Lake Havasu City Notice of Request for Proposals (RFP)



RFP NO.: P24-AIRPORT-500367

Aeronautical Land For Lease South End West of Taxiway C Lake Havasu City Municipal Airport

RFP CLOSING DATE: April 26th, 2023 TIME: 3:00 p.m., Arizona Time

RFP Packets may be downloaded at: https://www.lhcaz.gov/budget-and-finance/bids-rfps or through Onvia DemandStar at www.demandstar.com

Lake Havasu City Hall 2330 McCulloch Blvd. N Lake Havasu City, Arizona 86403 Issue Date: April 6th, 2023

RFP NO.: P24-AIRPORT-500367

Aeronautical Land For Lease South End West of Taxiway C Lake Havasu City Municipal Airport

TABLE OF CONTENTS

SECTI	ON A – PUBLIC NOTICE	4
SECTI	ION B – INTENT TO RESPOND NOTIFICATION	6
SECTI	ON C - INSTRUCTIONS TO PROPOSER	7
1.0	IMPORTANT DATES SUMMARY	7
2.0	SOLICITATION	7
3.0	BACKGROUND INFORMATION	7
3.	1 Airport Background Information	7
3.	2 Purpose	8
3.	3 Expectations	8
3.	4 CONSIDERATIONS	10
4.0	MINIMUM QUALIFICATIONS	10
5.0	CONTRACT TERMS AND CONTRACTUAL RELATIONSHIP	10
6.0	GENERAL DESCRIPTION	10
7.0	QUESTIONS	10
9.0	PROPOSAL FORMAT	11
10.0	PROPOSAL DELIVERY	11
11.0	SCOPE	11
SECTI	ON D – TERMS AND CONDITIONS	14
1.0	PROPOSAL TERMS	14
2.0	EVALUATION	14
3.0	AWARD	
4.0	RIGHT TO DISQUALIFY	
5.0	CITY'S RESERVATION OF RIGHTS	15

6.0	PREPARATION COSTS	16
7.0	PROPOSER CERTIFICATION	16
8.0	COVENANT AGAINST CONTINGENT FEES PAID TO PROPOSER	16
9.0	NO GRATUITY	16
10.0	APPLICABLE LAW	17
11.0	COMPLIANCE WITH LAWS	17
12.0	ADDITIONAL TERMS AND CONDITIONS	17
13.0	FAIR TRADE CERTIFICATIONS	17

EXHIBITS

- A. Site Diagram
- **B.** Infrastructure Layout

SECTION A - PUBLIC NOTICE

Lake Havasu City, Arizona

RFP NO.: P24-AIRPORT-500367 RFP CLOSING DATE: April 26th, 2023

RFP TITLE: Aeronautical Land For Lease, South End West of Taxiway C, Lake Havasu City Municipal Airport

RFP NOTICE: Notice is hereby given that sealed proposals shall be received by the City Clerk's Office, 2330 McCulloch Boulevard N., Lake Havasu City, Arizona, 86403 until 3:00 p.m. Arizona Time on April 26th, 2023. All proposals received in proper form shall be publicly opened and read aloud on the same day at 3:00 p.m., Room 109, City Hall, 2330 McCulloch Boulevard N., Lake Havasu City, Arizona, 86403. Public openings may be attended in-person or virtually by accessing the following video conferencing system:

To join the meeting on a computer or mobile phone: https://bluejeans.com/2330864044?src=calendarLink Meeting ID: 233 086 4044
Phone Dial-in
+1.408.740.7256 (US (San Jose))

+1.888.240.2560 (US Toll Free)

Lake Havasu City may reject any proposal not in compliance with all prescribed public competitive procurement procedures and requirements and may reject for good cause any or all proposals if Lake Havasu City finds it is in the public interest to do so.

