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

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[] **§ A.3.3.2.6 Other Insurance**
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
----------	--------

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Payment Bond	Full Contract Amount
Performance Bond	Full Contract Amount

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

All Subcontractors are subject to the same insurance requirements as required of the Contractor/Construction Manager for Commercial General Liability, Automobile Liability and Workers Compensation coverages. Subcontractors performing Mechanical, Electrical, Plumbing, Roofing, and Structural services must also maintain Umbrella Excess insurance policies in the amount of not less than ten million dollars (\$10,000,000.00) per occurrence. For purposes of clarity, Subcontractors do not need to purchase or maintain Pollution Liability or Professional Liability insurance. Subcontractors not performing Mechanical, Electrical, Plumbing, Roofing and Structural services do not need to maintain Umbrella Excess Liability insurance policies in excess of one million dollars (\$1,000,000.00).



AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

New Airport Traffic Control Tower (ATCT) and Base Building Facility
146 Westfeldt Road, Mills River, North Carolina 28759

THE OWNER:

(Name, legal status and address)

Greater Asheville Regional Airport Authority
61 Terminal Drive, Suite 1, Fletcher, NC 28732

THE ARCHITECT:

(Name, legal status and address)

Pond & Company, Incorporated
3500 Parkway Lane, Suite 600, Peachtree Corners, Georgia 30092

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- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES

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For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.1.9 Inconsistencies in Contract Documents – In the event of any conflict, inconsistency or other discrepancy between any of the terms of the Contract Documents and the mandatory Federal contract provisions incorporated into the Contract Documents, the mandatory Federal contract provisions shall be given priority and control.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors of their respective Instruments of Service, including the Drawings and Specifications. Ownership of the Architects Instruments of Services that are produced for this Project shall be the property of the Owner in accordance with the terms of the contract between the Owner and Architect. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants. Contractor acknowledges that the Instruments of Service are considered security sensitive information and shall treat them as such and follow all applicable procedures in their use and handling.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information. The Contractor's right to disclose confidential information under this paragraph extends only to financial information referenced in Article 2.2, and shall not include any confidential information about the project, its features, systems, or other attributes that are part of any security system, practice, protocol, or any other information that is considered

"sensitive security information," knowledge of which is protected and/or limited to those with a need to know, under Federal regulations, requirements, and plans which are approved by Federal agencies with jurisdiction for the safety and security of the Airport or which is otherwise not considered to be public record under North Carolina law.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. This information shall only be provided by Owner if determined to be necessary in the sole discretion of the Owner.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15. The Contractor's right to cure within a 10 day period only applies to work or conditions that do not create an immediate negative impact on the Owners operation of airport facilities.. Negative impact on the Owners operation of the airport facilities includes, but is not limited to, the efficient and unobstructed processing of passengers to board and de-board (de-plane) aircraft, to park and service aircraft, to provide adequate office and public space for the operation of the Owner, its tenants and passengers utilizing the airport facility and all of their equipment and belongings, and the safe/or efficient use of the airport by aircraft in compliance with all applicable regulations and

local requirements. In such case, the Contractor shall correct such condition immediately as directed by the Owner and shall not be entitled to any payment or compensation for such immediate correction.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed

alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor acknowledges its understanding that work on this Project will take place within a public airport environment, access to which is governed by certain Federal, State and/or Local security and safety regulations and procedures. The Contractor and all of its Subcontractors shall not employ on the Project, nor permit to be present on the Project site, any employee who has not met, or is unable to meet and pass all of the criminal history background checks and investigations that are required under such Federal, State or Local requirements. Furthermore, the Owner reserves the right, in its sole discretion, to refuse to permit access privileges to the job site to any employee or worker who does not meet or pass the required criminal history background investigation, or, who has violated the Owners required security and safety regulations, procedures and/or protocols. Employees or workers who violate the Owners security and/or safety regulations, procedures or protocols may be immediately and permanently removed from the Project and prohibited from providing services on this Project in the Owners sole discretion. In such circumstance, the Contractor shall comply and immediately remove such employee or worker from the Project and shall not be entitled to any claim of expense or delay as a result of that person's removal from the Project. The Contractor, at all times, shall provide an adequate number of workers on the job site who have been trained and authorized to work inside the secure and restricted areas of the Project, and further trained and authorized to provide escort and oversight of other workers without such authorization to work in secure or restricted areas of the Project, as a condition of working on the Project. The Contractor shall not be entitled to additional compensation or any extension of the Contract Time as a result of Contractors or any Subcontractors employees being unable to work in such areas due to a lack of an adequate number of trained and authorized personnel with escort and oversight privileges for other employees without such privileges.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 During the course of the Project, if in the opinion of the Owner and/or Architect, the Contractor's Project Manager and/or Superintendent, become unfit to continue on the Project, or, the Owner and/or Architect feels that it's in the best interest of the Project that an individual needs to be removed and replaced, the Owner and/or Architect may direct the Contractor to remove such individual from the Project and Contractor shall promptly do so.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.1.1 In the event that Contractor ever presents a schedule that does not provide for substantial completion to be achieved by the Contract Time, the Contractor shall also present a recovery plan and schedule that will permit the Contractor to achieve substantial completion by the Contract Time. The Owner will determine if the recovery plan or schedule is acceptable. Receiving revised schedules at regularly scheduled meetings between the Owner, Architect and Contractor, or, in another format shall not be construed as acceptance by the Owner. Any revision to the approved construction schedule requires the Owners written approval.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The

Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. Contractor shall cooperate with other Contractors working nearby or overlapping into Contractor's worksite and coordinate efficient use of the site by all.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Contractor shall keep all waste receptacles covered at all times and shall not permit trash or debris to be carried onto the airfield by wind.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect, including but not limited to, Subcontractor's written agreement to comply with all mandatory Federal contract provisions. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

(Paragraph deleted)

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. The North Carolina Department of Transportation may also serve as a separate Contractor for certain work associated with this project.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Change Orders must be in a form designated by the Owner. Unless expressly stated in the Change Order, the Contractor waives all rights to claim additional time or money for Work performed pursuant to the Change Order.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and

profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed such that the critical path is impacted due to an act or neglect of the Owner, Architect, employees or agents of either, or of a Separate Contractor, then the Contractor may be entitled to an equitable adjustment in the Contract Time and/or Contract Sum.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 The parties recognize that the recent events concerning the COVID-19 pandemic are unprecedented, and that the Contract may not fully address the unusual circumstances created by various applicable governmental orders concerning the COVID-19 pandemic or the impacts that COVID-19 is having on economic conditions relevant to the Project, including labor, materials, equipment, safety, and other impacts. The Contract Sum and Contract Time do not include, and do not contemplate, cost impacts or schedule impacts associated with COVID-19 or any other virus, disease, epidemic, or pandemic (collectively, an "Epidemic") occurring after award of contract. If the Contractor's work is significantly impacted by COVID-19 or an Epidemic due to labor shortages or government shut downs, then the Contractor may be entitled to a reasonable adjustment of the Contract Time for all such impacts.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least five days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized preliminary draft of the Application for Payment with complete supporting data on the form

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prescribed by the Owner. Upon approval of the preliminary draft, the Contractor shall submit the Application for Payment to the Architect for final approval and prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount,

the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.5.5 The Owner shall not be deemed in default by reason of withholding payment, to the extent necessary, in the Owner's reasonable opinion to protect the Owner while any of the conditions described in 9.5.1.1 through 9.5.1.7 remain.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to

by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner and (7) the number of designated sets of Owner's manuals, operating instructions for all equipment, required training of Owner's employees on all equipment, final reports as required for calibration of equipment (HVAC balancing reports, etc), and final Certificate of Occupancy. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;

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- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 Contractor acknowledges that it will be working within proximity of buried, sealed liner system that contain an encapsulated coal ash by-product. Contractor, at all times, shall take necessary precautions to ensure that none of its work damages the liner system and, if damaged, shall be responsible for the cost of repair by a contractor selected in the sole discretion of the Owner. In the event of damage to the liner system, Contractor shall immediately stop all work in the vicinity of the damaged liner and report such damage to the Owner. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, and agents and employees of the Owner from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from damage to or breach of the encapsulated, sealed coal ash liner system, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described elsewhere in the Contract Documents.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

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ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss, to the extent covered by Builder's Risk insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, Separate Contractors described in Article 6, if any, and the subcontractors, and sub-subcontractors agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) did not pay the insurance premium directly or indirectly, and (3) whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the

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Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case

may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision

Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.3.5 The Owner shall not be obligated to mediate disputes, claims, questions or disagreements involving monetary claims of fifteen thousand dollars (\$15,000.00) or less, but may voluntarily agree to mediate such disputes, claims, questions or disagreements.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.



MEMORANDUM

TO: Members of the Airport Authority Board

FROM: Jared Merrill
Vice President – Planning

DATE: November 18, 2022

ITEM DESCRIPTION – New Business Item B

Adoption of the Asheville Regional Airport Five-Year Capital Improvement Plan (CIP) for FY 2024-2028

BACKGROUND

The Federal Aviation Administration (FAA) requires all airports to submit a Five-Year CIP to be eligible for federal project funding. The CIP is used to update the National Plan of Integrated Airport Systems (NPIAS) and allows the FAA to update the NPIAS program based upon available funding levels.

CIP priorities through FY 28 provide for the continuation of existing programs already underway or planned. This includes but is not limited to the Terminal Building Modernization Program, Air Traffic Control Tower project, New Parking Garage, various pavement rehabilitation programs and ARFF equipment replacement.

ISSUES

None.

ALTERNATIVES

None.

FISCAL IMPACT

The Five-Year CIP is considered a planning and administrative tool for Authority staff, the FAA, and the NCDOT Division of Aviation. Adopting the CIP does not approve any

New Business – Item B



contracts nor provide staff with any authorization to award design or construction projects. Staff will present individual CIP projects to the Authority Board in accordance with all applicable Authority policies.

RECOMMENDED ACTION

It is respectfully requested that the Airport Authority Board resolve to adopt the Asheville Regional Airport Five-Year Capital Improvement Plan.

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

Airport Capital Improvement Program - Fiscal Years 2024-2028		Authority Board - DRAFT									
Description					Pay-As-You-Go PFC		Other Local Funds				
	Total Cost	AIP Entitlements	AIP Discretionary	State Funds	Current Approval	Future Approvals	Airport Capital	Other	CFC	Total Funding	
Current Year											
FY 2023 (Oct 1, 2022 - Sept 30, 2023)											
Terminal Rehabilitation and Expansion (Phase IV - Construction)	\$ 86,200,000	\$ 3,783,712	\$ -	\$ 7,342,899	\$ -	\$ -	\$ -	\$ 75,073,389	\$ -	\$ 86,200,000	
Air Traffic Control Tower (ATCT) and Base Building Construction (All Phases)	\$ 55,000,000	\$ -	\$ 15,000,000	\$ -	\$ -	\$ -	\$ -	\$ 40,000,000	\$ -	\$ 55,000,000	
Rental Car Facility Repairs and Replacement (Phase II)	\$ 623,344	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 623,344	\$ 623,344	
South Remote Parking	\$ 8,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,000,000	\$ -	\$ -	\$ 8,000,000	
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subtotal FY 2023	\$ 149,823,344	\$ 3,783,712	\$ 15,000,000	\$ 7,342,899	\$ -	\$ -	\$ 8,000,000	\$ 115,073,389	\$ 623,344	\$ 149,823,344	
FY 2024 (Oct 1, 2023 - Sept 30, 2024)											
Terminal Rehabilitation & Expansion (Phase V)	\$ 170,000,000	\$ 2,703,712	\$ -	\$ 7,342,899	\$ -	\$ -	\$ -	\$ 159,953,389	\$ -	\$ 170,000,000	
ARFF Vehicle	\$ 1,200,000	\$ 1,080,000	\$ -	\$ -	\$ -	\$ -	\$ 120,000	\$ -	\$ -	\$ 1,200,000	
Northwest Development - Site Design and Utilities	\$ 2,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,000,000	\$ -	\$ -	\$ 2,000,000	
Lower Parking Lot Rehabilitation	\$ 4,500,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,500,000	\$ -	\$ -	\$ 4,500,000	
Rental Car Facility Repairs and Replacement (Phase III)	\$ 293,650	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 293,650	\$ 293,650	
Subtotal FY 2024	\$ 177,993,650	\$ 3,783,712	\$ -	\$ 7,342,899	\$ -	\$ -	\$ 6,620,000	\$ 159,953,389	\$ 293,650	\$ 177,993,650	
FY 2025 (Oct 1, 2024 - Sept 30, 2025)											
New Garage Design	\$ 4,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,000,000	\$ -	\$ -	\$ 4,000,000	
Taxiway A Rehabilitation	\$ 7,000,000	\$ 3,783,712	\$ -	\$ -	\$ -	\$ -	\$ 3,216,288	\$ -	\$ -	\$ 7,000,000	
Rental Car Facility Repairs and Replacement (Phase IV)	\$ 1,938,225	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,938,225	\$ 1,938,225	
Westside Apron and Taxiway Rehabilitation	\$ 15,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 15,000,000	\$ -	\$ -	\$ 15,000,000	
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subtotal FY 2025	\$ 27,938,225	\$ 3,783,712	\$ -	\$ -	\$ -	\$ -	\$ 22,216,288	\$ -	\$ 1,938,225	\$ 27,938,225	
FY 2026 (Oct 1, 2025 - Sept 30, 2026)											
New Garage Construction	\$ 30,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 29,000,000	\$ 1,000,000.00	\$ 30,000,000	
Runway/Taxiway Sealcoat	\$ 1,111,111	\$ 1,000,000	\$ -	\$ -	\$ -	\$ -	\$ 111,111	\$ -	\$ -	\$ 1,111,111	
Terminal Apron Improvements	\$ 3,093,013	\$ 2,783,712	\$ -	\$ -	\$ -	\$ -	\$ 309,301	\$ -	\$ -	\$ 3,093,013	
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subtotal FY 2026	\$ 34,204,124	\$ 3,783,712	\$ -	\$ -	\$ -	\$ -	\$ 420,412	\$ 29,000,000	\$ 1,000,000	\$ 34,204,124	
FY 2027 (Oct 1, 2026 - Sept 30, 2027)											
Wright Brother Way Extension, Perimeter Road/ARFF Access Road	\$ 4,204,124	\$ 3,783,712	\$ -	\$ -	\$ -	\$ -	\$ 420,412	\$ -	\$ -	\$ 4,204,124	
Roadway Improvements	\$ 4,750,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,750,000	\$ -	\$ 1,000,000.00	\$ 4,750,000	
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subtotal FY 2027	\$ 8,954,124	\$ 3,783,712	\$ -	\$ -	\$ -	\$ -	\$ 3,750,000	\$ -	\$ 1,000,000	\$ 8,954,124	
FY 2028 (Oct 1, 2027 - Sept 30, 2028)											
Northeast Development Site Prep	\$ 6,000,000	\$ 3,783,712	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,216,288	\$ -	\$ 6,000,000	
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Subtotal FY 2028	\$ 6,000,000	\$ 3,783,712	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,216,288	\$ -	\$ 6,000,000	
Combined Totals - FY 2024 - FY 2028	\$ 404,913,467	\$ 22,702,272	\$ 15,000,000	\$ 14,685,798	\$ -	\$ -	\$ 41,006,700	\$ 306,243,066	\$ 4,855,219	\$ 404,913,467	



MEMORANDUM

TO: Members of the Airport Authority

FROM: Janet Burnette, Chief Financial Officer

DATE: November 18, 2022

ITEM DESCRIPTION – New Business Item C

Approval of Bond Post-Issuance Compliance Policies

BACKGROUND

With the issuance of bond instruments, certain compliance measures must be followed. The Post-Issuance Tax Compliance Policy provides guidance to ensure the bonds retain tax-exempt status. The Post-Issuance Securities Law Compliance Policy provides guidance for adherence to applicable federal securities laws. These policies address all current requirements that are necessary for compliance.

