

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**AGENDA DATE:** July 30, 2024  
**PUBLIC HEARING DATE:** July 30, 2024

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Mary Lou Espinoza, Capital Assets Manager, (915) 867-2629

**DISTRICT(S) AFFECTED:** 6

**STRATEGIC GOAL:** No. 6: Set the Standard for Sound Governance and Fiscal Management

**SUBGOAL:** No. 6.6: Ensure continued financial stability and accountability through sound financial management, budgeting and reporting

**SUBJECT:**

A resolution authorizing the City Manager to sign a lease agreement by and between the City of El Paso and Air Methods, LLC, a Missouri limited liability company, for the Aviation and Clinical Crew Base Site located at 12230 Pine Springs for a term of five years.

**BACKGROUND / DISCUSSION:**

The City of El Paso desires to lease a portion of vacant land identified as PID 26528, aka Fire Station 35, located at 12230 Pine Springs Dr., that is proposed to be used for a helicopter pad and supporting equipment.

**PRIOR COUNCIL ACTION:**

On April 23, 2024, the City and Air Methods, LLC, entered into an agreement titled Air Medical Services and Support Agreement for medically necessary air transport service.

June 11, 2024, Section 5.8 Base Sites was amended to extend the period for a lease agreement to be executed.

**AMOUNT AND SOURCE OF FUNDING:**

N/A: This is a revenue generating item

**HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED?**  YES  NO

**PRIMARY DEPARTMENT:** Streets & Maintenance (Real Estate)

**SECONDARY DEPARTMENT:** Fire Department

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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:** Richard J. Bristol - Streets and Maintenance Director



7-15-24

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

**RESOLUTION**

**WHEREAS**, on April 23, 2024, the City and Air Methods, LLC, entered into an agreement titled Air Medical Services and Support Agreement for medically necessary air transport service; and

**WHEREAS**, on June 11, 2024, Section 5.8 Base Sites was amended to extend the period for a lease agreement to be executed; and

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

1. That the City Manager be authorized, on behalf of the City of El Paso, to sign a Ground Lease by and between the City of El Paso and Air Methods, LLC, a Delaware limited liability company, for the Aviation and Clinical Crew Base Site located at 12230 Pine Springs for a term of five years.
2. That the City Manager be authorized to make subsequent nonmaterial amendments to the Lease Agreement after review by the City Attorney.

**Approved this** \_\_\_\_ **day of** \_\_\_\_\_ **2024.**

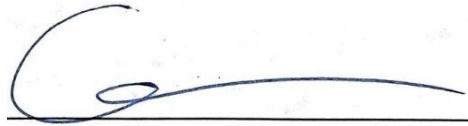
**CITY OF EL PASO**

\_\_\_\_\_  
Oscar Leoser  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_

Carlos L. Armendariz  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_

Mary Lou Espinoza  
Capital Assets Manager

THE STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

**LEASE AGREEMENT FOR**  
12230 Pine Springs

This Lease Agreement (“**Lease**”) is made this 1<sup>st</sup> day of August, 2024 (“**Effective Date**”) between the City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas, (“**Landlord**”), and Air Methods, LLC, a Delaware Limited Liability Company (“**Tenant**”).

**For good and valuable consideration, the parties agree as follows:**

**SECTION 1. DEFINITIONS.**

The following terms shall be defined in this Lease as follows:

**Premises:** The land located at 12230 Pine Springs, El Paso, Texas 79936, consisting of approximately 22,500 square feet, as set forth on Exhibit A and as determined by Landlord in its sole discretion. PROPERTY ID# 26528 GEO ID# V86799900102400

**Permitted Use:** Solely for the following: base site for flight program, which includes the placement of a temporary helipad, construction and use of a 50’ x 50’ (approximately 22,500 square feet) helipad and fencing, placing a 8’ x 40’ conex office, and a fuel bowser.

**Term:** The Initial Term, any renewal or extension term pursuant to any properly exercised Tenant option, any renewal or extension period provided for in any subsequent written agreement between the parties, and any month-to-month tenancy holdover period.

**Initial Term:** FIVE (5) YEARS  
  
The first “Lease Year” shall commence on the Lease Commencement Date and end upon the expiration of the last day of the twelfth (12<sup>th</sup>) full calendar month following the Rent Commencement Date. Thereafter, a “Lease Year” shall consist of successive periods of twelve (12) calendar months.

**Renewal Term:** THREE (3) OPTIONS OF ONE (1) YEAR

**Lease Commencement Date:** August 1, 2024

**Rent Commencement Date:** August 1, 2024

**Base Rent Schedule:**

**Monthly Base Rent**

From the Rent Commencement Date through Lease Year 1:	\$2,062.50 per month
Lease Year 2:	\$2,103.75 per month
Lease Year 3:	\$2,143.85 per month
Lease Year 4:	\$2,188.74 per month
Lease Year 5:	\$2,232.52 per month

**Security Deposit:** \$6,187.50

**Broker(s):** N/A

**Landlord's Payment**

**Address:** The City of El Paso  
Attn: Office of the Comptroller  
P. O. Box 1890  
El Paso, Texas 79950-1890

**Tenant's Notice Address:** Air Methods, LLC  
Attn: Vice President, South Central Region  
Address: 5500 South Quebec St., Ste. 300  
Greenwood Village, Colorado, 80111

With a copy to:  
Air Methods, LLC  
Attn: Legal Department  
Address: 5500 South Quebec St., Ste. 300  
Greenwood Village, Colorado, 80111  
Email: [contracts@airmethods.com](mailto:contracts@airmethods.com)

Email: [realestate@airmethods.com](mailto:realestate@airmethods.com)

**SECTION 2. PREMISES AND PRIVILEGES.**

**2.01 Right to Construct.**

1. Tenant shall have the right and privilege to construct, maintain, and remove improvements upon the Premises subject to the terms, covenants, and conditions herein contained. Landlord agrees that Tenant may construct and install, at Tenant's sole cost and expense, the following improvements on the parcel of land described above: (1) a fifty foot by fifty foot concrete helipad, (2) a security fence around the helipad, (3) an eight foot by forty foot conex office, (4) helipad lighting, and (5) a fuel bowser to provide fuel to Tenant's helicopter at the Premises (collectively, the "Tenant Improvements") which are expected

to cost more than \$240,000. At the expiration or earlier termination of this Lease, Tenant shall remove the fuel bowser and the conex office and shall repair any damage occasioned by such removals at its own expense. The helipad and the fence will become the property of the Landlord at the expiration of this Lease.

**2. Landlord's Approval of Plans.**

Landlord's approval of any plans, specifications and working drawings for Tenant's construction or alteration of improvements shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency or compliance with all laws, rules and regulation of federal, state, county and municipal authorities. It is specifically understood that the Capital Assets and Real Estate Department is only one of numerous departments of the Landlord and that, in addition to obtaining approval of the Capital Assets and Real Estate Manager, Tenant shall be required to obtain the approval of other departments as well, such as Engineering, Municipal Services or Building and Planning Services.

