



November 20, 2024

Re: 2024 RFQ for Master Aeronautical Development

Dear Prospective Respondent:

On behalf of Glacier Park International Airport (GPIA), I am pleased to present this Request for Qualifications (RFQ) for the master development of general aviation and Fixed Base Operator (FBO) facilities at our airport. This solicitation represents a significant opportunity for a qualified development partner to help shape the future of general aviation at GPIA.

As some of you may or may not be aware, the airport conducted a two-part solicitation process in an effort to identify and engage a master developer for this initiative. Despite strong interest and engagement, that process did not result in a successful agreement. As a result, the airport has reevaluated its approach and is now publishing this opportunity as an RFQ only. This updated process is intended to provide greater flexibility in negotiating the terms of a master development agreement that accommodates the needs and goals of both the airport and the selected developer.

To improve this solicitation and ensure a successful outcome, we sought feedback from previous respondents and used their insights to refine the RFQ. This feedback has informed adjustments to both the structure of the process and the nature of the agreement, making it more adaptable to the interests of a master developer while still meeting the airport's strategic objectives. We believe this revised approach offers a more collaborative framework that benefits all parties involved.

We remain committed to identifying a highly qualified partner with the vision, expertise, and resources to deliver a successful and mutually beneficial project. This RFQ is an important first step in establishing a collaborative partnership to create state-of-the-art general aviation facilities and support the continued growth and success of GPIA.

We invite you to review the enclosed materials and submit your qualifications in response to this exciting opportunity. Thank you for your interest in working with Glacier Park International Airport. We look forward to reviewing your submission and exploring the possibilities for collaboration.

Sincerely,

FLATHEAD MUNICIPAL AIRPORT AUTHORITY

A handwritten signature in blue ink, appearing to read "Rob Ratkowski", is written over the printed name.

Rob Ratkowski, A.A.E.  
Airport Director

Request For Qualifications  
For  
The Master Development and Management of Property For General  
Aviation and Fixed Based Operator Facilities at Glacier Park  
International Airport



Issued On  
November 21, 2024

Flathead Municipal Airport Authority  
4170 US Highway 2 East  
Kalispell, Montana 59901

# REQUEST FOR QUALIFICATIONS (“RFQ”)

Statements of Qualifications (“SOQs”) will be received at the administration offices of Glacier Park International Airport, 4170 Highway 2 East, Kalispell, MT 59901, until 4:00 PM local time, on January 24, 2025 for:

## **The Master Development and Management of Property for General Aviation and Fixed Based Operator Facilities at Glacier Park International Airport**

A full description of the process is set forth below. Documents may be obtained by emailing a request to [rfp@glacierairport.com](mailto:rfp@glacierairport.com) with “Request for Documents – 2024 Master Aeronautical Development Opportunity” in the subject line or by contacting the **solicitation contact: Ian McKay, AAE, Deputy Airport Director**, at Glacier Park International Airport, 4170 US Highway 2 East, Kalispell, MT 59901, (406) 257-5994. A mandatory pre-submittal conference will be held on December 12, 2024, at 10:00 am Mountain Time. The meeting may be attended in person at the airport administration offices located on the third floor of the terminal, or virtually from your computer, tablet, or smartphone using the following link or dial-in number:

### **Microsoft Teams**

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_Yjc1OTk2OTMtOGZkMy00YzBiLWlzMjctZjljOGVmN2I2NWM0%40thread.v2/0?context=%7b%22Tid%22%3a%22ab76c8f5-72a3-49ec-b86b-a019aa1efab0%22%2c%22Oid%22%3a%222e6f8beb-4a23-420f-98c6-e9623f56f158%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_Yjc1OTk2OTMtOGZkMy00YzBiLWlzMjctZjljOGVmN2I2NWM0%40thread.v2/0?context=%7b%22Tid%22%3a%22ab76c8f5-72a3-49ec-b86b-a019aa1efab0%22%2c%22Oid%22%3a%222e6f8beb-4a23-420f-98c6-e9623f56f158%22%7d)

Meeting ID: 268 563 711 590  
Passcode: nngG3u

### **Dial in by phone**

+1 406-272-4852  
Phone conference ID: 437 885 109#

### **Key Dates**

The following table conveys the key Solicitation dates (the “Key Dates”). All times in this RFQ are for local Mountain Standard Time in Kalispell, Montana.

Table 1. Key Dates

Date	Milestone
11/21/2024	RFQ Publication
12/12/2024	Pre-Submittal Conference
12/20/2024	Deadline for Written Questions
1/6/2025	Issuance of Written Responses
2/27/2025	SOQ Deadline
3/18/2025 (tentative)	Interviews
TBD	Award

The deadline for Statement of Qualifications submissions is 4:00 PM local time, on February 27, 2025 (the “SOQ Deadline”). The FMAA reserves the right to reject any SOQs submitted after the Deadline.

## Definitions

*Affiliate* means with respect to any person or entity, an entity that directly or indirectly controls, or is under common control with, or is controlled by such person or entity, including a parent, affiliate, or subsidiary, at any tier. As used in this definition, “control” (including, with its correlative meanings “under common control with” and “controlled by”) means possession, directly or indirectly, of power to direct or cause direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise). If a person is an individual, an “Affiliate” includes any member of the immediate family of such individual (including parents, spouse, children, and siblings) and any trust whose principal beneficiary is such individual or one of more members of such immediate family

*Agreement* means the Pre-Development Agreement for the authority to negotiate a master aeronautical development agreement, between the Successful Firm and the FMAA resulting from this Solicitation, including all exhibits, attachments, and addenda thereto.