ISSUES

None.

ALTERNATIVES

None.

FISCAL IMPACT

No direct fiscal impact.

RECOMMENDED ACTION

It is respectfully requested that the Greater Asheville Regional Airport Authority Board resolve to approve the new policies for the Post-Issuance Tax Compliance and Post-Issuance Securities Law Compliance.

New Business - Item C

Post-Issuance Tax Compliance

Objective The Greater Asheville Regional Airport Authority (the "Authority") must comply with all federal tax laws and regulations applicable to tax-exempt bonds and other obligations (hereinafter referred to as "Debt"), to ensure tax exempt status is maintained.

General Policy The Authority's Chief Financial Officer, or other officer serving in such capacity (the "Officer"), shall be primarily responsible for administering and monitoring compliance with the requirements of this Policy. The processes and procedures for ensuring compliance with this Policy shall be outlined in an organizational department directive. The Officer shall conduct compliance reviews at least annually to ensure ongoing compliance with this Policy.

The Authority will consult with its bond counsel regarding the processes and procedures necessary to ensure compliance. At the request of the Officer, bond counsel will provide guidance and training to the Officer and other Authority personnel on issues regarding compliance with this Policy and applicable federal tax laws and regulations governing Debt.

The Officer will be responsible for:

- Training all Authority personnel responsible for ensuring compliance with federal tax laws and regulations
- Following all records retention requirements
- Monitoring arbitrage and arbitrage rebate compliance
- Allocating and tracking of debt proceeds
- Monitoring governmental use of debt-financed facilities
- Monitoring private business use of debt-financed facilities

**Right to
Amend Policy**

This policy may be amended from time to time by the Authority.

APPROVAL AND UPDATE HISTORY:

Approval November 18, 2022
Supersedes

Post-Issuance Securities Law Compliance

Objective

1. The Greater Asheville Regional Airport Authority (the "Obligated Party") must comply with each of its continuing disclosure undertakings (each an "Undertaking" and, collectively, the "Undertakings") entered into pursuant to SEC Rule 15c2-12, as amended and as may be amended from time to time (the "Rule"), as it relates to any outstanding bonds or other debt obligations subject to the Rule (hereinafter referred to as "Debt"). Such Debt generally includes general obligation bonds, revenue bonds, limited obligation bonds or other debt obligations that are publicly offered via competitive sale or negotiated underwriting.
2. This Policy is designed to serve the following purposes: (a) facilitating compliance with the Obligated Party's Undertakings and the Rule, (b) reducing the risk of exposure to enforcement actions and the potential liability for damages based on non-compliance by the Obligated Party (and its officers and employees) and (c) promoting good investor relations and best practices for the benefit of the Obligor and the investment community. The processes and procedures for ensuring compliance with this Policy shall be outlined in an organizational department directive.

General Policy

1. The Obligated Party's Chief Financial Officer (the "Principal Officer") shall be the person primarily responsible for administering and monitoring compliance with the requirements of this Policy.
2. The Principal Officer shall be responsible for:
 - Designating other officers or employees of the Obligated Party as the Principal Officer deems necessary or appropriate to ensure compliance with the requirements of this Policy. The Principal Officer, together with such other designated officers or employees, shall constitute the "Compliance Group" for purposes of this Policy
 - Training of all members of the Compliance Group with the specific actions required in order to comply with the requirements of this Policy



MEMORANDUM

TO: Members of the Airport Authority

FROM: Janet Burnette, Chief Financial Officer

DATE: November 18, 2022

ITEM DESCRIPTION – New Business Item D

Approval of Updates to Purchasing/Procurement Policy

BACKGROUND

For several years, the Authority has required purchase orders for all purchases in the amount of \$1,000 or more. This requirement has become laborious for staff and, at times, causes disruptions in work. We are recommending that the minimum amount requiring the issuance of purchase orders be increased to \$5,000. All other purchasing guidelines remain unchanged.

ISSUES

None.

ALTERNATIVES

None.

FISCAL IMPACT

No direct fiscal impact.

RECOMMENDED ACTION

It is respectfully requested that the Greater Asheville Regional Airport Authority Board resolve to approve the updates to the Purchasing/Procurement Policy.

Attachment

New Business - Item D

Purchasing/Procurement

OBJECTIVE To procure all supplies, materials, equipment, articles, items or services required by the Authority (excludes professional Consultant Services and Construction and Repair Contracts, see Sections 113.00 and 114.00).

METHOD OF OPERATION

Procurement Approval Authority

1. The ~~Executive Director~~ President & CEO is authorized to approve any type of procurement, (1) not to exceed the actual or estimated amount of sixty thousand (\$60,000) dollars, and (2) procure any item listed and described in the Board approved Capital Budget excluding Capital Improvements; execute agreements for those procurements; and authorize the expenditure of Authority funds from a budgeted funding source. Additionally, the ~~Executive Director~~ President & CEO may delegate procurement approval authority vested in him/her to subordinate employees as deemed appropriate.
2. Unless approved under paragraph 1 above, all remaining procurements of any type must be approved by the Board prior to being implemented except for purchases in an emergency situation exceeding sixty thousand (\$60,000) dollars which should be ratified at the Board meeting following the emergency.
3. The ~~Executive Director~~ President & CEO is authorized to transfer amounts up to \$60,000 from the budget ordinance Contingency appropriation line item to other line items within the same fund. The ~~Executive Director~~ President & CEO must make an official report on such transfers at the next regular meeting of the Board.

Procurement Classifications

One of the following methods will be used in procuring items:

Regular Purchases

The foregoing procedures will not be followed where purchases are made from the petty cash account.

Quotations and Bids

The procurement of supplies, materials, equipment, articles, items or services required by the Authority shall be in accordance with this Section and in accordance with the relevant provisions of Article 8 of Chapter 143 of the North Carolina General Statutes. Except as hereinafter set forth, quotations and bids will be received for all purchases of apparatus, supplies, materials and equipment as follows:

\$0 - \$29,999.99	Direct purchases authorized.
\$30,000 – \$89,999.99	Informal bids shall be obtained by telephone or in writing from at least two sources and the purchase shall be made from the supplier with the lowest quotation who meets reasonable requirements for delivery, service or other relevant considerations. Informal bids shall be noted on a Purchase Requisition which shall become a part of the procurement package.
\$90,000 and above	Formal bids shall be sought by requests for sealed bids except for exceptions authorized under the General Statutes of North Carolina (G.S. 143-129). A minimum of two sealed bids are required unless it is determined by the Executive Director <u>President & CEO</u> that it is impossible or impractical to obtain this many bids. The purchase shall be made from the supplier with the lowest bid who meets reasonable requirements for delivery, service or other relevant considerations. All such transactions shall be documented with a Record of Procurement form which will reflect all bids, and be made a part of the procurement package.
Sole Source	Procurement made when (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. All sole source procurements must be fully justified in writing as to the need to limit the procurement to one source and approved by the Board.

Purchase Orders

After receipt of competitive bids, if required, and Board approval, if necessary, a Purchase Order Request must be completed in the Authority's financial Enterprise Resource Planning (ERP) system. The ~~Director of Finance and Accounting~~ Chief Financial Officer, or designee, will determine if funds are available and then issue a pre-numbered, computer-generated purchase order. Purchase orders should always be issued before goods and services are ordered.

A standard purchase order form will be used for all purchases where the amount of the purchase is ~~\$1,000~~ \$5,000 or more.

Blanket purchase orders may be issued for miscellaneous items, parts, supplies or materials that are purchased frequently. These blanket purchase orders must be requested from the ~~Director of Finance and Accounting~~ Chief Financial Officer and should include a description and types of items to be purchased, the period of time the order will remain valid, and the maximum dollar amount not to be exceeded. This will also include all monthly expenses incurred by the Airport Authority (water, sewer, lights, etc.). The ~~Director of Finance and Accounting~~ Chief Financial Officer or designee will monitor all purchases made on a blanket purchase order.

The ~~Executive Director~~ President & CEO, the ~~Deputy Executive Director~~ Chief Operating Officer, or the ~~Director of Finance and Accounting~~ Chief Financial Officer may cancel blanket purchase orders if misuse occurs.

Office supplies must adhere to the purchasing guidelines of obtaining a Purchase Order for all purchases of ~~\$1,000~~ \$5,000 or more. When authorized, a purchase order will be issued, and the items can be ordered. Office supply requests under ~~\$1,000~~ \$5,000 must be submitted to, and approved by, the ~~Director of Administration~~ Vice President of Administration and Human Resources or designee before ordering.

Any unauthorized purchases will be returned to the purchaser and will not be paid without direct authorization from the ~~Executive Director~~ President & CEO or designee.

Purchasing Cards

Authority purchasing cards should be used where possible to maximize rebate revenue to the Authority.

For items below ~~\$1,000~~ \$5,000, original supporting receipts are to be forwarded to the Finance Department along with the approved purchasing card statement. If a physical check needs to be issued, normal purchasing procedures should be followed.

For items of ~~\$1,000~~ \$5,000 or more, and within the card limit, the purchasing card should be used only after the issuance of a purchase order by the ~~Director of Finance and Accounting~~ Chief Financial Officer, or designee.

Travel may be booked on the purchasing card once the required travel authorization has been submitted and approved by the appropriate Department ~~Director~~ Vice President.

Cardholders should arrange for duplicate receipts to replace lost or misplaced receipts. In those situations where receipts are not available, a statement to that effect must be prepared and approved by department ~~director~~ vice president or next level of approval and included with the monthly purchasing card statement.

Emergency Purchases

Emergency purchases are made in an emergency situation in which the immediate procurement of an item is essential to prevent delays in the work of a department, or to prevent injury to the life, health, safety, or convenience of passengers, employees, or the public at the Airport. Paperwork should be submitted to the ~~Director of Finance and Accounting~~ Chief Financial Officer as soon as possible.

APPROVAL AND UPDATE HISTORY:

Approval ~~June 4, 2021~~

Supersedes ~~June 4, 2021~~, August 8, 2014, December 9, 2011, June 11, 2010, October 10, 2008, December 11, 2006, March 15, 2004



MEMORANDUM

TO: Members of the Airport Authority
FROM: Lew Bleiweis, A.A.E., President & CEO
DATE: November 18, 2022

ITEM DESCRIPTION – Information Section Item A

September, 2022 Traffic Report – Asheville Regional Airport

SUMMARY

September, 2022 overall passenger traffic numbers were up 18.9% compared to the same period last year. Passenger traffic numbers reflect a 21.3% increase in passenger enplanements from September, 2021. Enplanements for Fiscal Year to Date total 271,654, which is a 17.3% increase over the same period last year.

AIRLINE PERFORMANCE

Allegiant Airlines: Year over Year passenger enplanements for Allegiant in September 2022 were up by 34.5%. There were 47 flight cancellations for the month.

American Airlines: American's September 2022 passenger enplanements represent a 6.8% increase over the same period last year. There were no flight cancellations for the month.

Delta Airlines: Enplanements for Delta in September 2022 increased by 38.3%. There were no flight cancellations for the month.

United Airlines: In September 2022, United Airlines saw a decrease in enplanements by 30.1% over the same period last year. There were 2 flight cancellations for the month.