RFP DESCRIPTION: Lake Hayasu City is seeking to identify a qualified individual interested in leasing land at the airport for the purpose of constructing hangar storage facilities on the South end of the Airport, West of Taxiway C. The City is looking for a proposal that provides maximum revenue, addresses the demands of the community (aircraft maintenance facility, & flight instruction facility), and meets all FAA standards for aeronautical uses at the City's Airport. Proposer will be responsible for securing and providing all environmental study determinations and /or categorical exclusions (CATEX) documentation. Proposer will need to provide its own infrastructure plan that meets all state, local, and environmental standards, and must also be in compliance with all pollution, erosion, and sanitation regulations. Proposer needs to provide in the scope of work, a detailed timeline with milestones, of when construction can begin, a phasing plan, and an estimated completion date. Proposal will be scored by a panel, and certain criteria will carry more weight than others. Monetary offer, concept, ability to perform the work proposed (references and reputation), term of agreement, and how the proposal will fulfill the demand of the community, will be some of the main items focused upon when scored. The City encourages and will favor a proposal that incorporates the construction of non-leasable infrastructure to be owned and maintained by the city, such as taxi lanes, aprons, a city staff maintenance facility, helicopter hard stands, and a wash rack. A detailed diagram of the concept the City is requesting is in Exhibit A and Exhibit B (site diagram). The Master Plan also establishes development objectives and provides a 20-year planning period that details specific study elements including airfield configuration, facility development, and current and forecasted fleet mix, on-airport land use development recommendations, and support facilities. It also serves as a tool for evaluating airport improvement priorities, as well as justifying the need for federal and state funding assistance. Proposals that reflect and address the master plan forecast are encouraged. You can access the Airport Master Plan on the City's website at: https://www.lhcaz.gov/publicworks/airport

There is not an expressed or implied obligation for Lake Havasu City to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

RFP documents, specifications, and addenda may be obtained in the following locations:

Lake Havasu City Website: https://www.lhcaz.gov/budget-and-finance/bids-rfps

Onvia DemandStar: https://www.demandstar.com/app/buyers/bids/411016/details

Pursuant to the Americans with Disabilities Act (ADA), Lake Havasu City endeavors to ensure the accessibility of all of its programs, facilities and services to all persons with disabilities. If you need an accommodation for this meeting, please contact the City Clerk's office at (928) 453-4142 at least 24 hours prior to the meeting so that an accommodation may be arranged.

Publish: April 7th, 2023 and April 14th, 2023 - Today's News Herald

April 13th, 2023 and April 20th, 2023 - Arizona Business Gazette

SECTION B – INTENT TO RESPOND NOTIFICATION

RFP NO.: P24-AIRPORT-500367

RFP TITLE: Aeronautical Land for Lease, South End West of Taxiway C
Lake Havasu City Municipal Airport

CLOSING DATE & TIME: April 26th, 2023 at 3:00 p.m. Arizona Time

LETTER OF INTENT TO RESPOND

This is to notify that it is our present intent to submit a proposal in response to the above referenced RFP.

The individual to whom all information regarding this RFP should be transmitted is:

Company Name:

Contact Name:

Street Address:

City, State, & Zip:

Phone Number: Fax Number:

E-Mail Address:

Submit this Letter of Intent by the deadline for requests for clarification and protests which is to be electronically received by **April 26**th, **2023**, **5:00 p.m.**, **Arizona Time**.

Letter of Intent to Bid RFP No.: **P24-AIRPORT-500367**

Lake Havasu City
Public Work Department, Administration Division
Attn: Shannon Blakey, Management Analyst

Email to: <u>purchasing@lhcaz.gov</u>
Email Copy to: blakeys@lhcaz.gov

SECTION C – INSTRUCTIONS TO PROPOSER

1.0 IMPORTANT DATES SUMMARY

IMPORTANT DATES (Dates may be subject to change.)		
ACTIVITY (All times are in Arizona time.)	DATE	
RFP Release/Advertisement	April 7 th , 2023	
Submittal of Written Questions (4:00 p.m. AZ time)	April 19 th , 2023	
Proposal Must Be Submitted by (3:00 p.m. local AZ time)	April 26 th , 2023	

2.0 SOLICITATION

Lake Havasu City seeks to procure proposals for **Aeronautical Land for Lease**, **South End West of Taxiway C**, **Lake Havasu City Municipal Airport**. The City is soliciting proposals from Offerors, qualified and responsible for a proposal that provides both maximum revenue and meets aeronautical needs for the City's Airport.