**2.02 Restriction of Privileges, Uses and Rights.**

The rights and privileges granted Tenant hereunder are subject and expressly limited to the terms and conditions described in this Lease including all attachments to this Lease

**2.03 Conditions of Granting Lease.**

The granting of this Lease and its acceptance by Tenant is conditioned upon the following covenants:

- A. That no functional alteration of the Premises shown on Exhibit "A" or functional change in the uses of such Premises, except as reflected in this Lease including all attachments, shall be made without the prior written consent of Landlord.
- B. That the right to use the Premises shall be exercised only subject to and in accordance with the laws of the United States of America and the State of Texas; the rules and regulations promulgated by their authority and all reasonable and applicable rules, regulations and ordinances of Landlord now in force or hereafter prescribed or promulgated by charter authority or by law and which rules, regulations and/or ordinances apply equally to all property owned by the City of El Paso.

**2.04 Quiet Enjoyment.**

Subject to all zoning ordinances and other laws and regulations governing or regulating the use of the Premises and all easements, rights of way, and prescriptive rights, and all presently recorded instruments which affect the Premises, and provided that Tenant fulfills its obligations under this Lease, Tenant shall peaceably and quietly have, hold and enjoy the Premises for the Term.

**SECTION 3. TERM OF LEASEHOLD.**

**3.01 Holding Over.**

It is agreed and understood that any holding over by Tenant of the Premises at the expiration or cancellation of this Lease shall operate and be construed as a tenancy from month to month at a

rent of one and one-half times the current monthly rent, unless the hold over is caused by the City staff not placing a new agreement with Tenant regarding the Premises at the end of the term of the present Lease on the City Council Agenda on a timely basis in which case the monthly rental rate in effect prior to the hold over shall continue until the new agreement is executed. Tenant shall be liable to Landlord for all loss or damage on account of any holding over against Landlord's will after the expiration or cancellation of this Lease, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Landlord from Tenant after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Landlord's consent is required or operate as a waiver of any right of the Landlord to retake and resume possession of the Premises.

### **3.02 National Emergency.**

In the event the rights and privileges hereunder are suspended by reason of war or other national emergency, the term of this Lease shall be extended by the amount of the period of time of such suspension.

## **SECTION 4. BASE RENT; SECURITY DEPOSIT.**

- A. **BASE RENT.** Tenant shall pay Landlord Base Rent in the amounts set forth in Section 1 of this Lease, in advance, on the first day of each calendar month throughout the Term. Base Rent will be paid to Landlord in the form of an ACH payment or check. On the Effective Date, Tenant shall pay Landlord the Base Rent that will be due under this Lease from the Effective Date through the expiration of the first full calendar month following the Effective Date. Any other fees or expenses payable from Tenant to Landlord pursuant to this Lease shall be considered additional rent. Any rent or other amounts accruing under this Lease that are not received by Landlord by the tenth (10<sup>th</sup>) day of the month in which payment is due, shall bear interest from the date such payment was due at the lesser of the rate of eighteen percent (18%) per year or the then maximum nonusurious rate under applicable law

All rent, fees, and other charges due Landlord shall be paid to Landlord at Landlord's Payment Address or at such place or by wire transfer as may be designated from time to time by Landlord.

- B. **SECURITY DEPOSIT.** On the Effective Date, to secure Tenant's performance under this Lease, Tenant shall pay Landlord the Security Deposit, which shall be held by Landlord without obligation for interest or segregation. If Tenant does not timely pay Landlord any amount due Landlord pursuant to this Lease, then, without notice or demand, Landlord may utilize the Security Deposit to pay Landlord any such amounts, and Tenant shall, within thirty (30) days of receipt of written demand therefor, pay Landlord the amount necessary to restore the Security Deposit to the full amount required by this Lease. Landlord will return the Security Deposit, less any amounts owed by Tenant to Landlord, within sixty (60) days after the expiration or termination of this Lease, or the end of any holdover period. Tenant

shall remain obligated to pay Landlord any amounts owed to Landlord that are not covered by the Security Deposit.

## **SECTION 5. OBLIGATIONS AND RIGHTS OF TENANT.**

### **5.01 Net Lease.**

This Lease shall be without cost to Landlord except for Landlord's obligations specifically set forth in Section 2.04 above and elsewhere in this Lease Agreement. Tenant shall:

- A. Keep and maintain the Premises and improvements located thereon in a good state of repair at all times;
- B. Pay a proportional share of the taxes assessed against the Premises as a portion of Landlord's entire property, improvements located on the Premises, Tenant's interest in the Premises and improvements, and all of Tenant's personal property located on the Premises; and
- C. Pay all casualty, bond, and liability insurance premiums required in accordance with the terms of this Lease.

### **5.02 Condition of Premises.**

Tenant accepts the Premises in their present condition and agrees that the Premises are suitable for Tenant's business, activities, and operations proposed to be conducted thereon relying on its own inspection and judgment. Landlord has not made any warranties expressed or implied with regard to the condition of the Premises or improvements or their suitability for a particular use. Tenant accepts the Premises "As Is", "Where Is", with all faults, relying on Tenant's own inspection and judgment and not in reliance on any representations of Landlord. Landlord shall assume no responsibility as to the condition of the Premises and shall not assume responsibility for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition.

### **5.03 Design, Construction, Operation, Maintenance, and Removal.**

Tenant, at Tenant's expense, agrees that it will design, construct, operate, maintain, and remove improvements on the Premises in accordance with this Lease including all Attachments to this Lease and in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon the Landlord or Tenant, with respect to the use, occupation or alteration of the Premises and any improvements thereon. In addition, Tenant agrees that it will surrender all improvements upon the expiration or termination hereof.

Tenant, at Tenant's expense, specifically agrees to make or cause to be made all such alterations to the Premises, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act of 1990 and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to the use or occupation of the Premises and any improvements thereon by disabled persons ("Disabilities Laws").

Tenant shall, at Tenant's expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Tenant's use, operation, occupation or alteration of the Premises including any improvements thereon. Notwithstanding anything to the contrary herein, Tenant shall only be responsible for the liabilities, costs, expenses, and indemnifies Landlord to the extent a violation of Environmental Laws is caused by and attributable to Tenant's actions.

A. Definitions.

- (1) "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including sub-strata land.
- (2) "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and all petroleum products, such as gasoline, kerosene, diesel fuel, and the like.
- (3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

B. Compliance.

- (1) Tenant shall not cause or permit any Hazardous Material, other than what is necessary to carry out its operations, to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by Tenant, its subtenants, agents, employees, contractors, invitees, licensees, or a third party in violation of any Environmental Law. **Tenant shall indemnify, defend and hold harmless Landlord, its successors and assigns, its officers, directors, employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are**



**incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Premises or any improvements thereon caused by the act or omission of Tenant, its subtenants, agents, employees, contractors, licensees or invitees. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water to the extent required under Environmental Laws. Tenant's obligations and liabilities under this paragraph shall continue so long as Landlord bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work to the extent required by any federal, state or local governmental agency or political subdivision having authority to enforce Environmental Laws because of Hazardous Material located on the Premises or any improvements thereon, or present in the soil or ground water on, under or about the Premises. The parties agree that Landlord's right to enforce Tenant's promise to indemnify is not an adequate remedy at law for Tenant's violation of any provision of this Section. Landlord shall also have all other rights and remedies provided by law or otherwise provided in this Lease.**

- (2) Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or in any improvements thereon or permitted by Tenant results in any contamination of the Premises or any improvements thereon, or any surrounding property, Tenant shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon or the surrounding property to the condition existing prior to the introduction of any such Hazardous Material to the Premises or in any improvements thereon or the surrounding property; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon or the surrounding property.
- (3) Tenant shall, at Tenant's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon or on surrounding property to comply with applicable Environmental Laws, then Tenant shall, at Tenant's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to Landlord, Tenant shall promptly provide all information requested by Landlord to determine the

applicability of the Environmental Laws to the Premises to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination of the Premises or the improvements thereon or the surrounding property.