*Airport* means the Glacier Park International Airport, also referred to as GPIA.

*Board* means the FMAA’s Board of Directors.

*Development Agreement* means the master aeronautical development agreement, if any, negotiated between the Successful Firm and the FMAA resulting from the agreement for the exclusive right to negotiate, including all exhibits, attachments, and addenda thereto.

*Development Plan* means the master aeronautical development plan to be prepared and executed by the Successful Firm.

*Federal Requirements* means any federal statute, code of federal regulations, FAA circulars, FAA advisories, FAA grant assurances with FMAA, FAA memoranda of understanding or agreement with FMAA, or any other federal law or agreement that applies to the Airport.

*Firm* means a firm submitting an SOQ in response to this RFQ.

*FMAA* means the Flathead Municipal Airport Authority.

*Key Personnel* means the positions and corresponding individuals that are essential to development and management of the Subject Property, as identified by Firm pursuant to the SOQ.

*Member* means the Firm and any other firm, individual, or any other entity identified in a Firm’s SOQ that comprises the Firm’s team.

*Minimum Standards* means the Airport Minimum Standards established by the FMAA, as amended from time to time.

*RFQ* means the Request for Qualifications for the Exclusive Right to Negotiate the Master Development and Management of Property for General Aviation and Fixed Based Operator Facilities at Glacier Park International Airport issued by the FMAA on October 28, 2024 and any addenda thereto.

*Solicitation* means this solicitation for the Exclusive Right to Negotiate the Master Development and Management of Property for General Aviation and Fixed Based Operator Facilities at Glacier Park International Airport consisting of the RFQ and any addenda thereto.

*SOQ* means the Statement of Qualifications submitted by a Firm in response to the RFQ.

*Subject Property* means the approximately 72 acres of Airport property to be developed and managed by the Successful Firm under the terms of the Agreement and the Plan.

*Successful Firm* means the Firm that ultimately enters into an Agreement with the FMAA as a result of this Solicitation process, if any.

### **Rules for Contact and Communication**

The rules of contact described in this Solicitation apply through the execution of the Agreement. These rules are designed to promote a fair, competitive, and unbiased Solicitation process. Contact includes face-to-face, telephone, facsimile, e-mail, or formal written communication, either directly or indirectly by an agent, representative, promoter, or advocate of a Firm.

The specific rules of contact are as follows:

- No person from any Firm will communicate with any person from another Firm with regard to the RFQ, either Firm's SOQ, or the development and management of the Subject Property (the "Project"); provided, however, that subcontractors, operators, etc. that are shared between two or more Firm teams may communicate with their respective team members so long as those Firms establish information barriers to ensure that the subcontractor (or operator, etc.) will not act as a conduit of information between the Firms.
- The FMAA will be the sole contact for the purposes of this Solicitation. Firms will correspond with the FMAA regarding the RFQ only through the FMAA's solicitation contact listed on the first page of this RFQ (the "Solicitation Contact").
- Any official information regarding the Solicitation will be disseminated from the FMAA either from an official email account or on FMAA letterhead, in either case from the Solicitation Contact. The FMAA will not be (and will be deemed not to be) responsible for, and Firms may not rely (and will be deemed not to have relied) on, any oral or written communication or contact or any other information or exchange that occurs outside the official contact and communication process specified in this RFQ.
- Commencing with the issuance of this RFQ and continuing until either the execution of an Agreement, rejection of all SOQs by the FMAA, or cancellation of the Solicitation, no person will communicate regarding the Solicitation with any FMAA staff or board members in any way except for communications expressly permitted by the RFP, or except as approved in writing in advance by the Solicitation Contact, in the FMAA's sole discretion.
- The foregoing restriction will not, however, preclude or restrict communications about matters unrelated to the RFQ, or limit participation in public meetings or any public workshop related to the development of the Subject Property.

Any violation of the rules may, in the sole discretion of the FMAA, result in disqualification of one or more Firms or persons.

### **Process and Integrity Guidelines**

Firms may be disqualified from the Solicitation without further consideration if any of the following occur:

- Any attempt to improperly influence any member of the FMAA and/or the members of the committee responsible for review and evaluation of the SOQs (the “Review Committee”);
- Existence of any lawsuit, unresolved contractual claim, or dispute between Firm and the FMAA and/or its related entities;
- Evidence of incorrect, or incomplete, or misleading information submitted as part of the SOQ;
- Evidence of Firm’s inability to successfully complete the responsibilities and obligations described in the SOQ; or
- Firm’s prior default under any agreement which resulted in termination of such agreement.

## **Questions and Answers Process**

All questions will be written so as not to identify the Firm in the body of the question or comment. Questions and comments shall be submitted by e-mail to [rfp@glacierairport.com](mailto:rfp@glacierairport.com) with the subject line “Questions – 2024 Master Aeronautical Development Opportunity” and addressed to the Solicitation Contact. Firms are responsible for ensuring the receipt of their questions and comments by the FMAA through the use of automated receipt and read message confirmations.

The FMAA will not consider any questions or comments that are unrelated to the Solicitation, received orally or by telephone, submitted by a person with no clear affiliation to the Firm that such person purports to represent, or to a person other than the Solicitation Contact.

The FMAA may, in its discretion, elect to address questions and comments within an addendum to this Solicitation, that by its terms either reflects, or declines to reflect, a response to the substance of such comments.

