

## **TEMPORARY PROPERTY USE LEASE AGREEMENT**

This Temporary Property Use Lease Agreement (“Agreement”) is between the Metropolitan Airports Commission (“MAC”), a public corporation of the State of Minnesota, and the Saint Paul Police Department on behalf of the City of Saint Paul, a municipal corporation of the State of Minnesota (“Lessee”).

WHEREAS, MAC is the owner of the real property and hangars at the St. Paul Downtown Airport (“Airport”), as shown on Exhibit A and located at 770 Bayfield Street, St. Paul, MN; and

WHEREAS, Lessee has requested to use space at the Airport.

NOW THEREFORE, for and in consideration of the obligations described below, the parties agree as follows:

### **1. AUTHORIZED USE**

Lessee is granted the exclusive right to use the building identified as Lot 9A on Exhibit A attached hereto and located at 770 Bayfield Street, St. Paul, MN (the “Property”) for personnel briefing and resource staging (including vehicles, safety equipment, and personnel). Lessee is granted a non-exclusive right to use three (3) locations upon Airport Road for the purposes of operating security checkpoints. Lessee will propose prospective locations for these checkpoints to MAC, with the final location of these checkpoints to be authorized in the sole discretion of MAC. Lessee is also granted the non-exclusive right of ingress and egress to the Property and to the security checkpoints.

The Property shall not be used for any purpose other than those permitted by this Agreement without the prior written consent of MAC.

Notwithstanding the provisions of this section, no use will be allowed that adversely affects the Airport’s capacity, security, safety, or operations. Lessee is responsible for policing, use, and control of the Property by third parties, subject always to MAC’s approval, control and operation of the Airport. Lessee shall comply with any security requirements of MAC, FAA, TSA, or other regulatory body having jurisdiction, at Lessee’s cost.

Lessee is responsible for addressing, to the satisfaction of MAC, any safety or security issues or impacts to Airport operations that MAC or any other governmental authorities determine arise from Lessee’s use of the Property, including ensuring no access to the airfield at the Airport that could jeopardize the security and safety of the Airport.

### **2. DATE AND TIME**

Lessee may use the Property beginning on May 1, 2023, at 12:00pm and ending on October 31, 2023, at 12:00pm.

Either party may terminate this Agreement for any reason upon 10 days prior written notice.

### **3. FEE**

Lessee shall pay \$1,100.00 dollars per month. This amount will be prorated for use which is less than one month. In addition, in exchange for the authorized uses granted pursuant to this Agreement, Lessee agrees to operate security checkpoints at the Airport if the need arises due to civil unrest. These checkpoints will be operational twenty-four (24) hours per day for the duration of Lessee’s use authorized by this Agreement, unless directed otherwise by MAC. These

checkpoints will be constructed, deconstructed, and operated at Lessee's sole expense and under the supervision of MAC.

4. **CONDUCT**

Lessee shall not materially impede the flow of traffic, cause undue disturbance, or materially disrupt operations of other lessees located at the Property. Lessee shall not take occupancy of the Property different than what is specified in this Agreement without MAC's prior written approval. Lessee shall take direction from authorized MAC staff members at all times regarding Lessee's use of the Property or impacts to the Airport's capacity, security, safety, or operations.

5. **CONDITION OF PREMISES**

Lessee agrees to maintain a clean working area and to restore the Property to the same condition in which it was found, ordinary wear and tear accepted. All temporary alterations to the Property must be approved in advance and in writing by MAC. Lessee shall pay for any damage or cleaning costs to the Property or other Airport property resulting from its use of the Property. MAC contractors will perform any necessary repairs.

At the discretion of MAC, Lessee and MAC may agree to jointly inspect the Property prior to and following Lessee's use of the Property, for the purpose of observing and noting, in writing, existing damage caused by Lessee's Use, if any. Within five days after Lessee vacates the Property, MAC agrees to submit to Lessee in writing a record of the repairs arising from Lessee's Use of the Property and that will need to be made to the Property, if any. MAC shall permit Lessee's representatives to inspect such damage.

6. **ENVIRONMENTAL OPERATING CONDITIONS**

Any materials/waste (hazardous or otherwise "left over" from this activity are the property of the Lessee and must be removed by the Lessee. Waste disposal must follow all county, state and federal regulations. The MAC is not the owner, generator or the party responsible for removal/disposal of this waste/material.

Lessee shall also notify MAC of any spills, regardless of the amount, occurring on Airport property to which the Lessee has knowledge. If MAC incurs costs related to a spill or other environmental expense related to Lessee's operations at the Airport, unless due to the negligence of MAC, MAC will bill Lessee for all MAC's costs, plus a fifteen percent (15%) administrative fee. Lessee shall pay MAC within thirty (30) days of invoice.