- (4) Tenant shall immediately notify Landlord promptly after Tenant becomes aware of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Tenant's operation on the Premises, and (b) any change in Tenant's operation on the Premises that will change or has the potential to change Tenant's or Landlord's obligations or liabilities under the Environmental Laws.
- (5) Tenant shall insert the provisions of this Section 5.03 in any lease, agreement, license, or contract by which it grants a right or privilege to any person, firm or corporation under this Lease, but only with respect to those leases, agreements, licenses or contracts executed after the Effective Date of this Lease.

C. Fuel Storage Tanks. Fuel storage tanks are allowed on the Premises for the purposes of carrying out operations.

D. Reporting.

- (1) If required by applicable law, if Tenant submits any filing or response pertaining to its property, operations, or presence with any governmental entity (other than the Internal Revenue Service) by way of example but not in limitation, the FAA, the EPA or the TCEQ, or any successor agencies, Tenant shall provide duplicate copies to Landlord of such filing(s) or response(s) with any related documents at the time same are made.
- (2) If required by applicable law, upon expiration, termination or cessation of this Lease for any reason, Tenant shall provide to Landlord a Phase I Environmental Site Assessment meeting ASTM standards of the Premises ("Tenant's Report"); and if, in the opinion of Landlord, if Tenant's Report indicates that the Premises is in violation of applicable Environmental Laws, then Tenant shall perform work as is necessary to cause the Premises to be in compliance with applicable Environmental Laws.

#### **5.04 Development Deadlines.**

Tenant will complete development of the Premises by the deadlines mutually agreed by Tenant and Landlord. Failure by the Tenant to complete development by the established deadlines is a material breach of this Lease and if Tenant fails to cure such breach within thirty (30) days of its receipt of written notice therefor the Landlord may terminate this Lease in whole or in part as it pertains to the undeveloped parcels by sending written notification to the Tenant after the expiration of the deadlines described in the attachments. The notice sent by the Landlord to the Tenant for termination is sufficient evidence to the termination of this Lease and no other signed documents by the Tenant are required. Tenant will remain responsible for removing all improvements from the Premises as provided in this Lease.

#### **5.05 Landlord's Approval of Plans.**

Landlord's approval of any plans, specifications and working drawings for Tenant's construction or alterations of improvements or any plans, specifications and working drawings for Tenant's removal of improvements shall create no responsibility or liability on the part of Landlord for their completeness, design sufficiency or compliance with all laws, rules and regulations of federal, state, county and municipal authorities. It is specifically understood that the Department of Streets & Maintenance is only one of numerous departments of the Landlord and that, in addition to obtaining approval of the Director, Tenant shall be required to obtain the approval of other City departments. Upon approval by such agencies and the issuance of permits for the commencement of construction, Tenant shall deliver to the Director one (1) complete set of the Final Plans as approved by the governmental agencies exercising jurisdiction thereover, and copies of all issued permits. Upon completion of construction, Tenant shall deliver to the Chief Transit and Field Operations Officer a complete set of record (as-built) drawings of the construction signed and sealed by a professional engineer or architect licensed in Texas, and a copy of the issued Certificate of Occupancy for the Premises.

#### **5.06 Landscaping and Maintenance of Improvements.**

Tenant shall landscape the Premises and keep the improvements on the Premises and sidewalks and parkways directly abutting the Premises in a good state of repair and condition and in a presentable condition. The exterior finish on the improvements shall be repainted and refinished as reasonably necessary to maintain the appearance of such improvements. Notwithstanding anything to the contrary in the Declaration, Landlord agrees that attractive, low water usage landscaping is a desirable goal and agrees to consider and approve appropriate low water usage landscaping plans as a part of the architectural review process.

Landlord shall be the sole judge of the quality of maintenance and, upon written notice by Landlord to Tenant, Tenant shall be required to perform reasonable maintenance Landlord reasonably deems necessary in order to cause the exterior finish to be in a good condition. If said maintenance is not commenced by Tenant within forty-five (45) days after receipt of written notice, Landlord shall have the right to enter on the Premises and perform the necessary maintenance, the cost of which shall be borne by Tenant.

#### **5.07 Utilities.**

Tenant shall pay for all costs or charges for utility services furnished to Tenant during the term hereof. Tenant shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense.

#### **5.08 Trash, Garbage, and Other Refuse.**

Tenant shall provide a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Premises, of all trash, garbage and other refuse caused as a result of its use and occupancy of the Premises. Tenant shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse, and will maintain these receptacles, screened from view of adjoining properties or public streets in an attractive, safe, and sanitary manner. Piling of boxes, cartons, barrels or other similar items, in an unsightly or unsafe manner, on or about the Premises, shall not be permitted.

### **5.09 Permitted Uses.**

Tenant will not enter into any business activity on the Premises other than those permitted in the Lease. Tenant will not use the Premises for any uses not specifically listed in Exhibit “C” - Allowed Uses and Additional Use Requirements and Restrictions.

### **5.10 Penalties Assessed by Federal Agencies.**

Tenant understands and agrees that in the event any federal agency assesses a civil penalty against Landlord for any violation, including but not limited to any security violation, solely to the extent as a result of or related to any act or failure to act on the part of Tenant, its subtenants, agents, employees contractors, licensees or invitees, Tenant shall reimburse Landlord in the amount of the civil penalty assessed. Failure to reimburse Landlord within thirty (30) calendar days of receipt of written notice shall constitute an event of default hereunder.

### **5.11 Pre-Construction Requirements.**

Tenant will not commence development on the Premises until Tenant has provided Landlord the following items and Landlord has approved the sufficiency of each of the following in the Landlord’s discretion:

- a. Proof of required insurance coverages as provided in this Lease
- b. Conceptual plans for development

Failure by Tenant to provide each of these items to Landlord prior to the start of construction constitutes a material breach of this Lease.

## **SECTION 6. INSURANCE AND INDEMNIFICATION.**

### **6.01 Insurance.**

Prior to the execution of this Lease, Tenant shall obtain, provide proof of, and shall maintain for the term of this Lease, the types and amounts of insurance coverage listed below, in amounts as set forth below:

Comprehensive General Liability Insurance, including automobile liability, in amounts not less than One Million Dollars (\$1,000,000.00) for bodily injury to one person for each occurrence,

Two Million Dollars (\$2,000,000.00) for bodily injuries to more than one person arising out of each occurrence,

One Million Dollars (\$1,000,000.00) for Property Damage arising out of each occurrence, and

Three Million Dollars (\$3,000,000.00) for Comprehensive Pollution Damage arising out of each occurrence, which insurance shall cover, at a minimum, bodily injury, property damage, including natural resource damage, loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, removal, storage, disposal, and or use of the pollutant, and defense costs, including costs and expenses incurred in the investigation, defense, or settlement

of claims, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.