The FMAA may also, but is not obligated to, provide written responses to questions and comments. The FMAA will endeavor to provide any written responses within a reasonable period following receipt. The FMAA’s responses will be in writing and will be digitally released or delivered, in the FMAA’s discretion, through the OneDrive shared file or email to all Firms that have expressed interest in the Solicitation. In responding to questions and comments, the FMAA may rephrase them as it deems appropriate and may consolidate similar comments. The FMAA may also create and answer questions independent of those submitted by Firms.

The FMAA is strongly committed to the principle of transparency. Firms are encouraged to consider if questions or comments contain confidential material prior to submitting them to the FMAA. All questions and comments will be disclosed to all Firms, unless a Firm specifically requests to ask a question containing confidential material under Montana Law. The FMAA reserves the right to disagree with a Firm’s assessment as to whether any question or comment contains confidential material. If the FMAA disagrees with a Firm’s assessment, the FMAA will inform the relevant Firm of its determination and will allow the Firm to withdraw the relevant question/comment, rephrase it, or have it answered non-confidentially (with the understanding that the FMAA cannot guarantee that the original question or comment will not still be subject to disclosure under Montana Law).

## **Addenda**

The FMAA reserves the right to revise this RFQ by issuing one or more addenda at any time before the SOQ Deadline. If the FMAA issues an addendum shortly before the SOQ Deadline, the FMAA will consider whether an extension of the SOQ Deadline, and of the timing of any other steps in the Solicitation process, are warranted.

## **Confidentiality and Public Disclosure**

The FMAA is subject to the open records requirements of the State of Montana, and as such, all materials submitted by the Firm to the FMAA are subject to disclosure. Firms may identify specific parts of their SOQs that are considered proprietary business information, and upon concurrence by the FMAA will be held from public view. By submitting its SOQ, each Firm specifically waives any claims against the FMAA related to the disclosure of any materials if made under a public records request.

### **Conflicts of Interest**

Each Firm shall disclose to the FMAA, on an ongoing basis during the Solicitation, any actual or potential conflicts of interest relating to such Firm or any person on the Firm's team, and disclose all relevant facts concerning any past, present, or currently planned interests that may present a conflict of interest. Such disclosure shall be made promptly after the conflict is discovered.

For purposes of this Solicitation, a "*conflict of interest*" includes any circumstance in which, because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the FMAA, or the person's objectivity in performing the work is or might be otherwise impaired, or a person has, or may reasonably be perceived by others to have, an unfair competitive advantage.

### **Changes in Firm Organization**

No Firm will, at any time from the SOQ Deadline to the date of the execution of an Agreement, undertake any of the following (each an "Organizational Change"):

- 1) add, delete, or substitute a Member, Key Personnel, or other persons specifically identified in its SOQ as being part of its team;
- 2) materially alter the relationships or responsibilities among the foregoing persons, or with any Affiliate of a Firm, a Member, or its subsidiary, as compared to how such relationships and responsibilities are described in its SOQ; or
- 3) otherwise reorganize its team to the extent that such reorganization would render the organizational charts and descriptions provided in its SOQ inaccurate or incomplete.

Firms may make Organizational Changes with the FMAA's consent, to be given in the FMAA's discretion. As a condition to making any such Organizational Change, a Firm must submit to the FMAA a description of the proposed change and any relevant documentation related to the change.

While the FMAA reserves the right to withhold its consent to any Organizational Change in its discretion, the FMAA expects that it will base its decision as to whether to accept a proposed Organizational Change on whether the proposed change would:

- 1) render the Firm materially different from or less qualified than the Firm originally selected as a Firm;
- 2) result in any actual or potential conflict of interest;
- 3) cause the Firm to be in violation of another provision of this Solicitation; and/or
- 4) any other factors that the FMAA considers relevant or material.

### **Consequences of Submission**

The FMAA shall not be responsible in any manner for the costs associated with the preparation and/or submission of SOQs, including all drawings, plans, photos, and narrative material, which shall become the property of the FMAA upon receipt. The FMAA shall have the right to copy, reproduce, publicize, or otherwise dispose of each SOQ in any way that the FMAA selects. The FMAA shall be free to use as its own, without payment of any kind of liability therefore, any idea, scheme, concept, technique, suggestion, layout,

or plan received in any SOQ.

Should the successful Firm fail to execute the Agreement within thirty (30) days of receiving the Agreement for signature, the Firm shall be deemed non-responsive, and the FMAA will, redeem the Submittal Bond as liquidated damages, and, among other things, recommend another Firm or rejection of all SOQs.

An Agreement shall not be binding or valid with the FMAA unless and until it is approved by the FMAA Board of Directors and properly executed by the FMAA and the Firm. The FMAA reserves the right to revise or postpone any of the Key Dates contained in this RFQ.

The FMAA reserves the right to waive any informalities or minor irregularities in the SOQ or, accept or reject any submittals in whole or in part with or without cause, and accept the submittals that are the most advantageous to the FMAA.

### **Submittal Bond**

Firms submitting SOQs in response to this RFQ must include a submittal bond in the amount of \$115,000 in the form of a certified bank or financial institution guarantee, payable to the FMAA (the “Submittal Bond”). The Submittal Bond should be submitted in a sealed envelope, clearly marked as “Submittal Bond,” along with the Firm’s SOQ.

The Submittal Bond must remain valid for a period not less than three hundred sixty-five (365) days beyond the SOQ Due Date.

The Submittal Bond will be returned promptly to all unsuccessful Firms upon the granting of the Notice of Award to the Successful Firm. Upon execution of the Agreement with the Successful Firm, the Submittal Bond will be returned in full to the Successful Firm and the Successful Firm shall pay \$115,000 to FMAA as a lump sum consideration payment in accordance with the terms of the Agreement.