3.0 BACKGROUND INFORMATION

3.1 Airport Background Information

A thriving tourism industry, Lake Havasu City attracts over 775,000 visitors annually. In 1989, land area had been acquired by the city from the Bureau of Land Management (BLM) to build a new airport to replace the original airport located at Pittsburg Point. The present-day airport was commissioned on June 1, 1991. Designed and intended to serve the community as a commercial service airport, the facility was originally equipped with instrument approach capabilities, an automated weather observation station, and a 5,500-foot long runway. It also featured a parallel taxiway system, a terminal area apron, a terminal building, a fuel storage facility with three 12,000-gallon fuel tanks, and an airport rescue and firefighting (ARFF) facility.

Significant improvements have been made to the present-day airport since its establishment in 1991. To assist in funding capital improvements, the FAA and ADOT have provided funding assistance to Lake Havasu City through the Airport Improvement Program (AIP). This has included funding for a variety of airport improvement projects such as taxiway construction, airport guidance signs, weather observation equipment, and other miscellaneous airport improvements.

Lake Havasu City Municipal Airport is owned, operated, and maintained by Lake Havasu City. Daily operations are managed by an airport manager whose staff perform a variety of supporting roles. All airport staff members are employed by Lake Havasu City and are supported by an Airport Advisory Board which consists of seven members.

The airport currently has two full service FBOs, Desert Skies Executive Air Terminal and Havasu Air Center. Desert Skies Executive Air is a full service FBO located in the midfield area of the airport, next to Hangar 24. DSE was given a 25 year lease, with a 10 year extension that will expire September 30, 2027. http://desertskiesexecutiveair.com/

HAC is a full service FBO located on the North end of the field. HAC was awarded a four year DLA military fueling contract, which went into effect on Aug. 1, 2019. HAC was given a thirty year lease, which will last until 2036, and they then have an option for a ten year extension. HAC owns and operates the only aircraft Maintenance facility currently on the field, which can't keep up with the current demand. HAC's maintenance services include:

- Full Service Inspections
- Modifications and Upgrades
- Air Conditioning Service
- Sheet Metal Repair
- 50 hour, 100 hour, and Annual Inspections
- Minor Painting:
- Pre-buy Inspections
- Propeller Balancing
- http://www.havasuaircenter.com/

3.2 Purpose

Lake Havasu City is seeking to identify qualified parties interested in leasing land at the airport for the purpose of constructing hangar storage facilities. The City is looking for a proposal that provides maximum revenue, addresses airport demand, and meets the FAA standards for Aeronautical uses for the City's Airport.

3.3 **Expectations**

a) FAA Regulation Part 77 requires submission of Form FAA 7460-1 "Notice of Proposed Construction or Alteration" to the FAA for any construction or alteration that impacts airport operations. The successful Proposer shall be responsible for

- completing and submitting the Form FAA 7460-1 to the FAA for this development Project.JLS3J
- b) The successful Proposer shall include a statement if a Categorical Exclusion ("CATEX") or Airport Layout Plan ("ALP") change will be required. Proposer will be responsible for all costs associated with this process, with such request required to be initiated by the City and can take 90 or more days to process. All such approvals must be identified and included in the Proposer's development timeline.
- c) Proposer shall be responsible for ensuring service with all required utility providers during construction at their sole expense. All utilities shall be separately metered at the point of connection and all subsequent utility charges shall be the responsibility of the Proposer. In the event the City is billed for any utility services provided to the leased premises, the Proposer shall be responsible for said payment of charges and expenses associated with such utility service.
- d) Construction on the site must conform to the Airport's needs, local municipal building codes, fire codes and FAA standards and design criteria.
- e) All construction documents shall be subject to review and approval by the City.
- f) Proposer shall be responsible for securing all federal, state and local permits, licenses and approvals necessary to develop and operate the proposed construction and subsequent operation.
- g) Proposer is responsible to ensure that Airfield perimeter security is maintained throughout construction. The successful Proposer must coordinate with City staff to create a security plan that outlines security measures during construction.
- h) Proposer is responsible for ensuring contractor(s) do not impede access to tenants and aircraft adjacent during construction activities and project work.
- i) Proposer will provide a preliminary survey, appropriately stamped and approved for the area of use proposed, with approved survey monuments. This cost will be considered a part of the proposal.
- j) Proposer will propose an annual ground lease rate per square foot for the period of the proposed term. This rate must meet the fair market value established in the 2020 Airport Appraisal or above.
- k) The City will not be providing any infrastructure beyond what is currently provided.