Monthly Traffic Report

Asheville Regional Airport

September 2022



Category	Sep 2022	Sep 2021	Percentage Change	*CYTD-2022	*CYTD-2021	Percentage Change	*MOV12-2022	*MOV12-2021	Percentage Change
Passenger Traffic									
Enplaned	78,972	65,120	21.3%	668,326	501,534	33.3%	882,807	604,613	46.0%
Deplaned	<u>78,068</u>	<u>66,902</u>	16.7%	<u>662,046</u>	<u>498,449</u>	32.8%	<u>875,848</u>	<u>601,787</u>	45.5%
Total	157,040	132,022	18.9%	1,330,372	999,983	33.0%	1,758,655	1,206,400	45.8%
Aircraft Operations									
Airlines	1,559	1,154	35.1%	12,347	10,679	15.6%	15,771	13,660	15.5%
Commuter/ Air Taxi	<u>1,039</u>	<u>1,337</u>	-22.3%	7,393	9,260	-20.2%	10,721	11,411	-6.0%
Subtotal	<u>2,598</u>	<u>2,491</u>	4.3%	<u>19,740</u>	<u>19,939</u>	-1.0%	<u>26,492</u>	<u>25,071</u>	5.7%
General Aviation	4,303	4,342	-0.9%	36,285	33,773	7.4%	47,157	44,183	6.7%
Military	<u>343</u>	<u>336</u>	2.1%	<u>3,887</u>	<u>2,989</u>	30.0%	<u>5,300</u>	<u>3,867</u>	37.1%
Subtotal	<u>4,646</u>	<u>4,678</u>	-0.7%	<u>40,172</u>	<u>36,762</u>	9.3%	<u>52,457</u>	<u>48,050</u>	9.2%
Total	7,244	7,169	1.0%	59,912	56,701	5.7%	78,949	73,121	8.0%
Fuel Gallons									
100LL	14,733	14,392	2.4%	127,696	135,986	-6.1%	175,220	175,802	-0.3%
Jet A (GA)	200,344	170,636	17.4%	1,417,665	1,331,208	6.5%	1,939,459	1,748,629	10.9%
Subtotal	<u>215,077</u>	<u>185,028</u>	16.2%	<u>1,545,361</u>	<u>1,467,194</u>	5.3%	<u>2,114,679</u>	<u>1,924,431</u>	9.9%
Jet A (A/L)	<u>863,722</u>	<u>709,678</u>	21.7%	<u>6,402,980</u>	<u>5,761,715</u>	11.1%	<u>8,560,196</u>	<u>7,011,391</u>	22.1%
Total	1,078,799	894,706	20.6%	7,948,341	7,228,909	10.0%	10,674,875	8,935,822	19.5%

*CYTD = Calendar Year to Date and *Mov12 = Moving Twelve Months.

Thursday, October 27, 2022

Airline Enplanements, Seats, and Load Factors

Asheville Regional Airport

September 2022



	Sep 2022	Sep 2021	Percentage Change	*CYTD-2022	*CYTD-2021	Percentage Change
Allegiant Air						
Enplanements	33,797	25,126	34.5%	303,722	232,857	30.4%
Seats	38,961	35,814	8.8%	362,901	345,981	4.9%
Load Factor	86.7%	70.2%	23.6%	83.7%	67.3%	24.4%
American Airlines						
Enplanements	20,168	18,892	6.8%	165,072	139,430	18.4%
Seats	22,997	24,081	-4.5%	198,295	195,001	1.7%
Load Factor	87.7%	78.5%	11.8%	83.2%	71.5%	16.4%
Delta Air Lines						
Enplanements	16,601	12,000	38.3%	138,179	83,151	66.2%
Seats	19,882	14,644	35.8%	169,618	125,116	35.6%
Load Factor	83.5%	81.9%	1.9%	81.5%	66.5%	22.6%
JetBlue						
Enplanements	469	0	#Div/0!	6,167	0	#Div/0!
Seats	662	0	#Div/0!	7,262	0	#Div/0!
Load Factor	70.8%	#Num!	#Type!	84.9%	#Num!	#Type!
Sun Country						
Enplanements	1,573	0	#Div/0!	13,471	0	#Div/0!
Seats	2,046	0	#Div/0!	17,670	0	#Div/0!
Load Factor	76.9%	#Num!	#Type!	76.2%	#Num!	#Type!
United Airlines						
Enplanements	6,364	9,102	-30.1%	41,715	46,096	-9.5%
Seats	7,906	11,050	-28.5%	49,737	60,976	-18.4%
Load Factor	80.5%	82.4%	-2.3%	83.9%	75.6%	10.9%

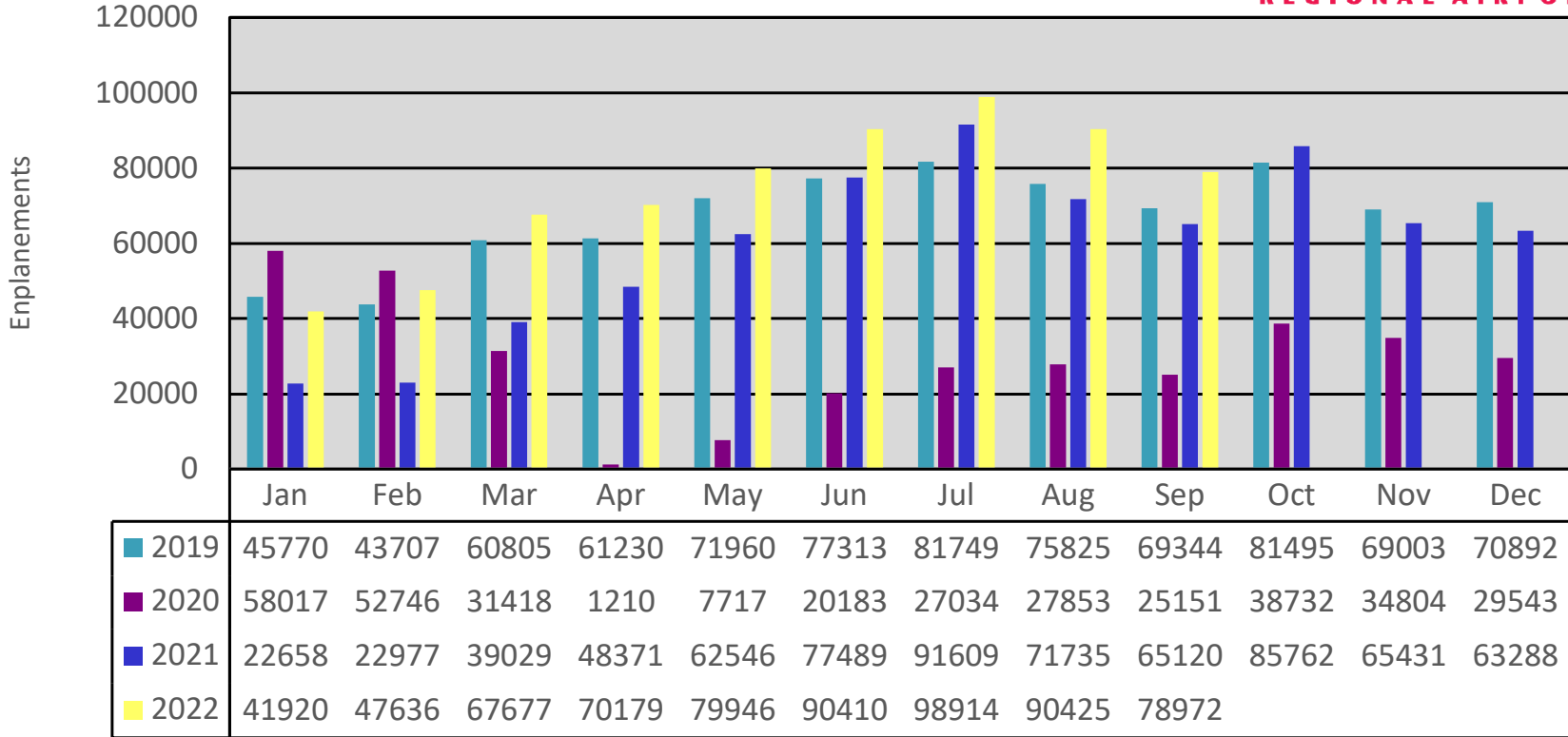
	Sep 2022	Sep 2021	Percentage Change	*CYTD-2022	*CYTD-2021	Percentage Change
Totals						
Enplanements	78,972	65,120	21.3%	668,326	501,534	33.3%
Seats	92,454	85,589	8.0%	805,483	727,074	10.8%
Load Factor	85.4%	76.1%	12.3%	83.0%	69.0%	20.3%

Airline Flight Completions Asheville Regional Airport September 2022

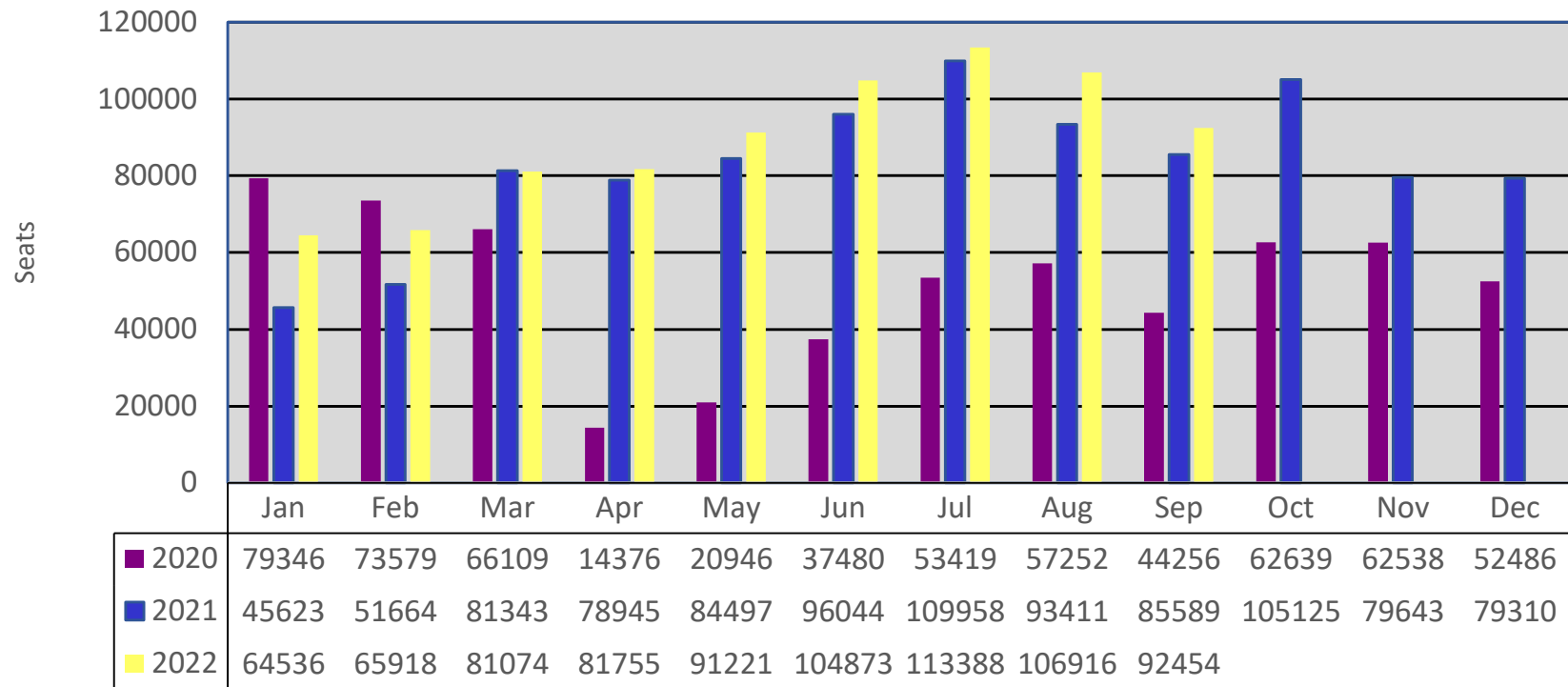


Airline	Scheduled Flights	Field	Cancellations Due To			Total Cancellations	Percentage of Completed Flights
			Mechanical	Weather	Other		
Allegiant Air	273	0	0	0	47	47	82.8%
American Airlines	283	0	0	0	0	0	100.0%
Delta Air Lines	199	0	0	0	0	0	100.0%
JetBlue	6	0	0	0	0	0	100.0%
Sun Country	11	0	0	0	0	0	100.0%
United Airlines	133	0	2	0	0	2	98.5%
Total	905	0	2	0	47	49	94.6%

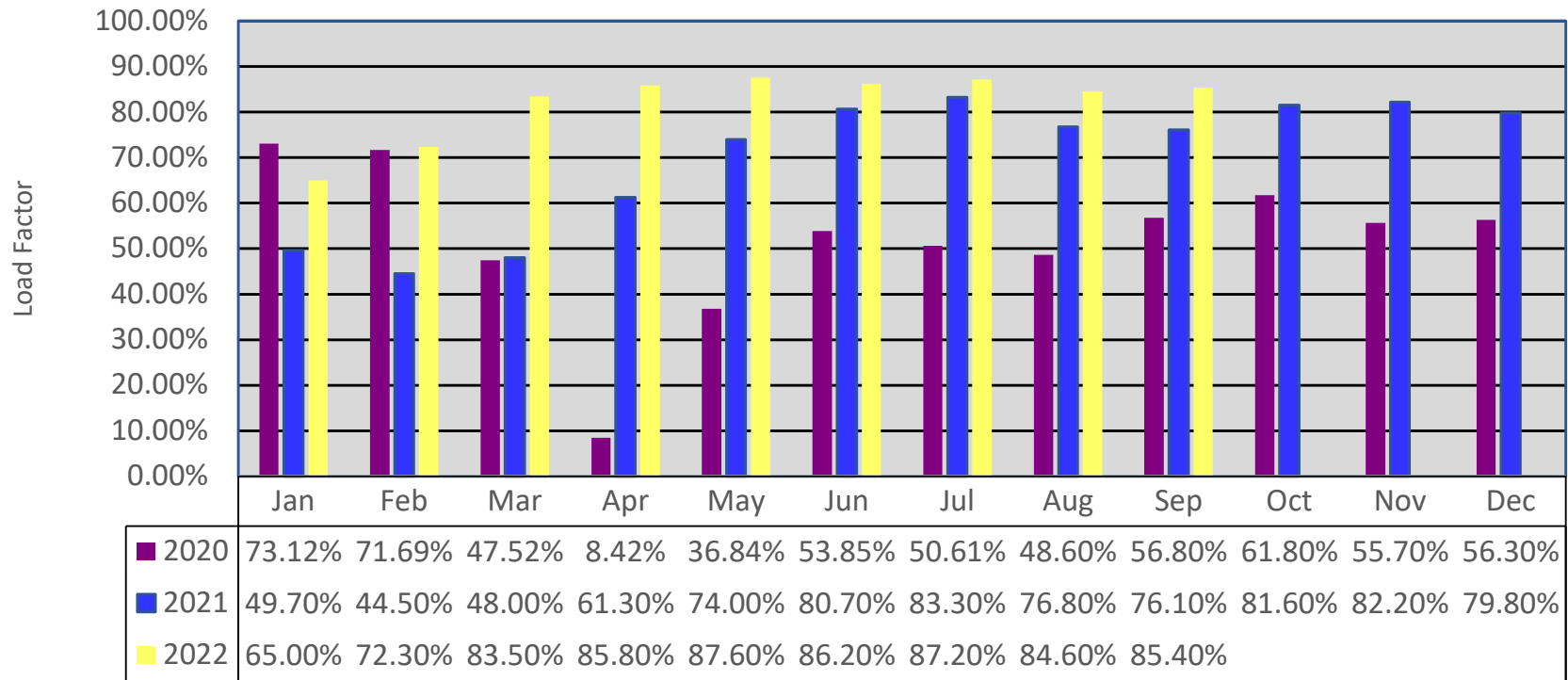
Monthly Enplanements By Year Asheville Regional Airport