In the event that a Firm withdraws its SOQ after the SOQ Due Date, fails to honor the terms of the SOQ, or, if selected as the Successful Firm, refuses to enter into the Agreement with the FMAA, the FMAA reserves the right to collect the forfeiture of the Submittal Bond as liquidated damages.

### **Supporting Documents**

1. Airport Development Policy & Application Procedures
2. Airport Minimum Standards
3. Airport Rules and Regulations
4. Airport Master Plan
5. Airport Layout Plan
6. Jacob’s 2022 Airport Land Development and Aviation Planning Study
7. WGM Group’s 2020 Land Use & Preliminary Development Plan for Non-Aeronautical Properties
8. Jacob’s 2022 Wetland Delineation Report
9. Plateau’s 2022 Cultural Resource Survey
10. Clark Real Estate Appraisal’s 2022 Appraisal Report
11. 2019 GPI Land Release
12. 2020 GPI Land Release

### **Disclaimer of Reliance on Project Information**

The FMAA does not make (nor shall be deemed to have made) any representation, warranty, or guarantee as to the accuracy, completeness, utility, or relevance of any Supporting Document or third party information



referred to in the RFQ, or otherwise made available by the FMAA. Firms shall not be entitled to rely, and shall be deemed not to have relied, on any such information and Firms shall be solely responsible or liable for any lack of accuracy, completeness, utility, or relevance of, or for any interpretations of or conclusions drawn from, any provided information.