3.4 **CONSIDERATIONS**

 a) Proposers bidding on multiple sites will be considered. Proposer must supply supporting documentation and justification of multiple aircraft to be stored on the property.

4.0 MINIMUM QUALIFICATIONS

Proposers/Contractors are expected to have a minimum of [10] years of relevant and documented experience in Hangar Development or equivalent building construction experience.

Documentation provided by the proposer or their contractor to demonstrate the required years of experience in hangar development, must clearly indicate the [name of each facility, the street address of the facility, and length of time the facility has been operated] by the proposer. If a proposer fails to meet these minimum qualifications in their proposal, the proposal shall be disqualified and will not be evaluated.

5.0 CONTRACT TERMS AND CONTRACTUAL RELATIONSHIP

The successful proposer will be required to enter into a contract with the City to provide for the construction of hangars on the South End West of Taxiway C, fulfilling the City's legal obligation to provide maximum revenue and meet the aeronautical needs of the community. The terms of that contract shall be commercially reasonable and will be negotiated in connection with the agreement once a decision has been reached on the winning proposal.

6.0 GENERAL DESCRIPTION

This Request for Proposals seeks and invites competitive proposals from qualified individuals to lease land and construct aircraft hangars including, but not limited to, the assumption of all future obligations associated with long term lease agreements and hangar development. The successful bidder should be prepared to enter into an ongoing business relationship with the City so that the City can satisfy its legal obligation to provide maximum revenue and meet the aeronautical needs of the community.

7.0 QUESTIONS

All questions that arise relating to this RFP shall be directed in writing to purchasing@lhcaz.gov with a copy of blakeys@lhcaz.gov. To be considered, written inquiries shall be received at the above-referenced email address by April 19th, 2023, at 4 p.m., Arizona time. Inquiries received will then be answered in an Addendum to the RFP. Verbal Requests for clarifications or interpretations will not be accepted. The City may not address questions received after this deadline.

9.0 PROPOSAL FORMAT

The Proposal shall be a maximum of **thirty (30)** pages to address the Proposal criteria (excluding resumes and the required Forms, but including the materials necessary to address project understanding, general information, organizational chart, photos, tables, graphs and diagrams). Each page side (maximum 8 1/2" x 11") with criteria information shall be counted. A cover, a back, a table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or Proposal criteria responses. The minimum allowable font for the Proposal is **11 pt.** although tables, charts, graphs and other diagrams may be smaller if legible. Failure to adhere to the page limit and font size may result in the Proposal being considered non-responsive.

10.0 PROPOSAL DELIVERY

At least one (1) signed <u>original</u> proposal, and one (1) electronic copy (in PDF format on a CD or thumb drive) of the proposal, must be submitted. Submittals must be clearly addressed to the City Clerk's Office, 2330 McCulloch Blvd. N, Lake Havasu City, Arizona, 86403, and received no later than **April 26th 2023, 3:00 p.m., Arizona time**. Late submittals will not be considered under any circumstances. Submittals must be in a sealed envelope with the RFP Number and the Proposer's name and address clearly indicated on the envelope. RFP documents are available on Lake Havasu City's website at https://www.lhcaz.gov/budget-and-finance/bids-rfps.

Proposals will be opened immediately after **3:00 p.m.** (Arizona time) on April **26th**, **2023** at Lake Havasu City Hall, Room 109, located at 2330 McCulloch Blvd. N, Lake Havasu City, Arizona, 86403.