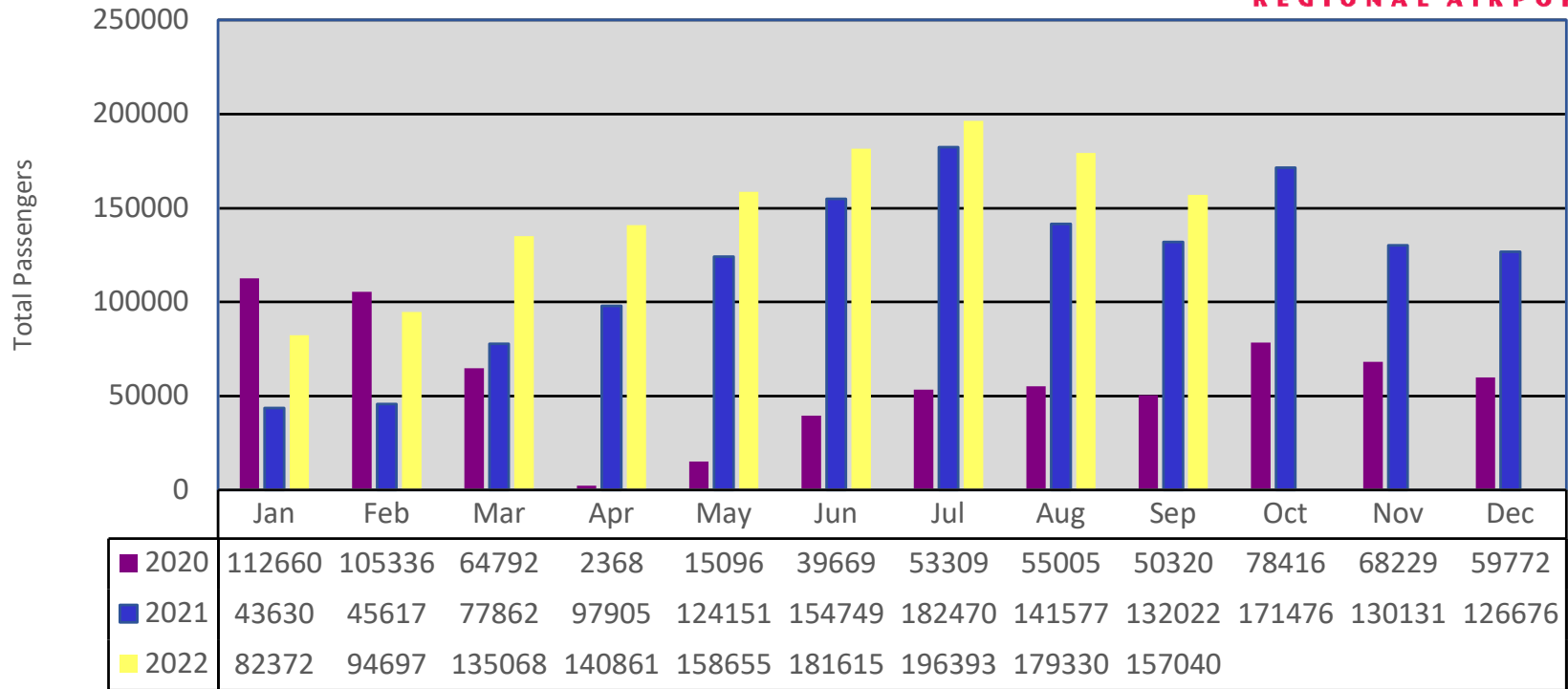
Monthly Seats By Year Asheville Regional Airport



Monthly Load Factors By Year Asheville Regional Airport

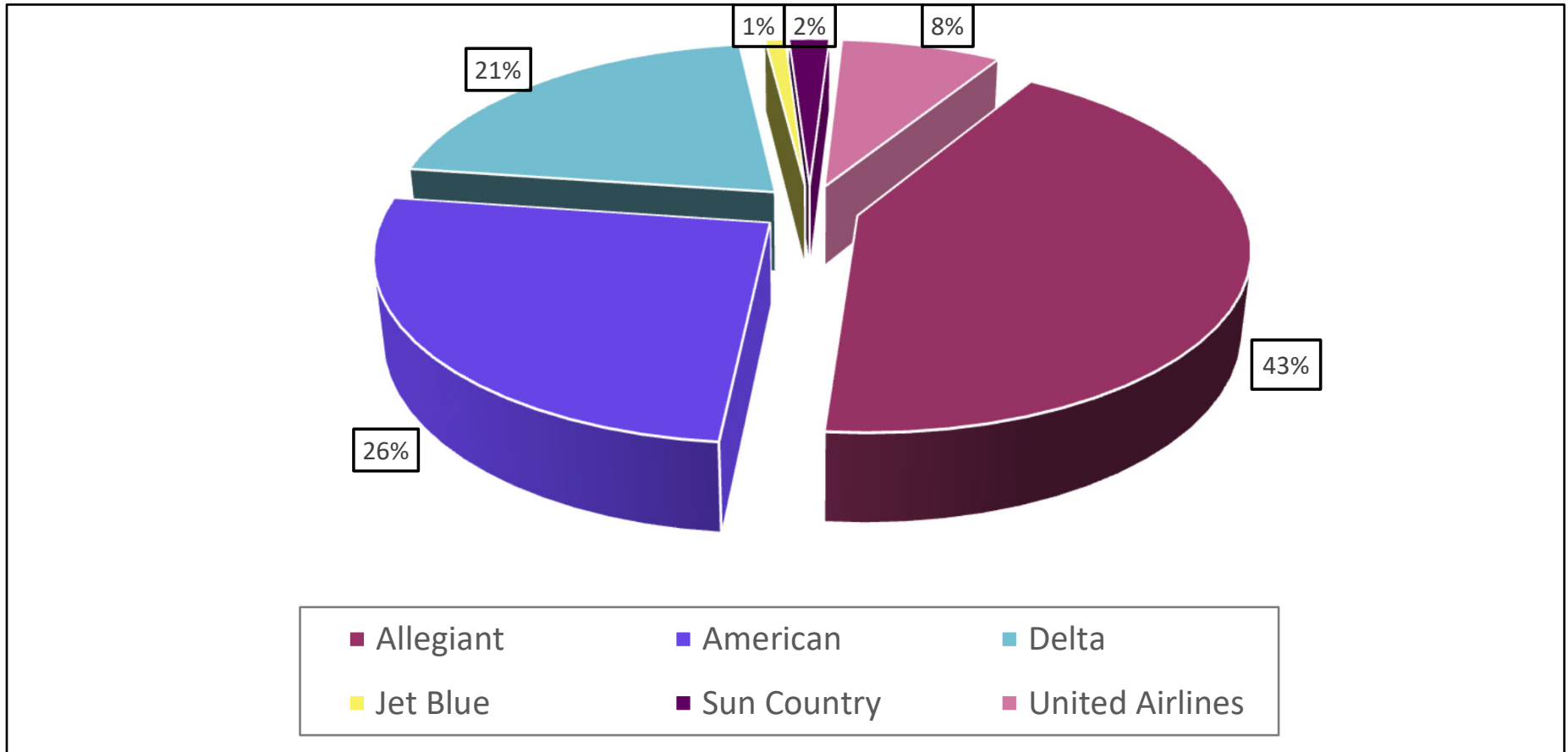


Total Monthly Passengers By Year Asheville Regional Airport



Airline Market Share Analysis (Enplanements) Asheville Regional Airport

Report Period From September 2022 Through September 2022



AVL - Three month schedule Summary Report

December 2022 to February 2023 vs. December 2021 to February 2022 vs. December 2020 to February 2021

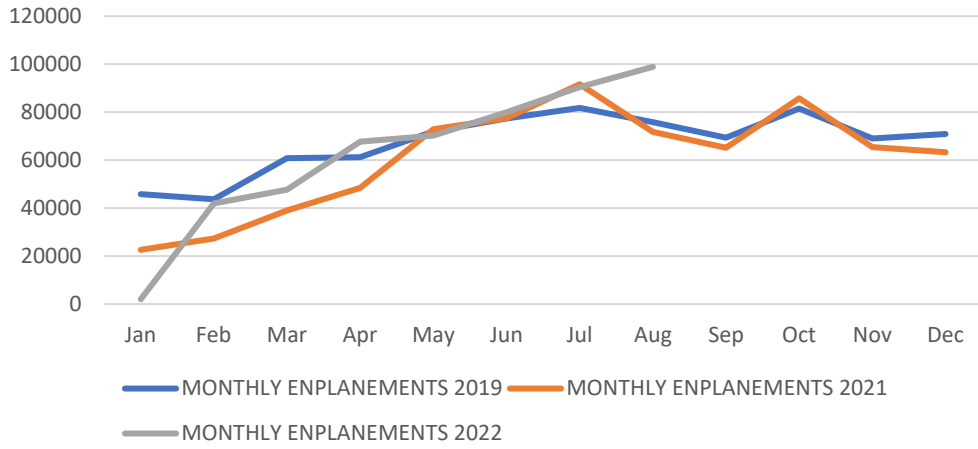
31-Oct-22

Mkt AI	Travel Period		Dec 2022		Dec 2021		Dec 2020		Diff YoY		Percent Diff YoY		Diff 2YoY		Percent Diff 2YoY	
	Orig	Dest	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats
AA	AUS-AVL	AUS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-AUS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-BOS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	BOS-AVL	BOS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-CLT	AVL	35	3,752	41	3,039	33	2,431	(6)	713	(14.6%)	23.5%	2	1,321	6.1%	54.3%
AA	CLT-AVL	CLT	35	3,752	41	3,039	33	2,431	(6)	713	(14.6%)	23.5%	2	1,321	6.1%	54.3%
AA	AVL-DCA	AVL	7	466	0	0	0	0	7	466	-	-	7	466	-	-
AA	DCA-AVL	DCA	7	466	0	0	0	0	7	466	-	-	7	466	-	-
AA	AVL-DFW	AVL	7	532	7	532	7	532	0	0	0.0%	0.0%	0	0	0.0%	0.0%
AA	DFW-AVL	DFW	7	532	7	532	7	532	0	0	0.0%	0.0%	0	0	0.0%	0.0%
AA	AVL-LGA	AVL	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	LGA-AVL	LGA	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	AVL-MIA	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	MIA-AVL	MIA	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-ORD	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	ORD-AVL	ORD	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-PHL	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	PHL-AVL	PHL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
B6	AVL-BOS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
B6	BOS-AVL	BOS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
DL	ATL-AVL	ATL	39	4,290	32	3,282	33	2,508	7	1,008	21.9%	30.7%	6	1,782	18.2%	71.1%
DL	AVL-ATL	AVL	39	4,290	32	3,282	33	2,508	7	1,008	21.9%	30.7%	6	1,782	18.2%	71.1%
DL	AVL-DTW	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
DL	DTW-AVL	DTW	0	0	0	0	0	0	0	0	-	-	0	0	-	-
DL	AVL-LGA	AVL	13	946	0	0	0	0	13	946	-	-	13	946	-	-
DL	LGA-AVL	LGA	13	946	0	0	0	0	13	946	-	-	13	946	-	-
DL	AVL-MSP	AVL	1	76	0	0	0	0	1	76	-	-	1	76	-	-
DL	MSP-AVL	MSP	1	76	0	0	0	0	1	76	-	-	1	76	-	-
G4	AUS-AVL	AUS	2	372	2	312	0	0	0	60	0.0%	19.2%	2	372	-	-
G4	AVL-AUS	AVL	2	372	2	312	0	0	0	60	0.0%	19.2%	2	372	-	-
G4	AVL-BOS	AVL	2	372	2	312	0	0	0	60	0.0%	19.2%	2	372	-	-
G4	BOS-AVL	BOS	2	372	2	312	0	0	0	60	0.0%	19.2%	2	372	-	-
G4	AVL-BWI	AVL	2	372	2	312	0	0	0	60	0.0%	19.2%	2	372	-	-
G4	BWI-AVL	BWI	2	372	2	312	0	0	0	60	0.0%	19.2%	2	372	-	-
G4	AVL-DEN	AVL	2	312	0	0	0	0	2	312	-	-	2	312	-	-
G4	DEN-AVL	DEN	2	312	0	0	0	0	2	312	-	-	2	312	-	-
G4	AVL-EWR	AVL	2	312	2	354	0	0	0	(42)	0.0%	(11.9%)	2	312	-	-
G4	EWR-AVL	EWR	2	312	2	354	0	0	0	(42)	0.0%	(11.9%)	2	312	-	-
G4	AVL-EYW	AVL	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	EYW-AVL	EYW	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	AVL-FLL	AVL	6	1,098	7	1,197	6	1,071	(1)	(99)	(14.3%)	(8.3%)	0	27	0.0%	2.5%
G4	FLL-AVL	FLL	6	1,098	7	1,197	6	1,071	(1)	(99)	(14.3%)	(8.3%)	0	27	0.0%	2.5%
G4	AVL-HOU	AVL	2	312	2	354	2	354	0	(42)	0.0%	(11.9%)	0	(42)	0.0%	(11.9%)
G4	HOU-AVL	HOU	2	312	2	354	2	354	0	(42)	0.0%	(11.9%)	0	(42)	0.0%	(11.9%)
G4	AVL-LAS	AVL	2	312	2	354	0	0	0	(42)	0.0%	(11.9%)	2	312	-	-
G4	LAS-AVL	LAS	2	312	2	354	0	0	0	(42)	0.0%	(11.9%)	2	312	-	-
G4	AVL-MDW	AVL	2	312	0	0	0	0	2	312	-	-	2	312	-	-
G4	MDW-AVL	MDW	2	312	0	0	0	0	2	312	-	-	2	312	-	-
G4	AVL-MSP	AVL	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	MSP-AVL	MSP	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	AVL-PBI	AVL	2	312	2	354	2	354	0	18	0.0%	5.1%	0	18	0.0%	5.1%
G4	PBI-AVL	PBI	2	312	2	312	2	354	0	0	0.0%	0.0%	0	(42)	0.0%	(11.9%)
G4	AVL-PGD	AVL	4	684	4	708	2	372	0	(24)	0.0%	(3.4%)	2	312	100.0%	83.9%
G4	PGD-AVL	PGD	4	684	4	708	2	372	0	(24)	0.0%	(3.4%)	2	312	100.0%	83.9%
G4	AVL-PIE	AVL	6	1,086	6	1,062	4	735	0	24	0.0%	2.3%	2	351	50.0%	47.8%
G4	PIE-AVL	PIE	6	1,086	6	1,062	4	735	0	24	0.0%	2.3%	2	351	50.0%	47.8%
G4	AVL-SFB	AVL	10	1,860	10	1,728	4	708	0	132	0.0%	7.6%	6	1,152	150.0%	162.7%
G4	SFB-AVL	SFB	10	1,860	10	1,728	4	708	0	132	0.0%	7.6%	6	1,152	150.0%	162.7%
G4	AVL-SRQ	AVL	2	372	2	372	2	354	0	0	0.0%	0.0%	0	18	0.0%	5.1%
G4	SRQ-AVL	SRQ	2	372	2	372	2	354	0	0	0.0%	0.0%	0	18	0.0%	5.1%
G4	AVL-VPS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	VPS-AVL	VPS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
NK	AVL-FLL	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
NK	FLL-AVL	FLL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
NK	AVL-GSO	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
NK	AVL-MCO	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
NK	MCO-AVL	MCO	0	0	0	0	0	0	0	0	-	-	0	0	-	-
NK	AVL-TPA	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
NK	TPA-AVL	TPA	0	0	0	0	0	0	0	0	-	-	0	0	-	-
SY	AVL-MSP	AVL	2	372	2	372	0	0	0	0	0.0%	0.0%	2	372	-	-
SY	MSP-AVL	MSP	2	372	2	372	0	0	0	0	0.0%	0.0%	2	372	-	-
UA	AVL-EWR	AVL	7	490	0	0	0	0	7	490	-	-	7	490	-	-
UA	EWR-AVL	EWR	7	490	0	0	0	0	7	490	-	-	7	490	-	-
UA	AVL-IAD	AVL	0	0	14	700	12	600	(14)	(700)	(100.0%)	(100.0%)	(12)	(600)	(100.0%)	(100.0%)
UA	IAD-AVL	IAD	0	0	14	700	12	600	(14)	(700)	(100.0%)	(100.0%)	(12)	(600)	(100.0%)	(100.0%)
UA	AVL-ORD	AVL	14	840	14	700	10	500	0	140	0.0%	20.0%	4	340	40.0%	68.0%
UA	ORD-AVL	ORD	14	840	14	700	10	500	0	140	0.0%	20.0%	4	340	40.0%	68.0%
Total			364	41,982	314	33,336	234	21,038	50	8,646	15.9%	25.9%	130	20,944	55.6%	99.6%