7. **INDEMNIFICATION**

Lessee assumes all risk arising out of or relating to any injury, death or damage occurring from its use of the Property.

Further, to the fullest extent permitted by law, Lessee does hereby covenant and agree to indemnify, protect, defend and hold completely harmless MAC and its Commissioners, officers, agents, consultants and employees (collectively "Indemnitees") from and against any and all liabilities, losses, damages, suits, actions, claims, charges, judgments, settlements, fines as a result of or demands of any person arising by reason of injury or death of any person, or damage to any property, or any allegation or claim of such injury, death or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, investigative fees, attorney's fees, court costs and expert fees) of any nature whatsoever arising out of or as a result of Lessee's operation at or about the Property and the Airport or the acts or

omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur.

MAC shall give Lessee reasonable notice of any such claim or action. In indemnifying or defending an Indemnitee, Lessee shall use legal counsel reasonably acceptable to MAC. MAC, at its option, shall have the right to select its own counsel or to approve joint counsel as appropriate (considering potential conflicts of interest) and any experts for the defense of claims. Lessee, at their expense, shall provide to MAC all information, records, statements, photographs, video, or other documents reasonably necessary to defend any claims.

This provision shall survive expiration or earlier termination of the Agreement. The furnishing of the required insurance hereunder shall not be deemed to limit Lessee's obligations under this Agreement.

As a distinct and separate indemnification obligation, Lessee shall defend, indemnify, protect and hold the Indemnitees completely harmless from any claims or liabilities arising out of Lessee's failure or alleged failure to procure and to keep in force the insurance required as part of this Agreement. If caused by the negligent or intentional act or omission of MAC, to the extent provided by law, MAC agrees to indemnify, defend, and hold harmless Lessee in kind as outlined hereunder.

Lessee shall not use or permit the Property to be used in any manner that would void Lessee or MAC's insurance or increase the insurance risk. Lessee shall comply with all requirements imposed by the insurers for MAC and Lessee.

**8. INSURANCE**

Vendor shall provide evidence of being self-insured.

**9. PROPERTY & EQUIPMENT**

MAC does not assume responsibility for any of Lessee's property, vehicles, or equipment, and MAC will not be liable for any loss or damage to Lessee's property, vehicles, or equipment.

**10. SIGNAGE**

Lessee shall not be allowed to erect signage on the Property.

**11. SUBLEASE OR ASSIGNMENT**

Lessee shall not sublease, transfer, assign, or allow any other person or entity operating rights under this Agreement. This Agreement is binding on all legal representatives, successors or assigns.

**12. MINNESOTA LAW AND JURISDICTION**

This Agreement is governed by Minnesota law. Lessee further consents to the jurisdiction of and venue in the courts of the State of Minnesota, Hennepin County.

**13. COMPLIANCE WITH LAWS**

Lessee shall comply with all applicable federal, state and local laws, including those of MAC and the Federal Aviation Administration. MAC shall have the right to adopt and enforce reasonable

rules and regulations with respect to the use of the Property, which Lessee agrees to observe and obey.

14. **WAIVER**

If either party agrees to waive its right to enforce any term of this Agreement, it does not waive its right to enforce the other terms of this Agreement.

15. **NOTICE**

All notices required by this Agreement shall be in writing and shall be given by registered or certified mail by depositing the same in the U.S. mail in the continental United States, postage prepaid, return receipt requested, or by personal or courier delivery. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Notice shall be given to:

MAC: Metropolitan Airports Commission  
Reliever Airports Department  
6040 - 28<sup>th</sup> Avenue South  
Minneapolis, Minnesota 55450

Lessee: City of Saint Paul  
Saint Paul Police Department  
367 Grove Street, St. Paul, MN 55101  
Attn: Sr. Commander Ryan Murphy

The effective date of such notice, consent, or approval shall be the date of the receipt as shown by the U.S. Postal Service Return Receipt or the courier receipt, or the date personal delivery is certified, unless provided otherwise in this Agreement.

16. **FAA REQUIRED CONTRACT PROVISIONS**

16.1 Further Development. MAC reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Tenant, and without interference or hindrance.

16.2 Maintenance. MAC reserves the right, but shall not be obligated to Tenant, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Tenant in this regard.

16.3 Subordination. This Lease shall be subordinate to the provisions of and requirements of any existing or future agreement between MAC and the United States, relative to the development, operation, or maintenance of the Airport, and relative to taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

16.4 Part 77. Tenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure is planned for the Leased Property, or in the event of any planned modification or alteration of any present or future structure situated on the Leased Property.