11.0 SCOPE

Proposers are expected to assume all costs associated with the preparation, construction, operating cost, and development of the land leased, including such items as:

- Responding to this RFP;
- Any subsequent follow up to the proposal;
- Any subsequent negotiations of a contract
- Any cost associated with an environmental NEPA Determination(CATEX)
- Applicable taxes and administrative fees;
- Bonds;
- Insurance:
- Staffing;
- Payroll;
- Maintenance; and
- Regulatory Compliance (including any fines, penalties, or legal expenses).

The proposal must acknowledge and assume any costs required to observe and comply with all established federal, state, and local administrative rules, codes, ordinances, regulations, standards, and laws applicable to perform the work regardless of whether or not they are referred to by the City. Proposer shall perform all services required pursuant to the agreement in the manner and according to the industry standards observed by a competent practitioner of the profession in which Proposer is engaged.

The proposal must identify the vision and strategies for the selected land site to ensure greatest marketability, optimum return, and maximum overall community impact, to include:

- Concept Plan of Proposed Development: The optimal development, vision, and strategies for the selected land site shall ensure a detailed concept plan for the development of the site including all improvements. Listing must include a description of size, configuration, style, brand (i.e.; Erect-a-tube or similar type co.), number, and type of hangar facilities. A detailed description of area to be paved, with weight bearing capacity included. Weight bearing capacity must meet FAA standards for an ultimate Class C/D-III airport. A conceptual drawing, to include a detailed layout of all structures, fire suppression, restrooms, outside area lighting, infrastructures, pavement markings, taxi lane lighting or reflectors, and facilities. All the proposed improvements must meet all the land use criteria (AERONAUTICAL USE ONLY) and development requirements as prescribed by the ALP, FAA, City, State, and Airport Authorities. Aeronautical and Non-Aeronautical land use are identified in the ALP, as well as the Master Plan.
- <u>Improvement Approvals</u>: Proposer shall provide a list of potential local, State, Federal or other airport improvements approvals, by phase (if applicable), required to complete this Project.
- Illustration of Proposed Development: Shall be provided that clearly shows massing and the relationship to adjacent structures and finished grades, open spaces, public and tenant access and any parking areas (plan, aerial sketch, photomontage, etc.). The concept drawing should clearly illustrate the relationship of the proposed Project to the existing hangars. The perspective should show the proposed development in context with the adjacent building masses roughed in. Context elements shall be rendered and do not need to be photo-realistic but must accurately convey the bulk, scale, and character of the surrounding area.
- <u>Development of Timeline</u>: Proposer shall provide a preliminary development time schedule including all elements from time of lease signing to start-up of operations. The schedule must include design, acquisition of

funding, permitting, site prep, utilities, construction plans, move in after certificate of occupancy and final start-up.

- <u>Subleasing Plan:</u> Proposer shall provide any proposed subleasing plan, if applicable.
- <u>Marketing Plan</u>: Proposer shall provide the existing and/or proposed marketing plan, if applicable
- <u>Financial Offer:</u> Proposer shall provide a detailed pro forma that shows the basic details of the Project and unit mix, sources and uses of funds, development costs, income statement, and cash flow statement. The pro forma should include, but is not limited to:
- (1) An all-in development budget including all direct, indirect, and financing costs, that clearly specifies key assumptions and how calculations are made, including from predevelopment up to, and including, stabilized operation.
- (2) A stabilized year operating statement detailing assumptions for all sources of income, a vacancy factor, detailed operating expense budget including proposed lease payment, net operating income, capital reserves, debt service, and equity returns. (3)A sources and uses table during predevelopment, construction, and permanent phases of the Project.
- (4) A clear statement regarding the Proposer's profit/return requirement and how it is calculated.
- (5) A long-term operating cash flow (15 years).
- (6)Proposer shall include an economic impact to the City and community
 market assessment of current and projected market conditions for the
 use(s) and density that the Proposer believes are appropriate for the Site.
 The assessment should include sufficient information to establish market
 support for the Project based upon an analysis of comparable uses and
 anticipated market trends.
- <u>Financial Capability:</u> Proposer shall demonstrate the financial capability to initiate the activities proposed, and if applicable provide the working capital necessary to carry on the contemplated development activities once initiated. To demonstrate financial capability, the Proposer shall provide evidence of financial performance to support the proposed activities. A brief summary of the source of funding shall be submitted. The narrative shall also include:
- (1)The name of the entity or entities responsible for financing the Project.
- (2)The estimated total cost of the Project.
 - (3) The sources of funding (e.g. private equity, tax credits, bonds, commercial loan, bond financing, etc.) and any letters of interest or commitment letters from equity partners or lenders.