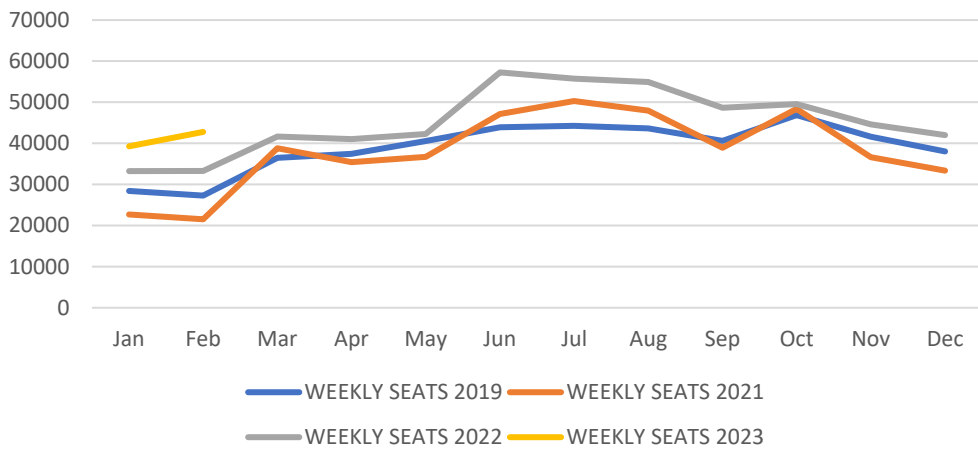
Mkt AI	Travel Period	Orig	Dest	Jan 2023		Jan 2022		Jan 2021		Diff YoY		Percent Diff YoY		Diff 2YoY		Percent Diff 2YoY	
				Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats
AA	AUS-AVL	AUS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-AUS	AVL	AUS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-BOS	AVL	BOS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	BOS-AVL	BOS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-CLT	AVL	CLT	31	3,032	41	3,017	39	2,821	(10)	15	(24.4%)	0.5%	(8)	211	-21%	7%
AA	CLT-AVL	CLT	AVL	31	3,032	41	3,017	39	2,832	(10)	15	(24.4%)	0.5%	(8)	200	-21%	7%
AA	AVL-DCA	AVL	DCA	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	DCA-AVL	DCA	AVL	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	AVL-DFW	AVL	DFW	7	532	7	532	7	532	0	0	0.0%	0.0%	0	0	0%	0%
AA	DFW-AVL	DFW	AVL	7	532	7	532	7	532	0	0	0.0%	0.0%	0	0	0%	0%
AA	AVL-LGA	AVL	LGA	7	477	0	0	0	0	7	477	-	-	7	477	-	-
AA	LGA-AVL	LGA	AVL	7	477	0	0	0	0	7	477	-	-	7	477	-	-
AA	AVL-MIA	AVL	MIA	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	MIA-AVL	MIA	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-ORD	AVL	ORD	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	ORD-AVL	ORD	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-PHL	AVL	PHL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	PHL-AVL	PHL	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
B6	AVL-BOS	AVL	BOS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
B6	BOS-AVL	BOS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
DL	ATL-AVL	ATL	AVL	38	4,180	32	3,520	32	2,276	6	660	18.8%	18.8%	6	1,904	19%	84%
DL	AVL-ATL	AVL	ATL	38	4,180	32	3,520	32	2,276	6	660	18.8%	18.8%	6	1,904	19%	84%
DL	AVL-LGA	AVL	LGA	13	946	0	0	0	0	13	946	-	-	13	946	-	-
DL	LGA-AVL	LGA	AVL	13	946	0	0	0	0	13	946	-	-	13	946	-	-
DL	AVL-MSP	AVL	MSP	1	132	0	0	0	0	1	132	-	-	1	132	-	-
DL	MSP-AVL	MSP	AVL	1	132	0	0	0	0	1	132	-	-	1	132	-	-
G4	AUS-AVL	AUS	AVL	2	372	2	372	0	0	0	0	0.0%	0.0%	2	372	-	-
G4	AVL-AUS	AVL	AUS	2	372	2	372	0	0	0	0	0.0%	0.0%	2	372	-	-
G4	AVL-BOS	AVL	BOS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	BOS-AVL	BOS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	AVL-BWI	AVL	BWI	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	BWI-AVL	BWI	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	AVL-DEN	AVL	DEN	2	372	0	0	0	0	2	372	-	-	2	372	-	-
G4	DEN-AVL	DEN	AVL	2	372	0	0	0	0	2	372	-	-	2	372	-	-
G4	AVL-EWR	AVL	EWR	4	744	2	354	2	354	2	390	100.0%	110.2%	2	390	100.0%	110.2%
G4	EWR-AVL	EWR	AVL	4	744	2	354	2	354	2	390	100.0%	110.2%	2	390	100.0%	110.2%
G4	AVL-EYW	AVL	EYW	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	EYW-AVL	EYW	AVL	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	AVL-FLL	AVL	FLL	10	1,755	10	1,707	7	1,239	0	48	0.0%	2.8%	3	516	42.9%	41.6%
G4	FLL-AVL	FLL	AVL	10	1,755	10	1,707	7	1,239	0	48	0.0%	2.8%	3	516	42.9%	41.6%
G4	AVL-HOU	AVL	HOU	0	0	2	354	2	354	(2)	(354)	(100.0%)	(100.0%)	(2)	(354)	(100.0%)	(100.0%)
G4	HOU-AVL	HOU	AVL	0	0	2	354	2	354	(2)	(354)	(100.0%)	(100.0%)	(2)	(354)	(100.0%)	(100.0%)
G4	AVL-LAS	AVL	LAS	2	372	2	354	0	0	0	18	0.0%	5.1%	2	372	-	-
G4	LAS-AVL	LAS	AVL	2	372	2	354	0	0	0	18	0.0%	5.1%	2	372	-	-
G4	AVL-MDW	AVL	MDW	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	MDW-AVL	MDW	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	AVL-MSP	AVL	MSP	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	MSP-AVL	MSP	AVL	2	312	2	312	0	0	0	60	0.0%	19.2%	2	372	-	-
G4	AVL-PBI	AVL	PBI	2	312	2	312	2	354	0	60	0.0%	19.2%	0	18	0.0%	5.1%
G4	PBI-AVL	PBI	AVL	2	312	2	312	2	354	0	0	0.0%	0.0%	0	(42)	0.0%	(11.9%)
G4	AVL-PGD	AVL	PGD	4	684	4	687	2	354	0	(3)	0.0%	(0.4%)	2	330	100.0%	93.2%
G4	PGD-AVL	PGD	AVL	4	684	4	687	2	354	0	(3)	0.0%	(0.4%)	2	330	100.0%	93.2%
G4	AVL-PIE	AVL	PIE	6	1,056	6	1,062	4	708	0	(6)	0.0%	(0.6%)	2	348	50.0%	49.2%
G4	PIE-AVL	PIE	AVL	6	1,056	6	1,062	4	708	0	(6)	0.0%	(0.6%)	2	348	50.0%	49.2%
G4	AVL-SFB	AVL	SFB	9	1,614	10	1,725	5	885	(1)	(111)	(10.0%)	(6.4%)	4	729	80.0%	82.4%
G4	SFB-AVL	SFB	AVL	9	1,614	10	1,725	5	885	(1)	(111)	(10.0%)	(6.4%)	4	729	80.0%	82.4%
G4	AVL-SRQ	AVL	SRQ	2	312	2	372	3	531	0	(60)	0.0%	(16.1%)	(1)	(219)	(33.3%)	(41.2%)
G4	SRQ-AVL	SRQ	AVL	2	312	2	372	3	531	0	(60)	0.0%	(16.1%)	(1)	(219)	(33.3%)	(41.2%)
G4	AVL-VPS	AVL	VPS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	VPS-AVL	VPS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
SY	AVL-MSP	AVL	MSP	2	372	2	372	0	0	0	0	0.0%	0.0%	2	372	-	-
SY	MSP-AVL	MSP	AVL	2	372	2	372	0	0	0	0	0.0%	0.0%	2	372	-	-
UA	AVL-EWR	AVL	EWR	7	532	0	0	0	0	7	532	-	-	7	532	-	-
UA	EWR-AVL	EWR	AVL	7	532	0	0	0	0	7	532	-	-	7	532	-	-
UA	AVL-IAD	AVL	IAD	0	0	7	350	11	550	(7)	(350)	(100.0%)	(100.0%)	(11)	(550)	(100.0%)	(100.0%)
UA	IAD-AVL	IAD	AVL	0	0	7	350	12	600	(7)	(350)	(100.0%)	(100.0%)	(12)	(600)	(100.0%)	(100.0%)
UA	AVL-ORD	AVL	ORD	14	700	12	600	7	350	2	100	16.7%	16.7%	7	350	100.0%	100.0%
UA	ORD-AVL	ORD	AVL	14	700	12	600	7	350	2	100	16.7%	16.7%	7	350	100.0%	100.0%
Total				348	39,270	294	32,628	247	22,677	54	6,642	18.4%	20.4%	101	16,593	40.9%	73.2%