- 16.5 Right of Flight. There is hereby reserved to MAC, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Leased Property. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Airport.
- 16.6 Height Restriction. The Tenant by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect, nor permit the erection of, any structure or object nor permit the growth of any tree on the land leased hereunder above a mean sea level elevation of \_\_\_\_\_ feet. In the event the aforesaid covenants are breached, MAC reserves the right to enter upon the Leased Property and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Tenant.
- 16.7 Hazards. The Tenant by accepting this Lease agrees for itself, its successors, and assigns that it will not make use of the Leased Property in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, MAC reserves the right to enter upon the Leased Property and cause the abatement of such interference at the expense of the Tenant.
- 16.8 Performance of Services on Aircraft. It is clearly understood by Tenant that no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including, but not limited to, maintenance and repair) that it may choose to perform, in accordance with MAC policies.
- 16.9 General Civil Rights Provision. The Tenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Tenant transfers its obligation to another, the transferee is obligated in the same manner as the Tenant.

This provision obligates the Tenant for the period during which the property is owned, used or possessed by the Tenant and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

- 16.10 Title VI Clause for Use of Real Property. The Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant will use the premises in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts and Authorities.

With respect to this Lease, in the event of breach of any of the Nondiscrimination Acts and Authorities, MAC will have the right to terminate the lease and to enter, re-enter, and

repossess said lands and facilities thereon, and hold the same as if the lease had never been made or issued.

- 16.11 Title VI Clause for Construction/Use/Access to Real Property. The Tenant for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant will use the premises in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts and Authorities.

With respect to this Lease, in the event of breach of any of the above nondiscrimination covenants, MAC will have the right to terminate the Lease and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

- 16.12 Civil Rights – Title VI Assurance. During the performance of this contract, the Tenant, for itself, its assignees and successors in interest (hereinafter referred to as the "Tenant") agrees as follows:

1. Compliance with Regulations. The Tenant will comply with Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination. The Tenant, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of sub-contractor, including procurement or materials and leases of equipment. The Tenant will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. Solicitations for Subcontracts, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation made by the Tenant for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential sub-contractor or supplier will be notified by the Tenant of the Tenant's obligations under this contract and the Nondiscrimination Acts and Authorities.
4. Information and Reports. The Tenant will provide all information and reports required by the Nondiscrimination Acts and Authorities and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by MAC or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Tenant is in the exclusive possession of another

who fails or refuses to furnish this information, the Tenant will so certify to MAC or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the Tenant's noncompliance with non-discrimination provisions of this contract, MAC shall impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding payments to the Tenant under the contract until the Tenant complies; and/or

- (b) Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions. The Tenant will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities. The Tenant will take action with respect to any subcontract or procurement as MAC or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Tenant becomes involved in, or is threatened with litigation by a sub-contractor, or supplier because of such direction, the Tenant may request the MAC to enter into any litigation to protect the interests of the MAC. In addition, the Tenant may request the United States to enter into such litigation to protect the interests of the United States.

- 16.13 Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this contract, the Tenant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Tenant") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color,

national origin, or sex);

- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Operators, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

17. **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement shall only be modified if in writing and executed by both parties.

18. **COUNTERPARTS**

The parties may sign this Agreement in counterparts, each of which constitutes an original, but all of which together constitute one instrument.

19. **ELECTRONIC SIGNATURES**

The parties agree that the electronic signature of a party to this Agreement shall be valid as an original signature of such party and shall be effective to bind such party to this Agreement. The



parties further agree that any document (including this Agreement and any attachments or exhibits to this Agreement) containing or to which there is affixed, an electronic signature shall be deemed (i) to be “written” or “in writing,” (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, “electronic signature” also means a manually signed original signature that is then transmitted by an electronic means, including without limitation a faxed version of an original signature or an electronically scanned and transmitted version (e.g. via PDF) of an original signature. Any party’s failure to produce the original signature of any electronically transmitted signature shall not affect the enforceability of this Agreement.

**[SIGNATURE PAGES FOLLOW.]**

IN WITNESS WHEREOF, the parties hereto have signed and executed this instrument the day and year first below written.

**METROPOLITAN AIRPORTS COMMISSION**

Date: \_\_\_\_\_, 2023

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

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

STATE OF MINNESOTA )

) ss.

COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, the \_\_\_\_\_ of the Metropolitan Airports Commission, a Minnesota public corporation, on behalf of the corporation.