Prior to the execution of this Lease, Landlord shall obtain, provide proof of, and shall maintain for the term of this Lease, the types and amounts of insurance coverage listed below, in amounts as set forth below:

Comprehensive General Liability Insurance, including automobile liability, in amounts not less than One Million Dollars (\$1,000,000.00) for bodily injury to one person for each occurrence.

**6.02 Additional Insured.**

Landlord shall be named as an Additional Insured on all insurance policies required under this Lease, except workers compensation, either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy.

All policies shall provide either in the policy itself and reflected on the certificate of insurance or through an endorsement attached to the policy, that the insurance cannot be canceled or the amount of coverage changed without thirty (30) calendar days prior written notice to the Landlord or ten (10) calendar days prior written notice for non-payment of insurance policy premiums.

Commercial General Liability and Property Damage coverage requirements may be satisfied through a combination of individual policy limits and umbrella coverage but the amounts under each type of coverage shall be subject to the final approval of the City's Risk Manager.

**6.03 Property/Fire and Other Risks Insurance.**

Tenant, at its sole cost and expense, shall throughout the term of this Lease, keep or cause to be kept all improvements now or hereafter located upon the Premises insured for the mutual benefit of Landlord and Tenant against loss or damage by fire and against loss or damage by other risks embraced by "extended coverage" and against civil commotions, riots, vandalism and malicious mischief in an amount equal to the actual replacement cost of such improvements, including costs of replacing excavations and foundation, but without deduction for depreciation (hereinafter called "Full Insurable Value"). In the event a dispute arises as to the Full Insurable Value which cannot be resolved by agreement of the Parties, an appraisal of the Premises and improvements thereon shall be made by an appraiser selected by Tenant and reasonably acceptable to Landlord to determine the Full Insurable Value, as defined in this Section, and the resulting determination shall be conclusive between the parties for the purpose of this Section. Should the appraiser Tenant selected be unsatisfactory to Landlord, the carrier of the insurance then in force shall be requested to determine the Full Insurable Value as defined in this Section. The expense of this appraisal shall be borne by Tenant, unless the value claimed by Tenant is confirmed through such an appraisal, in which case the Landlord shall reimburse the Tenant for the cost of such appraisal.

**6.04 Payment and Performance Bonds.** Reserved

**6.05 Authorized Insurance Companies.**

All required policies of insurance shall be written by insurance companies authorized to do business in the State of Texas and shall be written by companies approved by Landlord, such

approval not to be unreasonably withheld. Certificates of insurance shall be delivered to Landlord at least ten (10) calendar days following to the effective date of the insurance policy for which the certificate is issued and prior to the Effective Date of this Lease. Each insurance policy shall contain:

- A. a statement of the coverage provided by the policy;
- B. a statement certifying the Landlord to be listed as an additional insured in the policy;
- C. a statement of the period during which the policy is in effect;
- D. a statement that the annual premium or the advance deposit premium for such policy has been paid in advance; and
- E. an agreement by the insurance company issuing such policy that the policy shall not be canceled in any amount for any reason whatsoever without at least thirty (30) days, or ten (10) calendar days prior written notice for non-payment of insurance policy premiums, prior written notice to Landlord.

**6.06 Workers Compensation / Employer’s Liability Insurance.**

The Tenant shall procure and shall maintain during the life of this Lease, Workers’ Compensation Insurance as required by applicable Texas law for all of Tenant’s employees to be engaged in work under this Lease. Tenant shall provide the following endorsement:

“The policy is endorsed to provide that insurer waives any right of subrogation it may acquire against the City of El Paso, its partners, agents and employees by reason of any payment made on or account of injury, including death resulting therefrom, sustained by any employee of the insured.”

**6.07 Builder’s Risk.**

During the construction of any improvements, the Tenant will cause its contractors (“Contractor”) to obtain builder’s risk insurance.

Builder's risk insurance (fire and extended coverage). This insurance shall be required for this building project. Until the project is completed and accepted in accordance with all the terms and conditions of this Agreement, Contractor is required to maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) completed value basis on the insurable portion of the project for the benefit of Landlord, Contractor, and subcontractor(s), as their interests may appear. This provision shall not release Contractor from his obligation to complete, according to plans and specifications, the project covered by this Contract, and Contractor and his Surety shall be obligated to full performance of Contractor's undertaking.

**6.08 Comprehensive Pollution Liability and Storage Tank Liability Insurance.** Reserved

**6.09 Contractors, Subcontractors, Operators.**

Tenant will require all contractors, subcontractors, and operators to have general comprehensive general liability, builder's risk insurance, environmental liability insurance, and workers compensation insurance as provided in this Lease and to add the Landlord as additional insured as provided in this Lease. Landlord may waive in writing any insurance requirements provided in this Section.

**6.10 INDEMNIFICATION.**

**TENANT AGREES TO INDEMNIFY, DEFEND, AND HOLD LANDLORD HARMLESS AGAINST CLAIMS, DEMANDS, DAMAGES, COSTS, AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, TO THE EXTENT ARISING OUT OF OR ATTRIBUTED DIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF TENANT'S BUSINESS ON THE PREMISES, ITS USE OF THE PREMISES, OR FROM ANY BREACH ON THE PART OF TENANT OF ANY TERMS OF THIS LEASE, OR FROM ANY ACT OR NEGLIGENCE OF TENANT, ITS AGENTS, CONTRACTORS, EMPLOYEES, SUBTENANTS, CONCESSIONAIRES, OR LICENSEES IN THE PREMISES. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST LANDLORD BY REASON OF ANY SUCH CLAIM, TENANT, UPON NOTICE FROM LANDLORD, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO LANDLORD.**

In no event shall either party, its employees, agents, or contractors be liable under this Lease to the other party for any consequential, incidental, indirect, exemplary, special or punitive damages, including any damages for business interruption, loss of use, revenue or profit, whether arising out of breach of contract, tort (including negligence) or otherwise, regardless of whether such damages were foreseeable and whether or not either party was advised of the possibility of such damages.

**SECTION 7. DESTRUCTION OF IMPROVEMENTS BY FIRE OR OTHER CASUALTY.**

**7.01 Obligations of Tenant.**

During the term hereof, except as provided in Section 7.03 below, should the improvements constructed by Tenant upon the Premises be damaged or destroyed in whole or in part by fire or other casualty, Tenant shall give prompt notice thereof to Landlord, and Tenant may either, at its own cost and expense, shall promptly repair, replace and rebuild the same, at least to the same extent as the value and as nearly as practical to the character of the buildings and improvements existing immediately prior to such time or terminate this Lease by providing written notice to Landlord. If applicable, such repairs, replacements or rebuilding shall be made by Tenant as aforesaid and subject to and in accordance with the following terms and conditions:

- A. Prior to commencing such work, Tenant shall deliver to Landlord a set of the preliminary construction plans and specifications in accordance with the terms and provisions of the Declaration. In the event the preliminary plans and specifications are disapproved, Tenant will be so notified and the notice shall specify in detail the reasons therefor and the requested modifications or alterations thereto.