Mkt AI	Travel Period		Feb 2023		Feb 2022		Feb 2021		Diff YoY		Percent Diff YoY		Diff 2YoY		Percent Diff 2YoY	
	Orig	Dest	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats	Ops/Week	Seats
AA	AUS-AVL	AUS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-AUS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-BOS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	BOS-AVL	BOS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-CLT	AVL	42	3,920	41	3,039	39	2,865	1	881	2.4%	29.0%	3	1,055	7.7%	36.8%
AA	CLT-AVL	CLT	42	3,920	41	3,039	39	2,865	1	881	2.4%	29.0%	3	1,055	7.7%	36.8%
AA	AVL-DCA	AVL	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	DCA-AVL	DCA	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	AVL-DFW	AVL	7	532	7	532	7	532	0	0	0.0%	0.0%	0	0	0.0%	0.0%
AA	DFW-AVL	DFW	7	532	7	532	7	532	0	0	0.0%	0.0%	0	0	0.0%	0.0%
AA	AVL-LGA	AVL	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	LGA-AVL	LGA	7	455	0	0	0	0	7	455	-	-	7	455	-	-
AA	AVL-MIA	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	MIA-AVL	MIA	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-ORD	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	ORD-AVL	ORD	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	AVL-PHL	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
AA	PHL-AVL	PHL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
B6	AVL-BOS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
B6	BOS-AVL	BOS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
DL	ATL-AVL	ATL	38	4,180	32	3,520	31	2,174	6	660	18.8%	18.8%	7	2,006	22.6%	92.3%
DL	AVL-ATL	AVL	38	4,180	32	3,520	31	2,174	6	660	18.8%	18.8%	7	2,006	22.6%	92.3%
DL	AVL-LGA	AVL	13	916	0	0	0	0	13	916	-	-	13	916	-	-
DL	LGA-AVL	LGA	13	916	0	0	0	0	13	916	-	-	13	916	-	-
DL	AVL-MSP	AVL	1	132	0	0	0	0	1	132	-	-	1	132	-	-
DL	MSP-AVL	MSP	1	132	0	0	0	0	1	132	-	-	1	132	-	-
G4	AUS-AVL	AUS	2	312	2	333	0	0	0	(21)	0.0%	(6.3%)	2	312	-	-
G4	AVL-AUS	AVL	2	312	2	333	0	0	0	(21)	0.0%	(6.3%)	2	312	-	-
G4	AVL-BOS	AVL	2	372	2	333	0	0	0	39	0.0%	11.7%	2	372	-	-
G4	BOS-AVL	BOS	2	372	2	333	0	0	0	39	0.0%	11.7%	2	372	-	-
G4	AVL-BWI	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	BWI-AVL	BWI	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	AVL-DEN	AVL	2	312	0	0	0	0	2	312	-	-	2	312	-	-
G4	DEN-AVL	DEN	2	312	0	0	0	0	2	312	-	-	2	312	-	-
G4	AVL-EWR	AVL	2	372	2	333	2	354	0	39	0.0%	11.7%	0	18	0.0%	5.1%
G4	EWR-AVL	EWR	2	372	2	333	2	354	0	39	0.0%	11.7%	0	18	0.0%	5.1%
G4	AVL-EYW	AVL	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	EYW-AVL	EYW	2	312	2	312	0	0	0	0	0.0%	0.0%	2	312	-	-
G4	AVL-FLL	AVL	12	2,004	12	1,977	6	1,062	0	27	0.0%	1.4%	6	942	100.0%	88.7%
G4	FLL-AVL	FLL	12	2,004	12	1,977	6	1,062	0	27	0.0%	1.4%	6	942	100.0%	88.7%
G4	AVL-HOU	AVL	0	0	2	333	2	354	(2)	(333)	(100.0%)	(100.0%)	(2)	(354)	(100.0%)	(100.0%)
G4	HOU-AVL	HOU	0	0	2	333	2	354	(2)	(333)	(100.0%)	(100.0%)	(2)	(354)	(100.0%)	(100.0%)
G4	AVL-LAS	AVL	2	312	2	372	0	0	0	(60)	0.0%	(16.1%)	2	312	-	-
G4	LAS-AVL	LAS	2	312	2	372	0	0	0	(60)	0.0%	(16.1%)	2	312	-	-
G4	AVL-MDW	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	MDW-AVL	MDW	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	AVL-MSP	AVL	2	372	2	333	0	0	0	39	0.0%	11.7%	2	372	-	-
G4	MSP-AVL	MSP	2	372	2	333	0	0	0	39	0.0%	11.7%	2	372	-	-
G4	AVL-PBI	AVL	2	312	2	312	2	354	0	0	0.0%	0.0%	0	(42)	0.0%	(11.9%)
G4	PBI-AVL	PBI	2	312	2	333	2	354	0	39	0.0%	11.7%	0	18	0.0%	5.1%
G4	AVL-PGD	AVL	4	714	4	666	2	354	0	48	0.0%	7.2%	2	360	100.0%	101.7%
G4	PGD-AVL	PGD	4	714	4	666	2	354	0	48	0.0%	7.2%	2	360	100.0%	101.7%
G4	AVL-PIE	AVL	6	1,116	9	1,617	4	708	(3)	(501)	(33.3%)	(31.0%)	2	408	50.0%	57.6%
G4	PIE-AVL	PIE	6	1,116	9	1,617	4	708	(3)	(501)	(33.3%)	(31.0%)	2	408	50.0%	57.6%
G4	AVL-SFB	AVL	10	1,830	9	1,509	4	708	1	321	11.1%	21.3%	6	1,122	150.0%	158.5%
G4	SFB-AVL	SFB	10	1,830	9	1,509	4	708	1	321	11.1%	21.3%	6	1,122	150.0%	158.5%
G4	AVL-SRQ	AVL	2	372	2	333	2	354	0	39	0.0%	11.7%	0	18	0.0%	5.1%
G4	SRQ-AVL	SRQ	2	372	2	333	2	354	0	39	0.0%	11.7%	0	18	0.0%	5.1%
G4	AVL-VPS	AVL	0	0	0	0	0	0	0	0	-	-	0	0	-	-
G4	VPS-AVL	VPS	0	0	0	0	0	0	0	0	-	-	0	0	-	-
SY	AVL-MSP	AVL	2	372	1	186	0	0	1	186	100.0%	100.0%	2	372	-	-
SY	MSP-AVL	MSP	2	372	1	186	0	0	1	186	100.0%	100.0%	2	372	-	-
UA	AVL-EWR	AVL	7	532	0	0	0	0	7	532	-	-	7	532	-	-
UA	EWR-AVL	EWR	7	532	0	0	0	0	7	532	-	-	7	532	-	-
UA	AVL-IAD	AVL	0	0	7	350	12	600	(7)	(350)	(100.0%)	(100.0%)	(12)	(600)	(100.0%)	(100.0%)
UA	IAD-AVL	IAD	0	0	7	350	12	600	(7)	(350)	(100.0%)	(100.0%)	(12)	(600)	(100.0%)	(100.0%)
UA	AVL-ORD	AVL	21	1,190	14	700	7	350	7	490	50.0%	70.0%	14	840	200.0%	240.0%
UA	ORD-AVL	ORD	21	1,190	14	700	7	350	7	490	50.0%	70.0%	14	840	200.0%	240.0%
Total			390	42,792	308	34,180	240	21,538	82	8,612	26.6%	25.2%	150	21,254	62.5%	98.7%

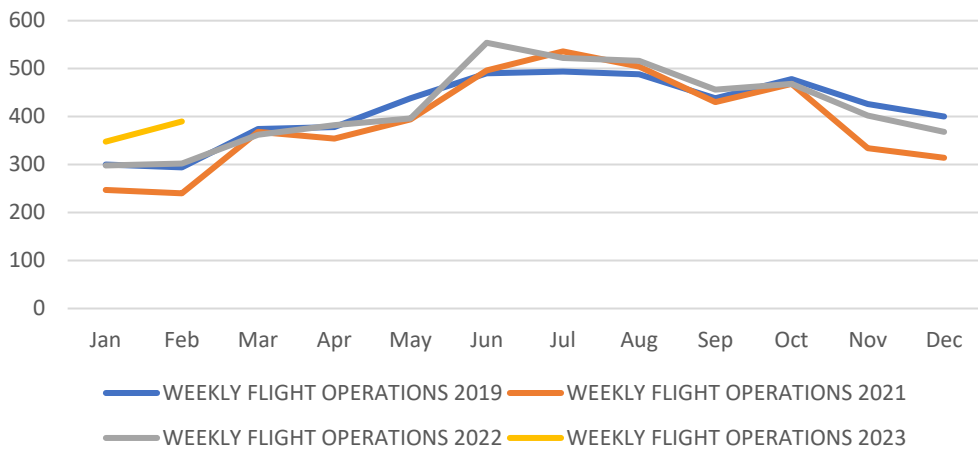
MONTHLY ENPLANEMENTS



WEEKLY SEATS



WEEKLY FLIGHT OPERATIONS





MEMORANDUM

TO: Members of the Airport Authority
FROM: Janet Burnette, Chief Financial Officer
DATE: November 18, 2022

ITEM DESCRIPTION – Information Section Item B

Greater Asheville Regional Airport – Explanation of Extraordinary Variances
Month of September 2022

SUMMARY

Operating Revenues for the month of September were \$1,981,276, 17.1% over budget. Operating Expenses for the month were \$1,352,214, 8.5% under budget. As a result, Net Operating Revenues before Depreciation were \$629,062. Net Non-Operating Revenues were \$1,936,914, which includes \$983,723 in 2022A Bond interest expense to be paid from the Bond Capitalized Interest account semi-annually, and ARPA grant funding in the amount of \$1,919,514.

Year-to-date Operating Revenues were \$6,303,309, 24.2% over budget. Year-to-date Operating Expenses were \$2,973,553, 22.7% under budget. Year-to-date Net Operating Revenues before Depreciation were \$3,329,756. Net Non-Operating Revenues for the year were \$1,724,109, which includes \$2,951,168 in 2022A Bond interest expense.

REVENUES

Significant variations to budget for September were:

Term rentals – airlines	\$19,302	7.55%	Enplanements over budget
Concessions	\$43,919	82.57%	Enplanements over budget
Auto parking	\$163,731	26.20%	Enplanements over budget
FBOs	\$21,207	22.20%	Rent increase
Other leases & fees	\$21,171	90.47%	Runway 5K registrations

Information Section – Item B



EXPENSES

Significant variations to budget for September were:

Professional services	(\$13,332)	(32.89%)	Minimal professional services during month
Other contractual services	\$53,371	32.03%	More invoices than anticipated for month
Promotional activities	(\$12,286)	(44.80%)	Minimal promotional activities
Operating supplies	\$20,165	49.23%	Purchases higher than anticipated
Emergency repairs	\$30,256	726.15%	Airfield drainage repairs

STATEMENT OF NET ASSETS

Significant variations to prior month were:

Cash and Cash Equivalents – Cash and Cash Equivalents increased by \$1.4M mostly due to interest earnings and grant funding.

Grants Receivable – Grants Receivable increased by \$2.1M mostly due to terminal and south general aviation apron projects.

Construction in Progress – Construction in Progress increased by \$4.2M mostly due to the terminal and south general aviation apron projects.

Property and Equipment, Net – Property and Equipment, Net decreased by \$455K due to depreciation.

**ASHEVILLE REGIONAL AIRPORT
INVESTMENT AND INTEREST INCOME SUMMARY
As of September 30, 2022**

<u>Institution:</u>	<u>Interest Rate</u>	<u>Investment Amount</u>	<u>Monthly Interest</u>
Bank of America - Operating Account	1.11%	\$ 11,011,808	10,261
NC Capital Management Trust - Cash Portfolio		20,567,981	40,916
Petty Cash		200	
 <u>Restricted Cash:</u>			
Bank of America - PFC Revenue Account	1.11%	14,222,138	12,528
BNY Mellon		425,279	
NC Capital Mgt Trust - 2022A Construction		151,997,758	357,392
NC Capital Mgt Trust - 2022A Parity Reserve		13,466,921	26,790
NC Capital Mgt Trust - 2022A Capitalized Interest		30,396,745	5,442
 Total		 <u>\$ 242,088,830</u>	 <u>\$ 453,329</u>

Investment Diversification:

Banks	11%
NC Capital Management Trust	89%
Commercial Paper	0%
Federal Agencies	0%
US Treasuries	0%
	<u>100%</u>

**ASHEVILLE REGIONAL AIRPORT
STATEMENT OF CHANGES IN FINANCIAL POSITION
For the Month Ended September 30, 2022**

	Current Month	Prior Period
Cash and Investments Beginning of Period	\$ 240,688,668	\$ 239,997,895
Net Income/(Loss) Before Capital Contributions	2,110,198	790,394
Depreciation	455,777	455,777
Decrease/(Increase) in Receivables	(1,850,057)	(200,344)
Increase/(Decrease) in Payables	1,823,997	1,015,103
Decrease/(Increase) in Prepaid Expenses	303,931	(85,296)
Decrease/(Increase) in Fixed Assets	(4,243,522)	(2,508,435)
Principal Payments of Bond Maturities	-	-
Capital Contributions	2,799,838	1,219,380
Forfeiture Funding Increase	-	4,194
Increase(Decrease) in Cash	1,400,162	690,773
Cash and Investments End of Period	\$ 242,088,830	\$ 240,688,668

**ASHEVILLE REGIONAL AIRPORT
STATEMENT OF FINANCIAL POSITION
As of September 30, 2022**

	<u>Current Month</u>	<u>Last Month</u>
<u>ASSETS</u>		
Current Assets:		
Unrestricted Net Assets:		
Cash and Cash Equivalents	\$31,579,989	\$31,089,359
Accounts Receivable	809,887	929,268
Passenger Facility Charges Receivable	315,000	315,000
Refundable Sales Tax Receivable	82,022	177,708
Grants Receivable	4,605,103	2,539,978
Prepaid Expenses	1,149,535	1,453,466
GASB 87 Short-term Lease Receivable	1,624,751	1,624,751
Total Unrestricted Assets	<u>40,166,287</u>	<u>38,129,530</u>
Restricted Assets:		
Cash and Cash Equivalents	210,508,841	209,599,309
Total Restricted Assets	<u>210,508,841</u>	<u>209,599,309</u>
Total Current Assets	<u>250,675,128</u>	<u>247,728,839</u>
Noncurrent Assets:		
Construction in Progress	39,415,792	35,172,270
Net Pension Asset - LGERS	(689,136)	(1,694,894)
Benefit Payment - OPEB	477,830	347,993
Contributions in Current Year	1,401,569	1,110,918
GASB 87 Long-term Lease Receivable	16,387,282	16,387,282
Property and Equipment - Net	172,546,751	173,002,528
Total Noncurrent Assets	<u>229,540,088</u>	<u>224,326,097</u>
	<u>\$480,215,216</u>	<u>\$472,054,936</u>
<u>LIABILITIES AND NET ASSETS</u>		
Current Liabilities:		
Payable from Unrestricted Assets:		
Accounts Payable & Accrued Liabilities	(\$42,150)	(\$32,581)
Customer Deposits	88,018	88,018
Unearned Revenue	1,052,916	203,073
Construction Contract Retainages	715,740	715,740
Revenue Bond Payable - Current	1,375,000	1,375,000
GASB 87 Short-term Deferred Revenue	2,257,607	2,257,607
Interest Payable	2,951,168	1,967,445
Total Payable from Unrestricted Assets	<u>8,398,299</u>	<u>6,574,302</u>
Total Current Liabilities	<u>8,398,299</u>	<u>6,574,302</u>
Noncurrent Liabilities:		
Pension Deferrals - OPEB	208,860	229,725
Other Postemployment Benefits	2,616,865	1,316,093
Compensated Absences	655,090	655,090
Net Pension Obligation-LEO Special Separation Allowance	654,955	614,383
GASB 87 Long-term Deferred Revenue	16,011,357	16,011,357
Revenue Bond Payable - 2016 - Noncurrent	12,270,000	12,270,000
Revenue Bond Payable - 2022A - Noncurrent	194,729,242	194,729,242
Revenue Bond 2022A Issue Costs	0	(528,048)
Total Noncurrent Liabilities	<u>227,146,369</u>	<u>225,297,842</u>
Total Liabilities	<u>235,544,668</u>	<u>231,872,144</u>
Net Assets:		
Invested in Capital Assets	198,317,543	194,529,798
Restricted	210,508,841	209,599,309
Unrestricted	(164,155,836)	(163,946,315)
Total Net Assets	<u>244,670,548</u>	<u>240,182,792</u>
	<u>\$480,215,216</u>	<u>\$472,054,936</u>