# Airport Statistics

Figure 1. Historic Enplanements through CY23

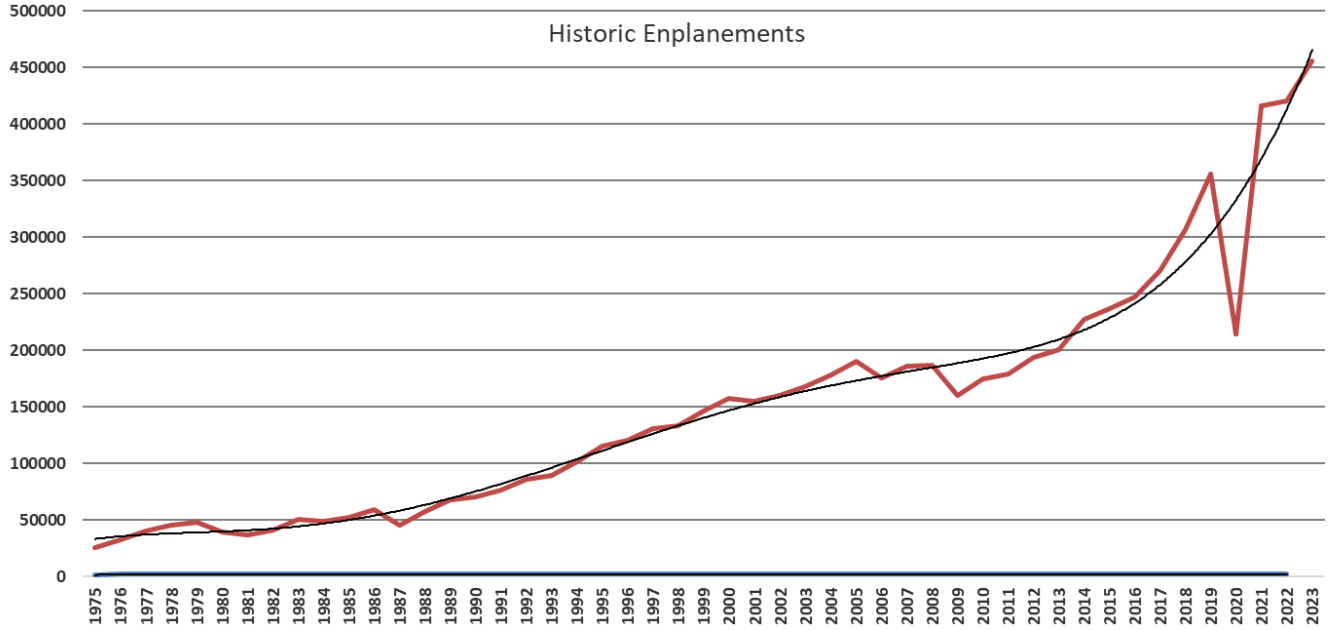


Figure 2. Enplanements by Month Through August 2024

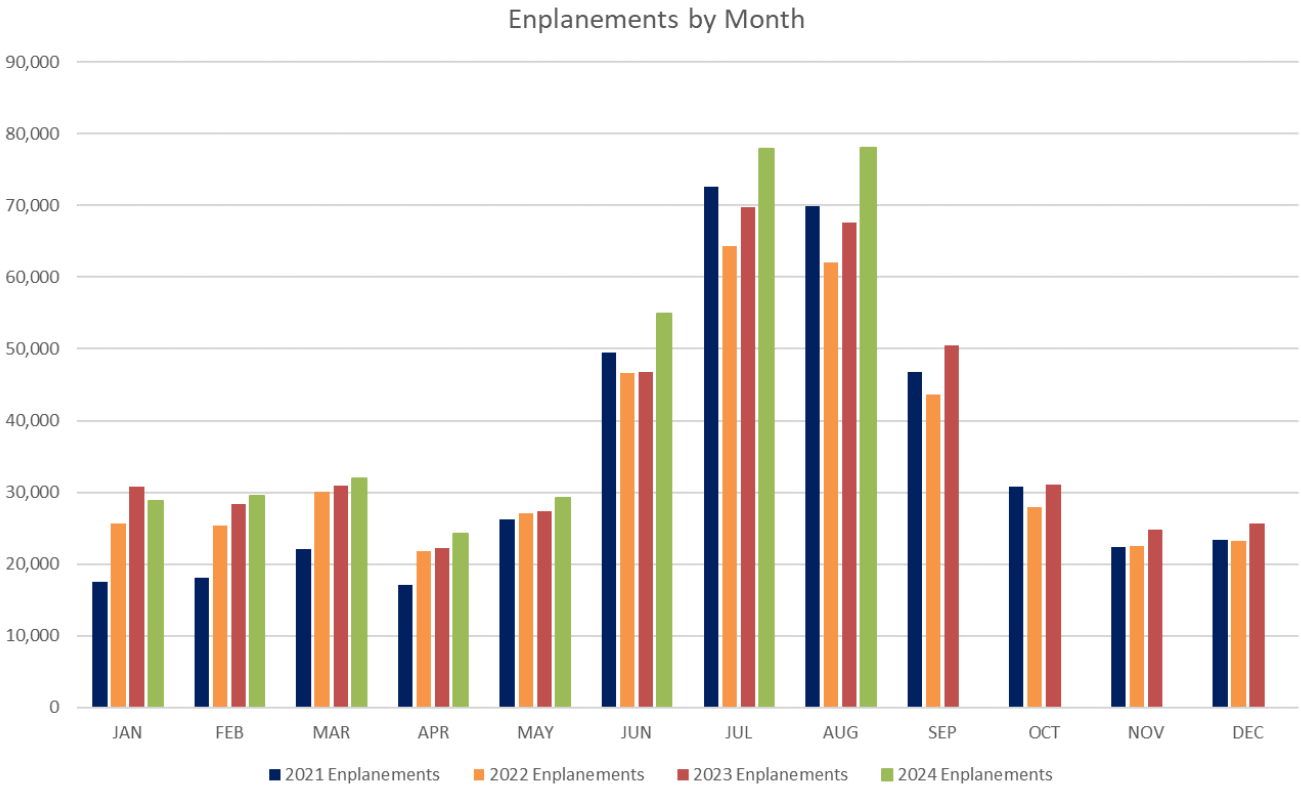


Figure 3. Aircraft Operations by Month Through CY23

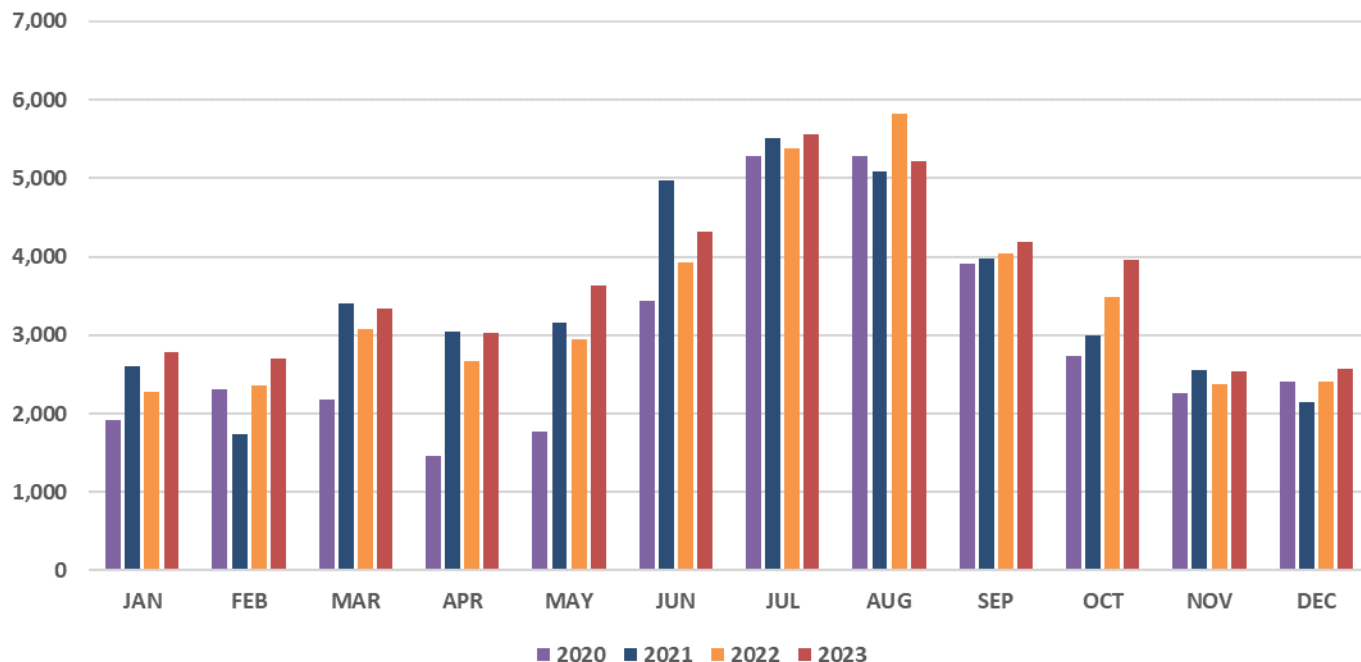


Figure 4. Aircraft Operations by Type for CY23 and Historic Monthly Totals

GLACIER PARK INTERNATIONAL AIRPORT ATC TRAFFIC COUNT													2023
AIRLINE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
AC ITINERANT	559	489	538	426	516	861	1,096	1,097	776	455	408	529	7,750
AT ITINERANT	343	282	294	250	316	413	685	812	490	364	300	389	4,938
GA ITINERANT	910	983	1,225	1,167	1,542	1,959	2,791	2,282	1,924	1,725	1,103	847	18,458
MI ITINERANT	28	34	56	60	25	35	91	27	68	19	25	11	479
CIVIL LOCAL	922	850	1,153	982	1,194	1,028	748	976	773	1,362	670	794	11,452
MILITARY LOCAL	14	72	74	138	34	28	146	18	150	34	38	0	746
<b>TOTAL 2023</b>	<b>2,776</b>	<b>2,710</b>	<b>3,340</b>	<b>3,023</b>	<b>3,627</b>	<b>4,324</b>	<b>5,557</b>	<b>5,212</b>	<b>4,181</b>	<b>3,959</b>	<b>2,544</b>	<b>2,570</b>	<b>43,823</b>
TOTAL 2022	2,278	2,352	3,080	2,667	2,944	3,921	5,376	5,830	4,045	3,487	2,370	2,416	40,766
<b>% Change</b>	<b>21.9%</b>	<b>15.2%</b>	<b>8.4%</b>	<b>13.3%</b>	<b>23.2%</b>	<b>10.3%</b>	<b>3.4%</b>	<b>-10.6%</b>	<b>3.4%</b>	<b>13.5%</b>	<b>7.3%</b>	<b>6.4%</b>	<b>7.5%</b>
TOTAL 2021	2,602	1,742	3,405	3,046	3,157	4,977	5,518	5,079	3,973	2,994	2,559	2,140	41,192
TOTAL 2020	1,915	2,304	2,177	1,461	1,773	3,444	5,290	5,280	3,906	2,734	2,260	2,401	34,945
TOTAL 2019	1,897	1,381	2,647	1,851	2,568	3,381	5,026	5,057	2,945	2,671	1,836	1,974	31,260
TOTAL 2018	1,507	1,324	1,964	1,901	2,744	3,147	4,329	3,572	3,095	2,211	1,744	2,070	29,608
TOTAL 2017	1,357	1,306	1,620	1,747	2,362	2,918	4,323	3,839	2,486	1,997	1,394	1,522	26,871
TOTAL 2016	1,272	1,725	1,545	1,883	1,973	2,879	4,034	3,734	2,613	1,448	1,403	1,495	26,004
TOTAL 2015	1,774	1,769	2,170	1,973	2,464	2,825	4,105	3,439	2,535	1,938	1,363	1,537	27,892
TOTAL 2014	1,594	1,318	1,558	1,923	2,080	2,491	4,020	5,089	3,219	2,532	1,569	1,634	29,027
TOTAL 2013	1,486	1,557	1,899	1,704	2,618	2,749	3,590	3,533	2,520	2,195	1,309	1,246	26,406
TOTAL 2012	1,529	1,395	1,532	1,671	1,685	2,276	3,353	4,516	2,335	1,723	1,495	1,509	25,802
TOTAL 2011	1,291	1,629	1,876	1,671	2,462	2,773	4,039	4,281	2,573	1,306	1,493	1,839	27,233
TOTAL 2010	1,645	1,900	2,420	2,015	2,116	3,120	3,885	4,101	3,135	2,787	1,326	1,434	29,884

Figure 5. Fuel Flowage by Month Through CY23