- (4)The estimated financing amount to be financed, including rate and term.
- (5) The precautions that will be taken to ensure no financial risk or credit risk to the City is incurred based upon the manner of financing the Project.
- <u>Evidence of Insurability:</u> Provide evidence of insurability, to include a letter of proposed coverage from an insurance entity. All final insurance coverage shall include the City as named additional insured.
- Experience and Qualifications: Proposer shall provide a statement of its
 past experience in the specified activities proposed including resumes of
 individuals who will be directly responsible for the proposing entity's
 activities at the Airport. Proposer shall provide a listing of the design and
 development entities that will be utilized or contracted to improve or
 redevelop the property.

SECTION D - TERMS AND CONDITIONS

1.0 PROPOSAL TERMS

The terms of the proposal shall be commercially reasonable and will be negotiated in connection with the agreement. Proposer shall submit their proposed term of agreement.

2.0 EVALUATION

Lake Havasu City will review and score the proposals based on the following criteria:

a. Concept Business Plan, Development Vision and Timeline: <u>40 points</u>
Adequacy of proposed concept approach, business plan, development vision and timeline.

b. Financial Offer: 40 points

The Proposer must present its financial offer, including a detailed pro forma that shows the basic details of the Project.

For the purpose of comparison for this evaluation criteria the Proposer must provide their proposed annualized lease payment (or equivalent annual cost "EAC") to the City for the first 15 years of the proposed lease term. The proposed annualized lease payment must be equal to the minimum increases, plus any future projected CPI or other alternative lease rent proposal specified in the same Section IV above referenced.

c. Experience, -Qualifications, and Financial Capability: 15 points

Experience and Qualifications are based on similar past performance in the specified activities proposed. Financial Capability is based on Proposer's financial evidence to deliver the proposed concept and business plan.

d. Questionnaire and Basic proposal requirements: 5 points

-Preparation of responsive proposal with all requested forms and information.

Selected Proposal will have the highest score averaged from the scores of the reviewers, with <u>100 points</u> being the maximum possible individual score.

3.0 AWARD

Award Recommendations will be posted on the Lake Havasu City Website at https://www.lhcaz.gov/budget-and-finance/bids-rfps. A file will be available for all proposers and the public for review, consisting of this RFP, all accepted proposals, scoring document, memorandum to the City Council, advertising documents, and Conference attendance sheets. City Staff will present the recommendations to the City Council at a regularly held meeting. The City Council will take action to accept or reject the recommended proposal at that time, and to direct Staff to negotiate the final business terms with the successful Proposer, substantially conforming to the chosen proposal. The resulting contract will then be taken to the City Council for final approval and execution.

4.0 RIGHT TO DISQUALIFY

The City reserves the right to disqualify any Proposer who fails to provide information or data requested herein or who provides materially inaccurate or misleading information or data. The City reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the proposals submitted or any other data available to the City.

5.0 CITY'S RESERVATION OF RIGHTS

In connection with the issuance of this RFP, the City reserves and may, in its sole discretion, exercise any one or more of the following rights and options that Proposers hereby agree to by submitting a Proposal to the RFP:

- 1. To reject any and all Proposals and to reissue this RFP at any time;
- 2. To issue a new RFP with terms and conditions substantially different from those set forth in this or a previous RFP;
- 3. To issue a new RFP with terms and conditions that are the same or similar as those set forth in this or a previous RFP in order to obtain additional Proposals or for any other reason the City determines to be in the best interest of the City;
- 4. To extend this RFP in order to allow for time to obtain additional Proposals prior to the RFP's Proposal deadline, or for any other reason the City determines to be in the best interest of the City;

- 5. To supplement, amend, substitute or otherwise modify or amend this RFP at any time;
- 6. To cancel this RFP at any time;
- 7. To wave any defect of deficiency in any proposal;
- 8. To enter into negotiations with any one or more Proposers regarding the terms of their proposals; and
- 9. To enter into simultaneous, competitive negotiations with multiple Proposers.