Income Statement

Through 09/30/22

Summary Listing

Classification	MTD Actual Amount	YTD Actual Amount	YTD Budget Amount	YTD Variance	Annual Budget Amount	Budget Less YTD Actual
Fund Category Governmental Funds						
Fund Type General Fund						
Fund 10 - General Fund						
<i>Operating revenues</i>						
Terminal space rentals - non airline	24,853.57	74,560.71	74,850.50	(289.79)	299,402.00	224,841.29
Terminal space rentals - airline	274,825.80	898,803.69	766,571.00	132,232.69	3,066,284.00	2,167,480.31
Landing fees	178,604.05	575,470.84	522,438.75	53,032.09	2,089,755.00	1,514,284.16
Concessions	97,106.32	254,114.66	159,562.50	94,552.16	638,250.00	384,135.34
Auto parking	788,731.43	2,430,858.44	1,875,000.00	555,858.44	7,500,000.00	5,069,141.56
Rental car - car rentals	340,257.35	1,230,212.43	1,000,000.00	230,212.43	4,000,000.00	2,769,787.57
Rental car - facility rent	61,376.83	184,130.49	183,378.75	751.74	733,515.00	549,384.51
Commerce ground transportation	20,703.17	71,551.03	52,500.00	19,051.03	210,000.00	138,448.97
FBOs	116,724.51	347,425.46	286,554.00	60,871.46	1,146,216.00	798,790.54
Building leases	4,156.15	12,311.07	11,996.25	314.82	47,985.00	35,673.93
Land leases	29,365.79	87,416.36	73,330.50	14,085.86	293,322.00	205,905.64
Other leases and fees	44,570.92	136,454.09	70,200.00	66,254.09	280,800.00	144,345.91
<i>Operating revenues Totals</i>	\$1,981,275.89	\$6,303,309.27	\$5,076,382.25	\$1,226,927.02	\$20,305,529.00	\$14,002,219.73
<i>Non-operating revenue and expense</i>						
Customer facility charges	182,172.00	599,194.75	500,000.00	99,194.75	2,000,000.00	1,400,805.25
Passenger facility charges	365,620.80	1,033,966.26	750,000.00	283,966.26	3,000,000.00	1,966,033.74
ARPA grant	1,919,514.39	1,919,514.39	.00	1,919,514.39	.00	(1,919,514.39)
Interest revenue	453,329.28	1,122,601.22	6,250.00	1,116,351.22	25,000.00	(1,097,601.22)
Interest expense	(983,722.66)	(2,951,168.01)	.00	(2,951,168.01)	.00	2,951,168.01
Gain or loss on disposal of assets	.00	.00	.00	.00	.00	.00
P-card rebate	.00	.00	.00	.00	.00	.00
<i>Non-operating revenue and expense Totals</i>	\$1,936,913.81	\$1,724,108.61	\$1,256,250.00	\$467,858.61	\$5,025,000.00	\$3,300,891.39
Capital contributions	2,799,838.28	4,019,672.45	.00	4,019,672.45	.00	(4,019,672.45)



Income Statement

Through 09/30/22

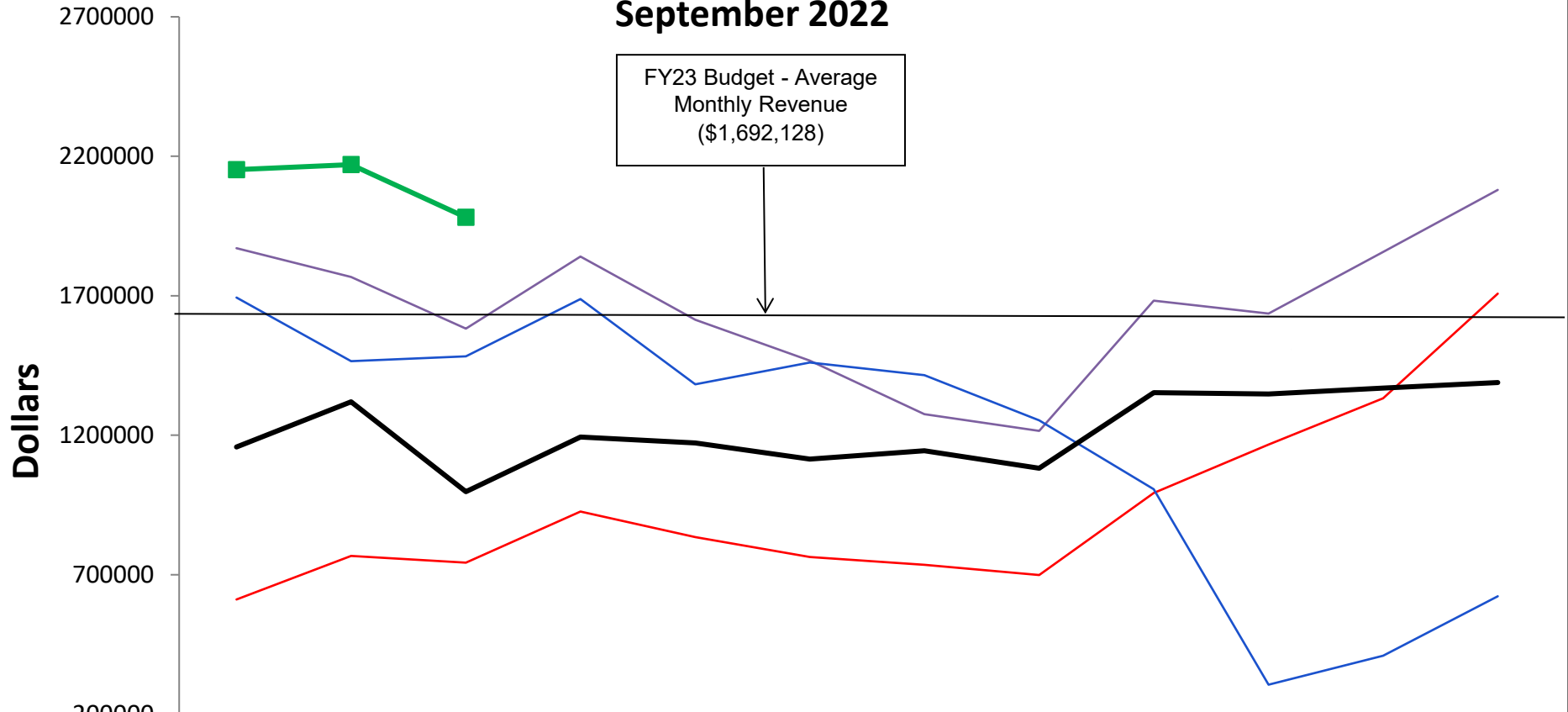
Summary Listing

Classification	MTD Actual Amount	YTD Actual Amount	YTD Budget Amount	YTD Variance	Annual Budget Amount	Budget Less YTD Actual
<i>Operating expenses</i>						
Personnel services	585,746.11	1,665,022.20	2,265,734.25	(600,712.05)	9,062,937.00	7,397,914.80
Professional services	27,201.64	60,892.56	121,600.00	(60,707.44)	486,400.00	425,507.44
Other contractual services	220,023.51	497,481.83	499,957.50	(2,475.67)	1,999,830.00	1,502,348.17
Travel and training	19,949.03	32,679.75	55,432.50	(22,752.75)	221,730.00	189,050.25
Communications	2,526.54	8,990.93	14,550.00	(5,559.07)	58,200.00	49,209.07
Utility services	40,784.59	63,620.80	122,316.75	(58,695.95)	489,267.00	425,646.20
Rentals and leases	1,725.31	5,559.66	4,677.50	882.16	18,710.00	13,150.34
Insurance	302,895.68	335,411.68	334,400.00	1,011.68	334,400.00	(1,011.68)
Advertising, printing and binding	291.47	1,358.22	2,862.50	(1,504.28)	11,450.00	10,091.78
Promotional activities	15,136.55	30,380.29	82,268.75	(51,888.46)	329,075.00	298,694.71
Other current charges and obligations	7,467.78	24,767.41	20,818.75	3,948.66	83,275.00	58,507.59
Operating supplies	61,123.74	121,860.07	122,875.00	(1,014.93)	491,500.00	369,639.93
Publications, subscriptions, memberships, etc.	1,322.47	9,347.94	18,301.25	(8,953.31)	73,205.00	63,857.06
Repairs and maintenance	22,940.06	44,201.00	48,300.00	(4,099.00)	193,200.00	148,999.00
Small equipment	8,657.03	24,142.07	21,875.00	2,267.07	87,500.00	63,357.93
Contingency	.00	.00	25,000.00	(25,000.00)	100,000.00	100,000.00
Emergency repairs	34,422.74	34,422.74	12,500.00	21,922.74	50,000.00	15,577.26
Business development	.00	.00	75,000.00	(75,000.00)	300,000.00	300,000.00
Bad debt expense	.00	13,414.54	.00	13,414.54	.00	(13,414.54)
<i>Operating expenses Totals</i>	\$1,352,214.25	\$2,973,553.69	\$3,848,469.75	(\$874,916.06)	\$14,390,679.00	\$11,417,125.31
<i>Depreciation</i>						
Depreciation	455,777.00	1,367,331.00	.00	1,367,331.00	.00	(1,367,331.00)
<i>Depreciation Totals</i>	\$455,777.00	\$1,367,331.00	\$0.00	\$1,367,331.00	\$0.00	(\$1,367,331.00)
Grand Totals						
REVENUE TOTALS	6,718,027.98	12,047,090.33	6,332,632.25	5,714,458.08	25,330,529.00	13,283,438.67
EXPENSE TOTALS	1,807,991.25	4,340,884.69	3,848,469.75	492,414.94	14,390,679.00	10,049,794.31
Grand Total Net Gain (Loss)	\$4,910,036.73	\$7,706,205.64	\$2,484,162.50	\$5,222,043.14	\$10,939,850.00	(\$3,233,644.36)

ASHEVILLE REGIONAL AIRPORT

Annual Operating Revenue by Month

September 2022



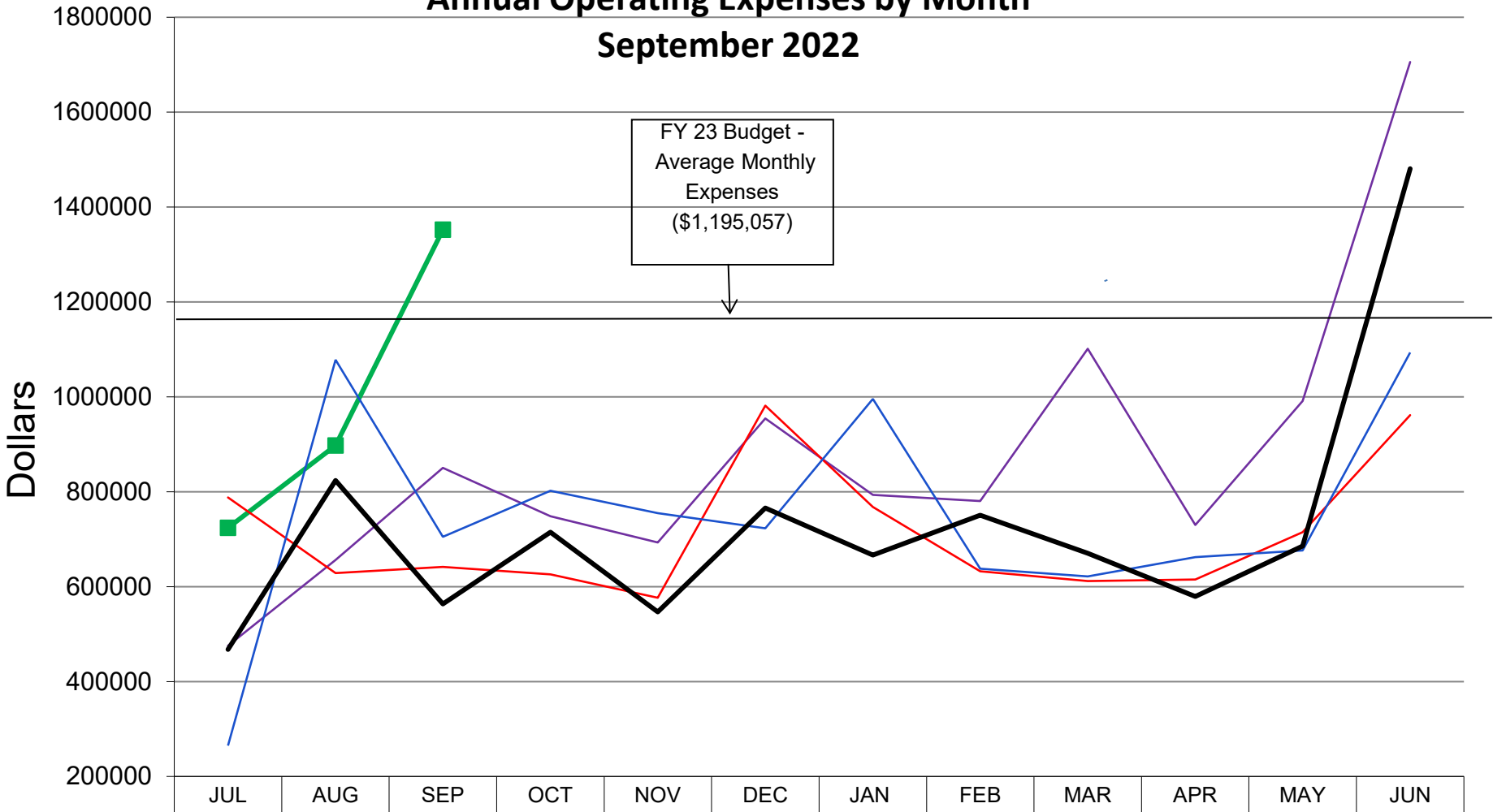
FY23 Budget - Average
Monthly Revenue
(\$1,692,128)