GLACIER PARK INTERNATIONAL AIRPORT													FUEL FLOWAGE												CY2018											
																									YTD											
													JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS											
AIRLINES													189,002	146,998	230,997	199,998	219,999	461,295	543,995	528,240	292,489	188,996	167,497	272,494	3,442,000											
GENERAL AVIATION (JETA/AVGAS)													63,002	52,000	73,499	41,999	73,003	131,002	208,770	227,501	147,001	73,499	73,497	73,398	1,238,171											
TOTAL 2018													252,004	198,998	304,496	241,997	293,002	592,297	752,765	755,741	439,490	262,495	240,994	345,892	4,680,171											

GLACIER PARK INTERNATIONAL AIRPORT													FUEL FLOWAGE												CY2019											
																									YTD											
													JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS											
AIRLINES													230,993	188,999	224,546	157,493	224,997	608,987	763,180	660,490	388,485	241,496	187,999	262,196	4,139,861											
GENERAL AVIATION (JETA/AVGAS)													73,002	62,999	62,999	52,498	83,998	154,203	203,542	220,507	115,500	62,998	73,500	95,017	1,260,763											
TOTAL 2019													303,995	251,998	287,545	209,991	308,995	763,190	966,722	880,997	503,985	304,494	261,499	357,213	5,400,624											

GLACIER PARK INTERNATIONAL AIRPORT													FUEL FLOWAGE												CY2020											
																									YTD											
													JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS											
AIRLINES													250,494	304,505	177,496	31,501	10,500	178,501	349,923	336,010	283,497	189,000	157,495	220,499	2,489,421											
GENERAL AVIATION (JETA/AVGAS)													73,500	52,506	101,869	21,005	63,004	157,516	279,592	325,508	216,628	131,511	52,502	94,498	1,669,639											
TOTAL 2020													323,994	357,011	279,365	52,506	73,504	336,017	629,515	661,518	500,125	320,511	209,997	314,997	4,059,060											

GLACIER PARK INTERNATIONAL AIRPORT													FUEL FLOWAGE												CY2021											
																									YTD											
													JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS											
AIRLINES													136,503	189,006	315,012	293,600	367,519	848,885	736,237	604,325	544,180	336,874	218,896	272,998	4,864,035											
GENERAL AVIATION (JETA/AVGAS)													104,996	58,798	115,507	72,506	143,031	208,999	348,013	249,487	240,967	115,520	104,998	125,997	1,888,819											
TOTAL 2021													241,499	247,804	430,519	366,106	510,550	1,057,884	1,084,250	853,812	785,147	452,394	323,894	398,995	6,752,854											