- B. Upon approval of the preliminary plans and specifications, as herein provided, Tenant shall prepare, or cause to be prepared, final working plans and specifications in substantial conformity to the preliminary plans and specifications. Upon completion of the final working plans and specifications, Tenant shall submit the same to appropriate governmental agencies for approval. Upon approval by such agencies and the issuance of permits for the commencement of construction, Tenant shall deliver to Landlord one complete set of the final working plans and specifications as approved by the governmental agencies exercising jurisdiction thereover and copies of all issued permits for the Premises. Changes from the preliminary plans and specifications shall be considered to be within the scope of the preliminary plans and specifications if such changes are reasonably inferable therefrom or if they are made to comply with suggestions, requests or requirements of the governmental agencies exercising jurisdiction.
- C. Prior to commencing construction, Landlord may require Tenant to furnish a performance and payment bond in accordance with Section 6.04 and, if requested, builder's risk insurance.
- D. Upon compliance with the foregoing, Tenant's obligation to repair, replace or rebuild shall be subject to settlement occurring with the insurance company or companies and said proceeds of such insurance policy or policies having been paid to Tenant. After actual receipt of such insurance proceeds, Tenant shall commence such repair, replacements or rebuilding within a reasonable time and shall continue such work with reasonable diligence until completion.
- E. Upon completion of the construction, Tenant shall deliver to Landlord, a complete set of record (as-built) drawings of the construction signed and sealed by a professional engineer licensed in Texas, and a copy of the issued Certificate of Occupancy for the Premises.

### **7.02 Insurance Proceeds.**

If applicable, upon receipt by Tenant of the proceeds of the insurance policy or policies, Tenant shall disburse such proceeds during construction to pay the cost of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements, Tenant shall pay any additional sums required, and if the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be retained by Tenant.

### **7.03 Cancellation of Lease.**

Should the improvements on the Premises be damaged or destroyed in whole or in part by fire or other casualty during the last five (5) years of the initial term or last five (5) years of any renewal term of this Lease, Tenant shall be relieved of the obligation to repair, replace and rebuild the same and Tenant shall have the right to cancel this Lease by giving Landlord written notice of such election within thirty (30) days after the date of any such damage or destruction. In such event, this Lease shall terminate as of the date of such destruction and the insurance proceeds received or receivable under any policy of insurance shall be paid to and retained by Landlord, unless Landlord has elected to have the Premises returned to it clear of all improvements in accordance with Section



10.06 hereinbelow, in which case Tenant shall be entitled to such insurance proceeds. All rents payable under this Lease shall be prorated and paid to the date of such cancellation. The receipt of insurance proceeds by Landlord will relieve Tenant from any responsibility to restore the Premises to their former condition.

## **SECTION 8. CONDEMNATION.**

### **8.01 Definitions.**

The following definitions apply in construing the provisions of this Lease relating to the taking of or damage to all or any part of the Premises, or improvements thereon, or any interest in them by eminent domain or condemnation:

- A. “Taking” means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending. The taking shall be considered to take place the date actual physical possession is taken by the condemning authority.
- B. “Total Taking” means the taking of the fee title to all of the Premises and improvements thereon.
- C. “Substantial Taking” means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:
  - 1. The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Tenant;
  - 2. The conduct of Tenant's business on the Premises would be substantially prevented or impaired;
  - 3. The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the rent and after performance of all covenants and conditions required of Tenant under this Lease.
- D. “Partial Taking” means the taking of a fee title that is not either a Total or Substantial Taking.
- E. “Improvements” includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.
- F. “Notice of Intended Taking” means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as

expressing an existing intention of Taking as distinguished by a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Lease. The notice is considered to have been received when a party to this Lease receives from the condemning agency or entity a written notice of intent to take containing a description or map reasonably defining the extent of the Taking.

- G. “Award” means compensation paid for the Taking, whether pursuant to judgment, or by agreement, or otherwise.
- H. “Date of Taking” means the date that Tenant is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

### **8.02 Notice of Condemnation.**

The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

- A. Notice of Intended Taking;
- B. Service of any legal process relating to condemnation of the Premises or improvements; or
- C. Notice in connection with any proceedings or negotiations with respect to such a condemnation.

### **8.03 Rights of Parties during Condemnation Proceeding.**

Landlord and Tenant shall each have the right to represent its respective interest in each proceeding or negotiation with respect to a Taking or Intended Taking and to make full proof of its claims. No agreement, settlement, sale or transfer to or with the condemning authorities shall be made without the consent of all parties. Each party agrees to execute and deliver to any other party hereto any instrument that may be required to facilitate the provisions of this Lease relating to the condemnation.

### **8.04 Taking of Leasehold.**

Upon a Total Taking, Tenant's obligation to pay Rent and other charges hereunder shall terminate on the Date of Taking, but Tenant's interest in the leasehold shall continue until the Taking is completed by deed, contract or final order of condemnation. If the Taking is a Substantial Taking under the aforementioned definition, Tenant may, by notice to Landlord within ninety (90) days after Tenant receives notice of the Intended Taking, elect to treat the Taking as a Total Taking. Upon a Partial Taking, this Lease shall remain in full force and effect covering the balance of the Premises not so taken, except that the Rent payable hereunder by Tenant shall be reduced in the same ratio as the percentage of the area of the Premises taken bears to the total area of the Premises.

### **8.05 Total Taking.**

All of Tenant's obligations under the Lease shall terminate as of the Date of Taking. Upon a Total Taking, all sums awarded for any Tenant-owned improvements and the leasehold estate shall be

disbursed to Tenant. All sums awarded for the Premises, as unencumbered by any Tenant-owned improvements, but subject to the Lease, shall be disbursed to Landlord.

#### **8.06 Partial Taking.**

Upon a Partial Taking, all Awards shall be disbursed as follows:

- A. To the cost of restoring the improvements on the Premises; and
- B. The balance, if any, to Landlord and Tenant as follows: Tenant shall receive all sums awarded for Tenant-owned improvements and the Leasehold estate. Landlord shall receive all sums awarded for the Premises, as unencumbered by the Tenant-owned improvements but subject to the Lease.

#### **8.07 Obligations of Tenant under Partial Taking.**

Promptly after any such Partial Taking, Tenant may either terminate this Lease upon written notice to Landlord or, at its expense, repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Tenant's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a Partial Taking in the last two (2) years of the initial term or any renewal term, Tenant shall be relieved of the responsibility to so repair or reconstruct the improvements on Premises as aforesaid by notifying Landlord of its intention to that effect; provided however, that all sums awarded for Tenant owned improvements and the Leasehold estate shall be disbursed to Landlord.

#### **8.08 Taking of Temporary Use of Premises and Improvements.**

Upon any Taking of the temporary use of all or any part or parts of the Premises or improvements, or both, for a period of any estate less than a fee ending on or before the expiration date of the term, neither the term nor the rent shall be reduced or affected in any way and Tenant shall be entitled to any award for the use or estate taken. If a result of the Taking is to necessitate expenditures for changes, repairs, alterations, modifications or reconstruction of the improvements to make them reasonably suitable for Tenant's continued occupancy for the uses and purposes for which the Premises are leased, after the termination of such Taking, Tenant shall receive, hold and disburse the Award in trust for such work. At the completion of the work and the discharge of the Premises and improvements from all liens or claims arising therefrom, Tenant shall be entitled to any surplus and shall be liable for any deficiency.

If any such Taking is for a period extending beyond the expiration date of the term, the Taking shall be treated under the foregoing provisions for Total, Substantial and Partial Takings.