	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
■ 2023	2151973	2170060	1981276									
— 2022	1870783	1766994	1582459	1840835	1614185	1467415	1275749	1215598	1682310	1636179	1857453	2079519
— 2021	611290	767485	743365	926512	834587	763375	735131	699104	993500	1166582	1332640	1707683
— 2020	1693639	1465826	1482983	1688471	1382894	1461166	1414955	1253245	1006396	305847	409453	622404
— 2019	1157880	1319448	997702	1193707	1171956	1114742	1144401	1081933	1352795	1348310	1369108	1388974

ASHEVILLE REGIONAL AIRPORT

Annual Operating Expenses by Month

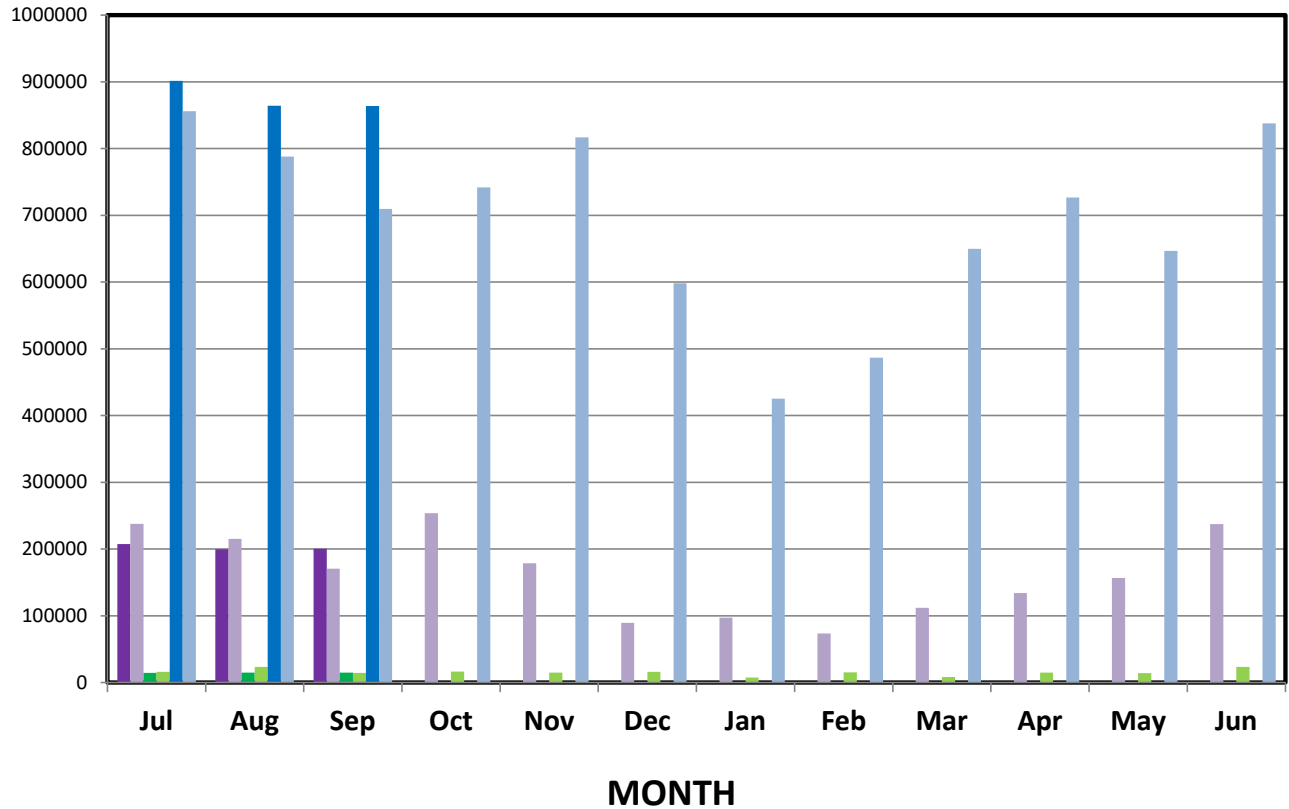
September 2022



	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN
2023	723941	897398	1352214									
2022	475489	656101	850419	748420	692984	954472	793428	780593	1101373	730109	991519	1705678
2021	788272	628561	641559	625891	576630	981507	768156	632342	611610	614830	714835	961373
2020	264978	1077831	704819	802144	754800	722727	995620	637669	621479	662302	676330	1093523
2019	467701	823824	563350	714938	546502	766012	666544	750376	670406	579071	685414	1480804

**ASHEVILLE REGIONAL AIRPORT
FUEL SALES - GALLONS
September 2022**

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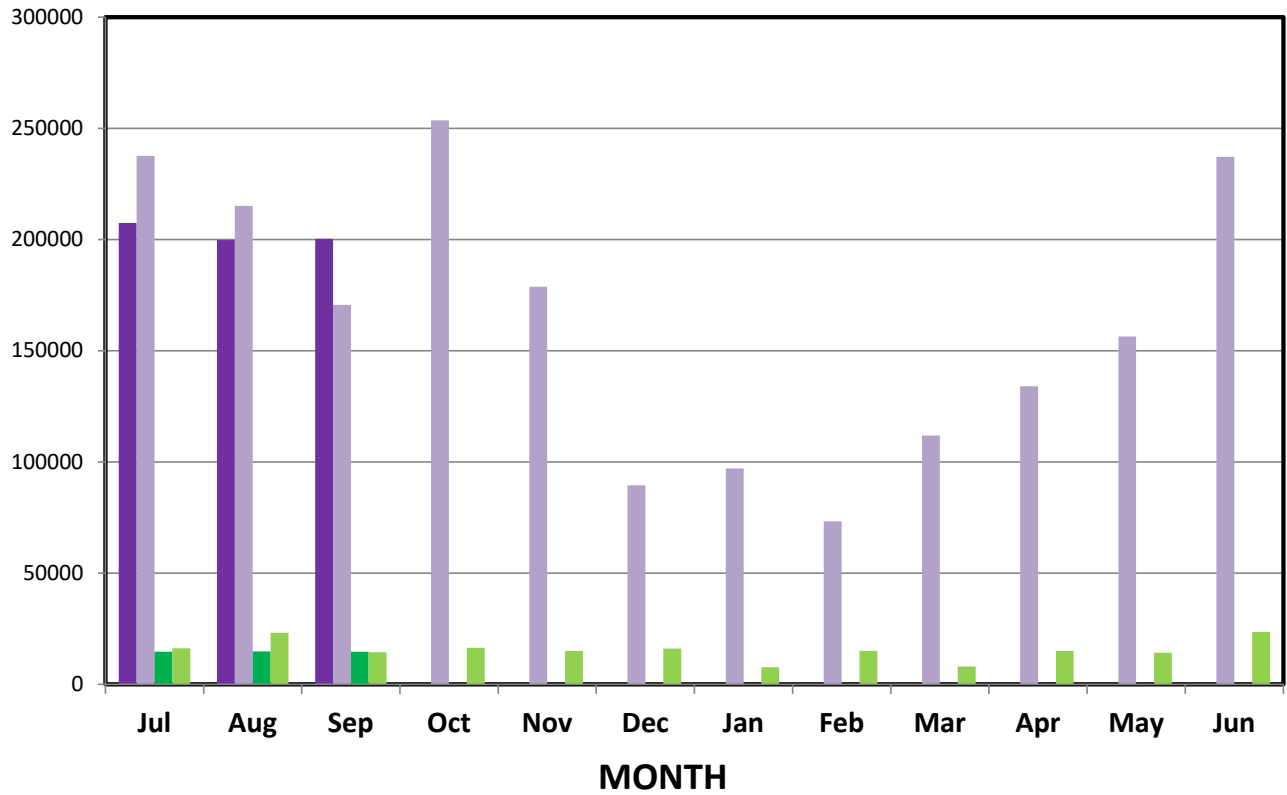


- Jet A FY23
- Jet A FY22
- 100LL - FY23
- 100LL - FY22
- Airlines - FY23
- Airline - FY22

Jet A - 199,762 Gallons
 100LL - 14,826 Gallons
 Airline - 864,304 Gallons

**ASHEVILLE REGIONAL AIRPORT
GENERAL AVIATION FUEL SALES - GALLONS
September 2022**

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- Jet A - FY23
- Jet A - FY22
- 100LL - FY23
- 100LL - FY22

Jet A - 199,762 Gallons
100LL - 14,826 Gallons

Greater Asheville Regional Airport Authority
Construction Project Report - November 2022

Design Phase

Project Number	Project Name	Project Description	Professional Services Consultant	Professional Services Contract	General Contractor	Original Construction Contract	Change Orders (thru 11/01/2022)	Percent of Original Contract	Board Approved Project Cost	Percent Complete	Expensed to Date (thru 11/01/2022)	Start Date	End Date	Current Project Status (as of 11/01/2022)
1	Terminal Building Renovations	Phase 2 - Terminal Building Modernization Design	Gresham Smith	\$12,608,794.00	N/A	N/A	\$7,232,602.00	8.3%	\$19,841,396	64.8%	\$12,863,996	Nov-19	Dec-24	CA services continues.
2	Terminal Building Renovations	CMR for Pre-Construction and CGMP1	Hensel Phelps	\$1,088,270.00	N/A	N/A	\$0.00	0.0%	\$1,088,270.00	96.3%	\$1,047,670	Dec-20	Dec-24	CMR Pre-Construction phase services.
3	Terminal Building Renovations	Program Management Services	Parsons Transportation Group, Inc.	\$1,329,368.36	N/A	N/A	\$0.00	0.0%	\$1,329,368	14.4%	\$191,450	May-22	Dec-26	Project management in process.
4	Air Traffic Control Tower	Design new facility	Pond Company	\$4,157,923.00	N/A	N/A	\$661,133.00	15.9%	\$4,819,056	44.3%	\$2,137,258	Mar-21	Dec-23	Bid opening scheduled for Nov 4th. Contractors pre-qualified for project.
5	Parking Lot D Restart	Continue design of parking lot across highway 280.	AVCON	\$25,000.00	N/A	N/A	\$0.00	0.0%	\$25,000	95.0%	\$23,737	Jun-21	Oct-22	Project management in process.
6	Rehabilitate South GA Apron	Design apron rehabilitation	Parrish and Partners	\$565,432.00	N/A	N/A	\$0.00	0.0%	\$565,432	65.1%	\$367,946	Jun-21	Dec-22	Project management in process.
7	Airport Master Plan	Update current Master Plan	CHA	\$989,004.00	N/A	N/A	\$0.00	0.0%	\$989,004	43.9%	\$433,796	Jul-21	Feb-23	Document preparation continues. Working Papers submitted to FAA for review.
8	Stormwater Drainage Improvements	Identify deficiencies and design stormwater improvements	AVCON	\$205,000.00	N/A	N/A	\$0.00	0.0%	\$205,000	75.8%	\$155,290	Jan-22	Sep-22	Pre-Construction meeting held.

Construction Phase

Project Number	Project Name	Project Description	Professional Services Consultant	Professional Services Contract	General Contractor	Original Construction Contract	Change Orders (thru 11/01/2022)	Percent of Original Contract	Board Approved Project Cost	Percent Complete	Expensed to Date (thru 11/01/2022)	Start Date	End Date	Current Project Status (as of 11/01/2022)
1	Parking Lot D Restart	Construct parking lot across highway 280	AVCON Inc	Amount in Design Fees	Chatham Civil Construction	\$297,567	\$0	0.00%	\$489,328	0.0%	\$0	Aug-21	Oct-22	Lot is being used. Contractor to provide landscaping prior to winter.
2	Terminal Building Modernization - CMR Construction	CGMP-1 Utilities relocation \$6,215,900 CGMP-2 CEP and Equipment Purchase \$77,999,756	Gresham Smith	Amount in Design Fees	Hensel Phelps	\$84,215,656.00	\$0	0.00%	\$84,215,656.00	6.7%	\$5,862,198	Jan-22	Dec-24	Lighting vault is being fitted with interior fixtures, new sidewalk is formed along WBW rd, and CEP civil work continues to progress.
3	Rehabilitate South GA Apron	Removal and replacement of pavement on South GA Apron	Parrish and Partners	Amount in Design Fees	Independence Excavating	\$6,746,800	\$0	0.00%	\$7,421,480	60.3%	\$4,066,404	May-22	Dec-22	Phase 3 is near complete with 2 lanes remaining to pave. Asphalt repairs of haul route will begin early November.
4	Stormwater Improvements	Repair areas on property to drain efficiently	AVCON Inc.	Amount in Design Fees	Nassiri Development	\$772,980	\$0	0.00%	\$795,278.00	0.0%	\$0	Oct-22	Jan-23	Pre-Construction meeting was held with Contractor to provide schedule for work.

*(bal of approved contract)

Key strategic priorities

Governance vs. Management : Focus on setting governing direction (“guard rails”) for the organizational and holding management accountable for the execution of operational tactics. Pursue continuous educational opportunities for Authority Member development.

1. **Organizational Relevance**: Remaining relevant in an era of airport consolidation
2. **Financial Stewardship**: Sustainability/Operating Performance/Audit & Compliance
3. **Municipal Relations**: Positive relationships with all municipalities surrounding the airport
4. **Stakeholder Relations**: Positive relationships with neighbors and other community organizations
5. **Community Image**: Public Perception/Public Relations/Customer Service/Legal Entity
6. **Facilities Stewardship**: Future Master Facilities Plan
7. **Environmental Stewardship**: Accountability/Awareness of Environmental Issues
8. **Economic Development**: Engage Community Partners/Airline Service Development
9. **Vendor-Partner Relations**: General Aviation/Rental Car Agencies/Vendors
10. **Public Safety**: Airport Emergency Safety/TSA Relations/Municipal Partners
11. **Organizational Accountability**: President & CEO Supervision