GLACIER PARK INTERNATIONAL AIRPORT													FUEL FLOWAGE												CY2022											
																									YTD											
													JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS											
AIRLINES													262,502	210,005	376,998	250,965	376,434	672,087	850,400	808,858	499,665	272,999	178,501	367,519	5,126,933											
GENERAL AVIATION (JETA/AVGAS)													79,496	134,894	104,995	82,978	105,029	196,874	356,285	394,740	230,207	125,500	83,998	136,000	2,030,996											
TOTAL 2022 To Date													341,998	344,899	481,993	333,943	481,463	868,961	1,206,685	1,203,598	729,872	398,499	262,499	503,519	7,157,929											

GLACIER PARK INTERNATIONAL AIRPORT													FUEL FLOWAGE												CY2023											
																									YTD											
													JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTALS											
AIRLINES													325,416	325,504	398,996	262,464	367,497	722,906	778,118	795,731	585,974	304,499	231,003	304,503	5,402,611											
GENERAL AVIATION (JETA/AVGAS)													84,002	95,013	94,498	52,480	120,202	209,902	367,197	321,146	189,027	126,006	73,500	133,967	1,866,940											
TOTAL 2023 To Date													409,418	420,517	493,494	314,944	487,699	932,808	1,145,315	1,116,877	775,001	430,505	304,503	438,470	7,269,551											

**FMAA’s Goals for this Solicitation**

**Goal #1**

The FMAA’s first goal is to enter into a mutually beneficial Development Agreement with a master developer that has the expertise and financial capability to develop and manage the Subject Property that will benefit the Glacier Park community by:

- removing barriers to entry for prospective hangar owners and tenants, fixed based operators (“FBOs”), and other aeronautical operators seeking to be based at the Airport and do business in the community;
- building capacity at the Airport by way of aeronautical facilities and public infrastructure to accommodate the growth of general aviation (“GA”) activity;
- generating revenue to support the operation of GPIA;
- creating a sustainable economic model for the Firm.

This goal is the product of FMAA’s desire to satisfy pent-up demand for GA facilities. Such facilities should include hangars (ranging in various sizes for both the casual aircraft owner and corporate flight department), aircraft parking and apron space, helipads, and a suite of special aeronautical service operators (“SASOs”) such as aircraft charter operations, and maintenance and repair operator (“MRO”) facilities, as well as two independent FBO complexes.

Numerous aircraft owners and aeronautical operators have expressed interest in operating at GPIA, particularly FBOs, but the Airport has lacked the necessary facilities and infrastructure to accommodate such interest. Existing Airport users have raised a need for a second FBO to establish a competitive market and provide greater service offerings. Additionally, the current FBO’s lease expires in 2032, and its facilities exist in the future terminal expansion area; hence, the need for two large FBO facilities on the Subject Property.

## **Goal #2**

The second goal is to ensure compliance with the FMAA’s grant assurance obligations to the FAA and, in particular, that aeronautical operators at GPIA are able to thrive in a fair, competitive, and non-exclusive environment. Therefore, it is imperative the Successful Firm manage the Subject Property in a manner that is in keeping with the letter and spirit of the airport sponsor’s grant assurances obligations. The Successful Firm must operate independently from any entity providing aeronautical services on the Subject Property or elsewhere at GPIA. The FMAA will also require provisions adequately protecting and preserving its rights and powers to assure compliance with Federal Requirements in the development and management of the Subject Property.

## **Pre-Development Agreement**

The Successful Firm will enter into a Pre-Development Agreement (“Agreement”), granting the Successful Firm a one-year exclusive period to negotiate the terms of a Development Agreement and prepare a Development Plan for the Subject Property.

The Agreement provides the framework for initial collaboration between the FMAA and the Successful Firm, with the goal of advancing a comprehensive development plan that aligns with the FMAA’s strategic objectives. During this one-year period, the Successful Firm will:

- Work with the FMAA to outline and negotiate key terms and provisions of the forthcoming Development Agreement. This process will address project scope, development phasing, leasing and subleasing terms, infrastructure development responsibilities, and any financial or operational requirements.
- Develop a preliminary Development Plan detailing site layout, proposed improvements, infrastructure requirements, and facility specifications. The plan should be aligned with regulatory requirements and integrate seamlessly with the FMAA’s operational and development plans.

The one-year term under the Agreement also provides the Successful Firm with the authority to conduct thorough due diligence on the proposed property to evaluate its suitability for the intended aeronautical uses. This due diligence period will allow the Master Developer to:

- Conduct surveys, environmental assessments, soil and geotechnical studies, and utility evaluations to determine the feasibility of development on the site.
- Carry out market and economic feasibility analyses to ensure alignment with demand for aeronautical facilities, ensuring that the planned development supports Airport objectives and responds to market conditions.
- Investigate any relevant federal, state, or local regulatory requirements that may impact the scope, design, or feasibility of the project.
- Perform cost estimation, financing strategy evaluations, and economic impact assessments to ensure the financial viability of the development.

The one-year negotiation period shall commence upon execution of the Agreement. During this period:

- The Successful Firm will have the authority to negotiate the Development Agreement and to conduct the necessary analysis and due diligence to finalize the Development Plan.
- Upon completion of the Agreement term, provided both parties are satisfied, the FMAA and the Successful Firm will finalize and execute a Development Agreement and Development Plan based on mutually agreed-upon terms.