### **SECTION 9. ENCUMBERANCES.**

#### **9.01 Encumbrance.**

As used herein the term "Mortgage" includes a deed of trust and the term "Mortgagee" includes the beneficiaries under deeds of trust, whether one or more. Tenant may encumber its leasehold estate and its interest in the improvements constructed and to be constructed on the Premises by the execution and delivery of a Mortgage. The Mortgagee of any such Mortgage may deliver to Landlord a written notice specifying:

- A. The amount of the obligation secured by the Mortgage;
- B. The date of the maturity or maturities thereof; and
- C. The name and mailing address of the Mortgagee.

After receipt of such notice, Landlord shall serve such Mortgagee by certified mail at the latest address furnished by such Mortgagee a copy of every notice of default or demand served by Landlord upon Tenant under the terms and provisions of this Lease so long as such Mortgage is in effect.

**9.02 Mortgagee's Rights.**

Upon receipt of a notice or demand in accordance with Section 9.01 above, Mortgagee shall have one hundred and twenty (120) days after receipt of such notice within which, at Mortgagee's election, either:

- A. To cure the default if it can be cured by the payment or expenditure of money;
- B. To perform such other action as may be necessary to cure the default;
- C. If the default cannot be cured within one hundred and twenty (120) days, to commence performance within such one hundred twenty (120) day period and thereafter diligently prosecute same to completion, in which event, the default will have been deemed to have been cured; or
- D. To institute foreclosure proceedings and prosecute same diligently to conclusion.
- E. No notice of a default by Tenant hereunder given by Landlord shall be effective against a Mortgagee that has provided Landlord the information specified in Section 9.01 of this Lease unless Landlord has given a copy of it to such Mortgagee.
- F. No Mortgagee shall have any personal liability under this Lease unless and until it becomes Tenant under this Lease.
- G. The Director will, upon request by any Mortgagee, certify in writing that this Lease is in full force and effect, whether this Lease has been amended, that to Landlord's knowledge Tenant is not in default, and the date through which rent has been paid.
- H. If this Lease and the fee estate in the Premises are ever commonly held as a result of a default by Tenant, then they shall remain separate and distinct estates and shall not merge until such time as all cure periods for Mortgagee specified in this Lease have expired.
- I. This Lease may not be amended, modified, changed, cancelled, waived, or terminated without prior written notice to all Mortgagees. Landlord shall not accept a voluntary surrender of the Lease without consent by all Mortgagees.

### **9.03 Rights on Foreclosure.**

In the event of foreclosure by Mortgagee, the purchaser at the foreclosure sale or the person acquiring Tenant's interest in lieu of foreclosure shall succeed to all of Tenant's rights, interests, duties and obligations under this Lease.

## **SECTION 10. EXPIRATION, TERMINATION, ASSIGNMENT AND TRANSFER**

### **10.01 Expiration.**

This Lease shall expire at the end of the term or any extension thereof.

### **10.02 Termination.**

Subject to the provisions of Section 10 above, this Lease shall be subject to termination by Landlord in the event Tenant shall:

- A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of thirty (30) days after Landlord has notified Tenant in writing that payment was not received when due.
- B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Tenant's property and such petition is not dismissed within ninety (90) days after filing;
- C. Make any general assignment for the benefit of creditors;
- D. Abandon the Premises by providing written notice of the same to Landlord;
- E. Be in violation of any local, state, or federal rules and/or regulations or in default in the performance of any of the covenants and conditions required herein (except payments) to be kept and performed by Tenant, and such violation or default continues for a period of thirty (30) days after receipt of written notice from Landlord to cure such default, unless during such thirty-day period, Tenant shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;
- F. Be adjudged bankrupt in involuntary bankruptcy proceedings; or
- G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Tenant where such receivership is not vacated within ninety (90) days after the appointment of such receiver.

In any of the aforesaid events, which shall be events of default, Landlord may take immediate possession of the Premises including any and all improvements thereon and remove Tenant's effects, forcibly if necessary, without being deemed guilty of trespassing. Notwithstanding anything to the contrary herein, Landlord shall not under any circumstance possess, control, move, dispose of, take any right or interest in, or otherwise handle Tenant's aircraft.

Failure of Landlord to declare this Lease canceled upon the default of Tenant for any of the reasons set out shall not operate to bar or destroy the right of Landlord to cancel this Lease by reason of any subsequent violation of the terms of this Lease.

No receipt or acceptance of money by Landlord from Tenant after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue, or extend the terms of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Landlord's consent is required or operate as a waiver of any right of the Landlord to retake and resume possession of the Premises.

This Lease may also be terminated by the parties as otherwise specified in this Lease.

Subject to the provisions of Section 10 above, this Lease shall be subject to termination by Tenant in the event Landlord shall:

Be in violation of any local, state, or federal rules and/or regulations or in default in the performance of any of the covenants and conditions required herein (except payments) to be kept and performed by Landlord, and such violation or default continues for a period of thirty (30) days after receipt of written notice from Tenant to cure such default, unless during such thirty-day period, Landlord shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default.

If this Lease expires or is terminated on or within five (5) years from the date on which Tenant commences Tenant's Work, Landlord shall reimburse Tenant for all costs and expenses incurred by Tenant for Tenant's Work or the applicable portion of the Tenant's Work completed as of such expiration or termination date, within ninety (90) days of such expiration or termination. Such reimbursement shall be proportionally reduced based on the period that the Lease remains active during such five (5) year period. Upon expiration or termination of this Lease on or within such five (5) year period, Tenant shall submit reasonable evidence of costs and expenses incurred by Tenant for Tenant's Work following Landlord's request.

Landlord and Tenant entered into that certain Air Medical Services and Support Agreement dated April 30, 2024 (the "ADM Agreement"). In the event the ADM Agreement expires or terminates, this Lease will automatically terminate as of the effective date of such expiration or termination. Landlord and Tenant are entering into that certain Lease Agreement dated as of the Commencement Date ("Building Lease") for the building located at 12230 Pine Springs, El Paso, Texas 79936. In the event the Building Lease expires or terminates, this Lease will automatically terminate as of the effective date of such expiration or termination.

### **10.03 Repossessing and Reletting.**

In the event of default by Tenant hereunder which shall remain uncured after the required notices have been given pursuant to this Lease, and for such time as provided herein, Landlord may at once thereafter, or at any time subsequent during the existence of such breach or default:

- A. Enter into and upon the Premises or any part thereof and repossess the same, change the locks on the Premises, install fences and gates, expelling therefrom Tenant and all personal property of Tenant (which property may be removed and stored at the cost of and for the account of Tenant), using such force as may be necessary; and
- B. Either cancel this Lease by notice or without canceling this Lease, relet the Premises or any part thereof upon such terms and conditions as shall appear advisable to Landlord. If Landlord shall proceed to relet the Premises and the amounts received from reletting the Premises during any month or part thereof be less than the rent due and owing from Tenant during such month or part thereof under the terms of this Lease, Tenant shall pay such deficiency to Landlord immediately upon calculation thereof, providing Landlord has exercised good faith in the terms and conditions of reletting. Payment of any such deficiencies shall be made monthly within ten (10) days after receipt of notice of deficiency.

#### **10.04 Assignment, and Transfer.**

Tenant shall have the right and privilege to assign, or transfer this Lease subject to the prior written approval of the Fire Chief.