6.0 PREPARATION COSTS

Under no circumstances will the City be responsible for any costs incurred by anyone in: 1) responding to this RFP; 2) in any subsequent follow up to the proposal; or 3) in any subsequent negotiations of a contract.

7.0 PROPOSER CERTIFICATION

By submitting a proposal, each Proposer certifies it has not paid or agreed to pay any fee or commission, or any other item of value contingent on the award of a contract to any employee, official or current contracting consultant of the City. Any Proposer unable to comply with any required certifications may be disqualified.

In compliance with A.R.S. §§ 1-501 and 1-502, the City shall require any successful Proposer that submits its proposal as a sole proprietorship or as an individual to complete the Affidavit of Lawful Presence prior to the award of any contract resulting from this process.

8.0 COVENANT AGAINST CONTINGENT FEES PAID TO PROPOSER

By submitting a proposal, the Proposer and each member of the development team certifies that they have not employed nor retained any person or company, other than a member of the development team or a bona fide employee working solely for the Proposer or any member of the development team, to solicit or secure the contract described in this RFP, and that no agreement has been made to pay the Proposer or any member of its development team any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or execution of such contract. The Proposer certifies submission of the Proposal did not involve collusion or other anti-competitive practices.

9.0 NO GRATUITY

Proposer certifies it has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a City employee, officer or agent in connection with the submitted Proposal. It (including the Proposer's employees, representatives, agents, lobbyists, attorneys and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a

part in the selection process, including the Selection Committee, elected officials, the Mayor, City Council, City Manager, Department Heads and other City staff. All contact must be addressed to the City Representative listed on the cover of this RFP. Any attempt to influence the selection process by any means shall void the submitted Proposal and any resulting Agreement.

10.0 APPLICABLE LAW

Any and all disputes arising under this RFP and any resulting contract shall be governed according to the laws of the State of Arizona, and the Proposer shall agree that the venue for any such action brought to enforce provisions of the contract shall be in the State of Arizona.

11.0 COMPLIANCE WITH LAWS

Proposers agree to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances.

12.0 ADDITIONAL TERMS AND CONDITIONS

By issuing this RFP, the City shall not create any contractual rights or obligations by and between the City and any person or entity responding hereto.

13.0 FAIR TRADE CERTIFICATIONS

By submitting a Proposal, the Proposer certifies 1) <u>Independent Prices</u>. The prices have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with anyone. 2) <u>No Disclosure</u>. Unless otherwise required by law, the prices which have been quoted in its Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by Proposer prior to opening.

3) <u>Influence on Competition</u>. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

EXHIBIT A

Site Diagram



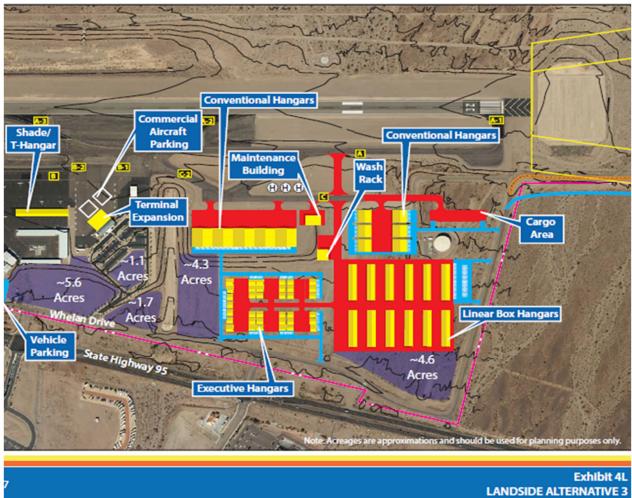


Exhibit B

Infrastructure Layout