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

**CITY OF SAINT PAUL, MINNESOTA**

By: \_\_\_\_\_  
Jack Serier  
Its Assistant Chief of Police

By: \_\_\_\_\_  
John McCarthy  
Its Director of Financial Services

By: \_\_\_\_\_  
Jaime Tincher  
Its Deputy Mayor

Approved as to form:

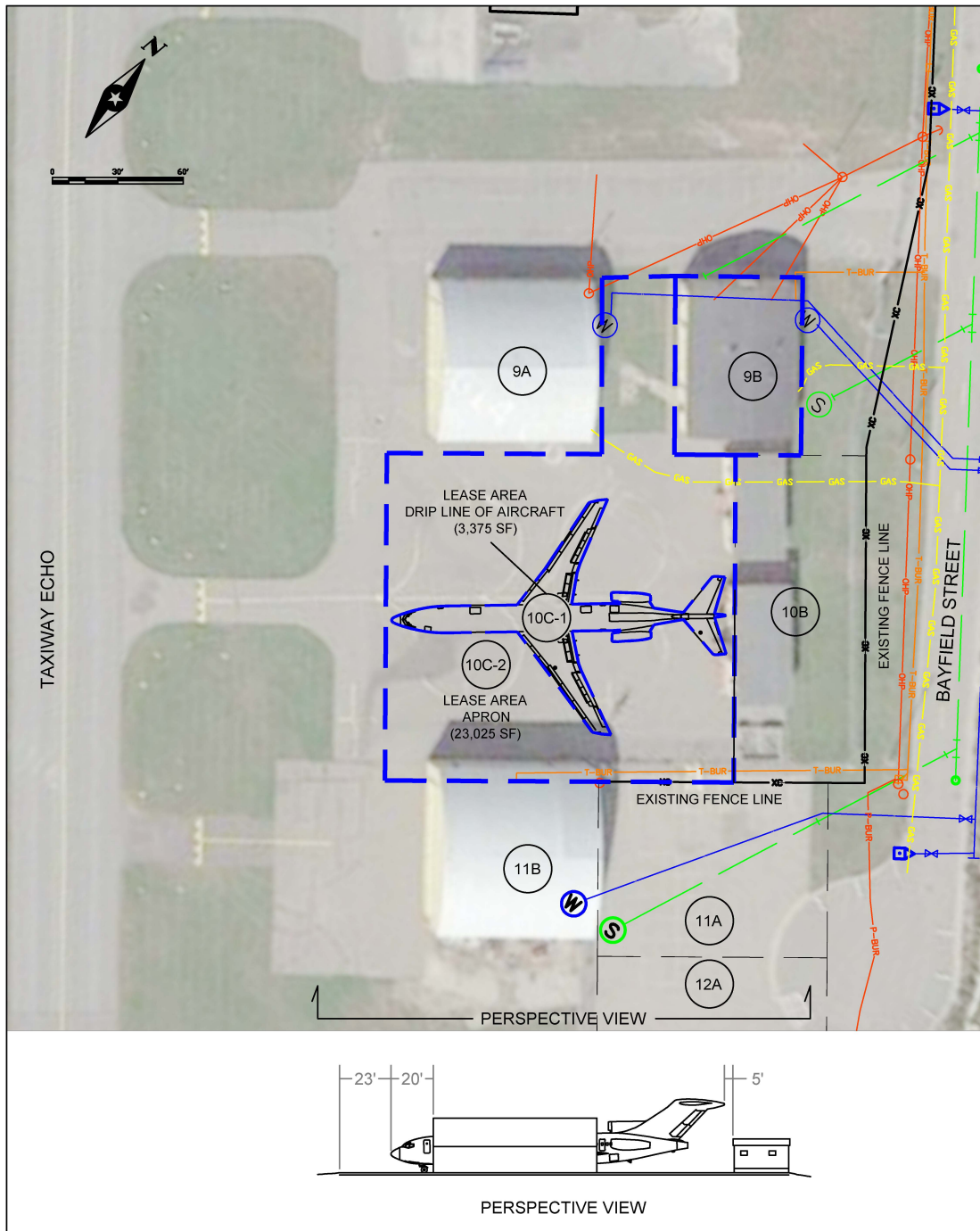
\_\_\_\_\_  
Judy Hanson, Assistant City Attorney

STATE OF MINNESOTA) ) ss.  
COUNTY OF Ramsey )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, Mayor or Deputy Mayor, \_\_\_\_\_, Director, Office of Financial Services and \_\_\_\_\_, City Clerk of the City of Saint Paul, a Minnesota municipal corporation under the laws of the State of Minnesota.

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

# Exhibit A



MN ASSOCIATION OF WOMEN IN AVIATION  
 LEASE BOUNDARIES  
 SAINT PAUL DOWNTOWN AIRPORT

EXHIBIT A  
 07/06/16