Any person or entity to which this Lease is assigned to pursuant to the Bankruptcy Code, 11 U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all the obligations arising under this lease on or after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Landlord an instrument confirming such assumption.

#### **10.05 Sublease.**

Tenant shall not have the right or privilege to sublet this Lease.

#### **10.06 Rights Upon Expiration or Termination.**

At the expiration or termination/cancellation of this Lease, Tenant shall return the Premises to Landlord with all improvements above and below ground level.

Tenant agrees that the title to all improvements made by the Tenant to the Premises, now or hereafter located on the Premises, shall be vested in Tenant until either the termination, cancellation, or expiration of this Lease, at which time all title to and ownership of the improvements made by the Tenant to the Premises shall automatically and immediately vest (without the necessity of any further action being taken by Tenant or Landlord or any instrument being executed and delivered by Tenant to Landlord) in Landlord, and Tenant shall have no rights pertaining to such improvements.

#### **10.07 Landlord's Lien.** Reserved

### **SECTION 11. GENERAL PROVISIONS**

#### **11.01 Continuity of Deed Restrictions and Covenants.**

This Lease agreement is subject to the terms, covenants and conditions contained in the Declaration. Landlord reserves the right to revise the standards set forth in Exhibit "B" provided,

however, that such revisions will not cause a substantial reduction in the value of Tenant's leasehold interest, result in a material cost or expense to Tenant, or be contradictory to the reasonable and prudent operation of property. Landlord's right to revise the restrictions and covenants contained in the Declaration, is limited to the right to revise said document because of the development of new concepts or improved construction and architectural techniques and, in any event, such revisions shall be operative on a going forward basis only and shall not apply retroactively to any existing improvements.

**11.02 Time Is of the Essence.**

Time is and shall be deemed of the essence in respect to the performance of each provision of this Lease.

**11.03 Notices.**

All notices provided to be given under this Lease shall be given by a) expedited delivery service with proof of delivery, or b) United States Mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the proper party at the following addresses:

LANDLORD: City Manager	Real Estate Division
City of El Paso	City of El Paso
P.O. Box 1890	7969 San Paulo
El Paso, Texas 79950-1890	El Paso, Texas 79907
	Email: <a href="mailto:realestate@elpasotexas.gov">realestate@elpasotexas.gov</a>

TENANT: Air Methods, LLC  
Attn: Legal Department  
5500 South Quebec St, Ste 300  
Greenwood Village, Colorado 80111  
Email: [contracts@airmethods.com](mailto:contracts@airmethods.com)

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

**11.04 Attorney's Fees.**

If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Lease, the prevailing party shall be entitled to recover costs including reasonable attorney's fees and reasonable paralegal fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

**11.05 Agreement Made in Texas.**

The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Lease. Venue shall be in the courts in El Paso County, Texas.



### **11.06 Compliance with Nondiscrimination Requirements.**

During the performance of this contract, the Tenant, for itself, its assignees, and successors in interest (for purposes of this Section 11.08 hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the 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 Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor 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 Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be required by applicable law (for purposes of this Section 11.08 hereinafter referred to as the “sponsor”) or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor’s noncompliance with the non-discrimination provisions of this contract, the sponsor will 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 Contractor under the contract until the Contractor complies; and/or
  - b. Terminating this Lease pursuant to the terms set forth herein.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing

such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**11.07 Cumulative Rights and Remedies.**

All rights and remedies of Landlord here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by Landlord of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

**11.08 Interpretation.**

Landlord and Tenant agree that this Lease has been freely negotiated by both parties and that any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conclusion. There shall be no inference, presumption, or conclusion drawn whatsoever against other party by virtue of that party having drafted this Lease or any portion thereof.

Words of gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

**11.09 Agreement Made in Writing.**

This Lease contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

**11.10 Paragraph Headings.**

The Table of Contents of this Lease and the captions of the various sections of this Lease are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.

**11.11 Severability.**

If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

**11.12 Successors and Assigns.**

All of the terms, provisions, covenants and conditions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant and their successors, assigns, legal representatives, heirs, executors and administrators.

**11.13 Taxes and Other Charges.**

Following Landlord’s written request, by March 1 of each year of this Lease and at no charge to Landlord, Tenant will provide written proof satisfactory to the Director that all taxes and governmental charges of any kind as described herein have been paid in full.

Landlord is a tax-exempt governmental entity and shall not be responsible for any taxes or assessments arising from Tenant’s use of the property or possession of the Premises.

Tenant in good faith may contest any tax or governmental charge, provided that Tenant may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to Landlord, such action will not adversely affect any right or interest of Landlord.

**11.14 Waiver of Warranty of Suitability.**

LANDLORD DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY ARISE BY OPERATION OF LAW. TENANT LEASES THE PREMISES AS IS AND LANDLORD DOES NOT WARRANT THAT THERE ARE NO LATENT DEFECTS THAT ARE VITAL TO TENANT’S USE OF THE PREMISES FOR THEIR INTENDED COMMERCIAL PURPOSE NOR SHALL LANDLORD BE RESPONSIBLE OR LIABLE FOR ANY CONDITION OF THE PREMISES WHICH SHALL SOLELY BE THE RESPONSIBILITY OF TENANT.

**11.15 Survival of Certain Provisions.**

All provisions of this Lease which expressly or impliedly contemplate or require performance after the cessation, expiration, cancellation, or termination of this Lease hereunder shall survive such cessation, expiration or termination of this Lease, including without limitation, Paragraphs 5.03 and 6.10.

**11.16 Restrictions and Reservations.**

This Lease is subject to all rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. Landlord reserves the right to grant any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances and Tenant consents to and will diligently execute all documentation necessary to complete any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances, so long as such grants do not adversely affect Tenant’s use of the Premises.

Landlord reserves for itself and any authorized agent to, at any reasonable time and with 24-hour notice, enter upon and inspect the Premises and improvements on the Premises for all legal purposes, including without limitation the purpose of ascertaining whether the maintenance of such parcel, and the maintenance, construction, or alteration of structures thereon are in compliance with this Lease and all the Environmental Laws and for the purpose of showing the Premises; Landlord shall not be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. All subtenants of Tenant will be subject to this Landlord’s right to enter the Premises and improvements on the Premises. The Tenant will include in all subleases the right of the Landlord to enter the Premises and improvements on the Premises to inspect such for compliance with this Lease.

**11.17 Subordination of Lease.**

Tenant's interest under this Lease is, at all times, subordinate to other present and future liens on the Premises and any modifications, supplements, extensions, amendments, renewals, consolidations, and replacements of said liens.

**11.18 Authorization to Enter Lease.**

If Tenant signs this Lease as a corporation, each of the persons executing this Lease on behalf of Tenant warrants to Landlord that Tenant is a duly authorized and existing corporation, that Tenant is qualified to do business in the State of Texas, that Tenant has full right and authority to enter into this Lease, and that each and every person signing on behalf of Tenant is authorized to do so. Upon Landlord's request, Tenant will provide evidence satisfactory to Landlord confirming these representations.

**11.19 Attachments.**

The following attachments are incorporated into this Lease. For purposes of this Lease, the term Lease includes all attachments.

**EXHIBIT "A" - Property Description & Metes and Bounds of Premises**

**EXHIBIT "B" – Renewal Option Addendum**

**EXHIBIT "C" – Allowed Uses and Additional Use Requirements and Restrictions**

**11.20 Complete Agreement.**

This Lease, together with the attachment(s) attached hereto, constitutes the entire agreement among the parties relating to the terms and conditions of the agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this Lease confers not rights on any person or business entity that is not a party hereto. This Lease shall not be construed against or unfavorably to any part because of such party's involvement in the preparation or drafting of this Lease.

*(Signatures begin on following page)*

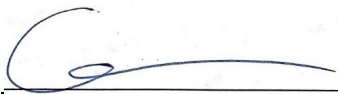
**LANDLORD'S SIGNATURE AND ACKNOWLEDGMENT**

**IN WITNESS WHEREOF**, the parties have hereunto set their hands as of this \_\_\_\_ day of \_\_\_\_\_, 2024.


**LANDLORD: CITY OF EL PASO**

\_\_\_\_\_  
Cary Westin  
City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Carlos L. Armendariz  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Mary Lou Espinoza  
Capital Assets Manager

**ACKNOWLEDGMENT**

**THE STATE OF TEXAS )**  
**)**  
**COUNTY OF EL PASO )**

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Cary Westin as City Manager of the City of El Paso, Texas.

\_\_\_\_\_  
Notary Public, State of Texas

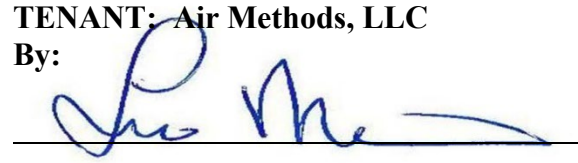
My Commission Expires:  
\_\_\_\_\_

*(Signatures continue on the following page)*

**TENANT'S SIGNATURE AND ACKNOWLEDGMENT**

**TENANT:** Air Methods, LLC

**By:**



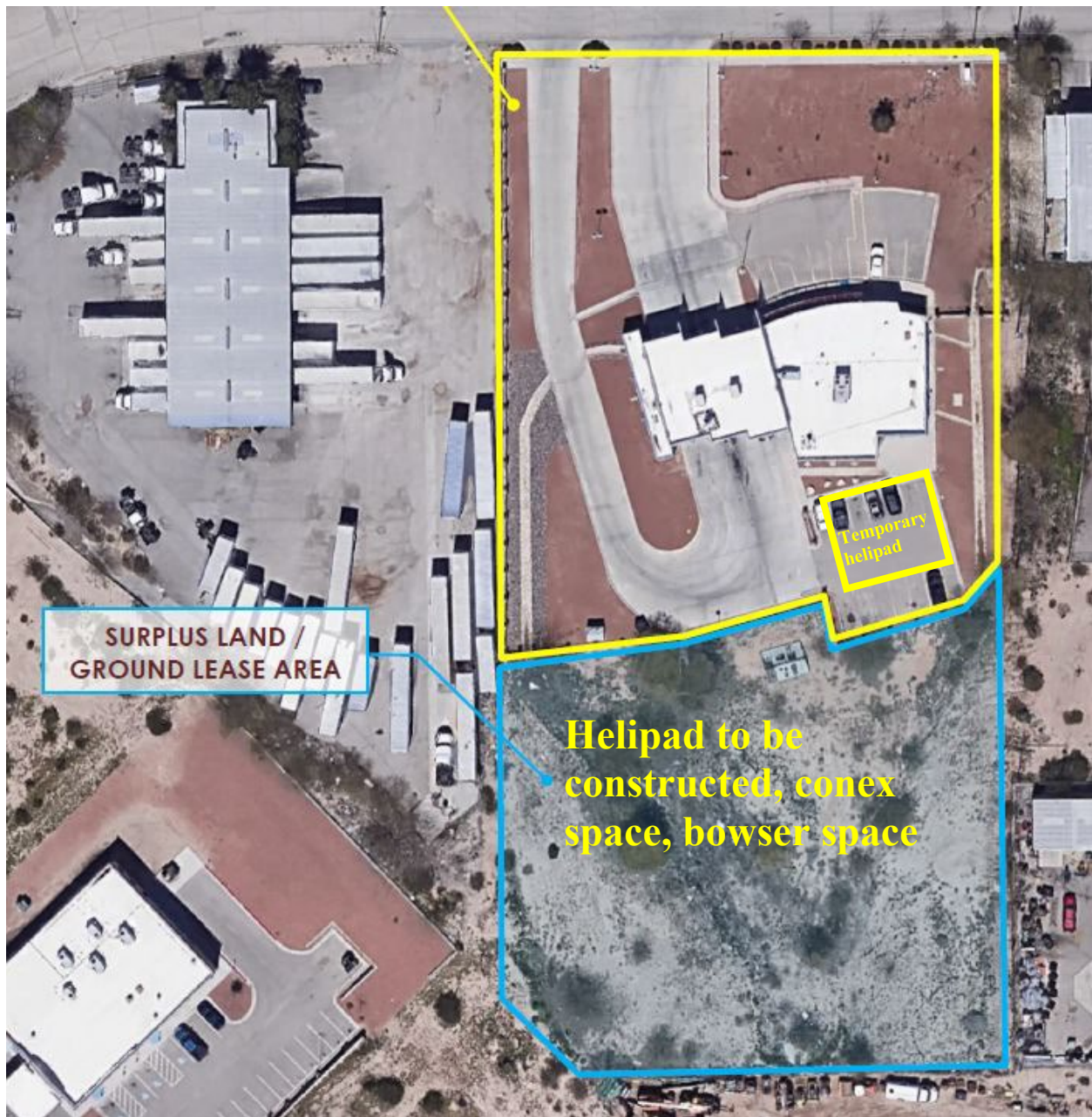
Print Name: Leo Morrissette

Title: Executive Vice President - Operations

Exhibit "A"  
Property Description of Premises

Figure A1

A 150 x 150 square foot area (totaling 22,500 square feet) and subject to this lease to be enclosed by fencing within the area outlined in blue showing the parcel of land located at 12230 Pine Springs, El Paso, Texas 79936. The yellow box labeled Temporary Helipad is also subject to this lease.



**EXHIBIT B**

**RENEWAL OPTION ADDENDUM**

Premises Address: 12230 Pine Springs

Landlord: City of El Paso

Tenant: Air Methods, LLC

Provided there are no uncured Tenant defaults under the Lease at the time Tenant exercises its option, Tenant shall have the right to extend the Term for 3 additional period(s) of 12 months each, by delivering written notice of renewal to Landlord at least 90 days prior to the expiration of the then current Term. If the Term is extended, all provisions of the Lease shall continue in full force and effect; provided, however, Base Rent for the extension period(s) shall increase 2% at the beginning of each Lease Year throughout such extension period(s).

All capitalized terms used in this addendum not otherwise defined herein have the same meaning given such terms in the Lease.



### **Exhibit “C”**

#### Allowed Uses and Additional Use Requirements and Restrictions

1. Allowed Uses. Tenant will only use the Premises for the following uses: base site for flight program, which includes the placement of a temporary helipad, construction and use of a 50' x 50' helipad and fencing, placing a 8' x 40' conex office, and a fuel bowser.
2. Additional Insurance Requirements. Tenant will obtain the following insurance policies in addition to the policies required under the Lease: n/a.
3. Additional Requirements. Tenant will comply with the following requirements in addition to the requirements under the Lease: n/a.