The attached Pre-Development Agreement is in draft form and may be modified to reflect further legal, regulatory, or operational requirements if deemed necessary by the Authority. Additionally, the agreement is subordinate to all applicable Federal, State, and local laws and regulations, and compliance with these laws remains paramount throughout the development process.

### **Master Aeronautical Development Agreement Concept**

Development of the Subject Property will be governed by the Development Agreement. The Development Agreement will be negotiated in good faith with the FMAA and should include a takedown schedule for each phase, and when the takedown of each phase occurs, the successful Firm and FMAA will enter into a lease for such phase for a term to be negotiated in good faith with FMAA (each, a "Lease"). The term of each Lease will run from the date of takedown of each parcel. Full development of the Subject Property will be completed within a pre-determined time frame to ensure compliance with Federal Requirements. The Plan shall include two large FBO facilities. The successful Firm will continue to manage the leaseholds for the duration of their respective terms with the Agreement terminating upon expiration of the final Lease. Firms should also note the following non-negotiable terms of the Development Agreement:

- The Successful Firm will pay 7.5% of the current aeronautical lease rate, as may be amended from time to time, for the unleased portions of the Subject Property during the term of the Agreement.
- The lease of airport property is limited to 50-year terms by grant assurance and Montana Statute.
- GPIA's current aeronautical lease rate is \$0.48 per square foot per year with annual adjustments based on the Consumer Price Index.
- The entire Subject Property should be fully developed within a period of time that is commensurate with the scope of proposed development and acceptable by grant assurance.
- The Development Agreement and any subsequent lease agreements will be subordinate to Federal, State, and local laws and regulations including the FMAA's federal grant assurance obligations.

Should the Successful Firm fail to develop any phase of the development of the Subject Property within the negotiated timeline contained in the Development Agreement, then the Successful Firm will no longer have any rights over the remaining undeveloped portions of Subject Property but will continue to hold and administer the Leases which have been executed up to that point.

Additional responsibilities of the Successful Firm are as follows:

- Manage the Subject Property in accordance with the FMAA's grant assurance obligations as well as Federal, State, and local regulations.
- Act as a neutral third party by providing equal opportunity to aeronautical operators seeking to sub-lease, occupy, or otherwise operate from facilities within the Subject Property.
- Negotiate operating agreements with prospective operators on the Subject Property subject to GPIA's Minimum Standards

- Ensure development of the Subject Property is compliant with all regulatory, licensing, and environmental requirements and is consistent with GPIA’s Development Policy, subject to any waivers or exemptions agreed to by the FMAA.
- Negotiate and prepare development plans for individual phases subject to approval by the FMAA.
- Manage ongoing operational issues between stakeholders and tenants in accordance with GPIA’s Rules & Regulations.
- Ensure that facilities located on the Subject Property are maintained in good working condition and an aesthetically pleasing manner.
- Actively market and advertise the Subject Property for development.

## About the Property

The Subject Property consists of approximately 72 acres located in an undeveloped field southwest of the Airport terminal facility. The site is currently on a short-term agricultural lease that will terminate as the Subject Property is leased by the Successful Firm. Utilities such as power, gas, and data are located north within the terminal area and east along US Highway 2 East. All development on Airport property is served by individual well and septic systems; however, the FMAA is currently constructing a connection to a wastewater treatment facility that will run along the eastern boundary of the Subject Property and will be available to support the Project.

An aeronautical planning study completed in 2022 in response to growing demand for GA facilities identified as a priority that the Subject Property should facilitate two large FBOs and related aeronautical facilities such as fuel farms, taxilanes, apron areas, tiedowns, and hangars. The results of the study, as they relate to the Subject Property, are reflected in the most current approved Airport Layout Plan.

As the property is undeveloped, the successful Firm will be responsible for constructing public infrastructure to serve the site including a taxiway connector (the “Taxiway Connector Project”) and a public access road (the “Access Road Project”). The cost of these improvements will be credited against rent due from the Successful Firm under the Leases. In addition to the public infrastructure, a designated wetland, Trumbull Creek, passes through the southwestern portion of the property which will need to be relocated by the Successful Firm (the “Trumbull Creek Relocation”). The cost of the relocation will also be credited against rent due from the Successful Firm under the Leases.

Given the Subject Property’s location relative to US Highway 2 East and other Airport facilities, it is considered the most valuable area of the Airport suitable for large scale aeronautical operations.

Between the Subject Property and the highway is an additional portion of Airport property, approximately 77 acres in size, which has been released from aeronautical use for non-aeronautical development. **All or part of this non-aeronautical property is eligible for development by the Successful Firm and may be included into the Subject Property at the request of the Successful Firm during negotiations of the Development Agreement.**

Both the aeronautical and non-aeronautical development studies have been made available as supporting documents to the RFQ. It should be noted that the specific layouts and concepts are merely representative of what is possible in these areas and are only meant to provide context for interested Firms, not to limit the scope of the development opportunity.

## Public Infrastructure Lease Rate Offset (“PILRO”)

The Public Infrastructure Lease Rate Offset is a financial mechanism where the FMAA will grant a lease rate reduction to the Successful Firm in exchange for the Firm’s investment in building specific public

infrastructure projects at the airport.

The FMAA requires certain public infrastructure improvements including the mitigation and relocation of Trumbull Creek, a taxiway connector, and a public roadway. Instead of FMAA paying for these improvements directly, the master developer agrees to fund and construct them. In exchange for taking on the cost and responsibility of building the infrastructure, the FMAA provides a lease rate deduction. This means the Successful Firm pays a lower rent than it would otherwise, compensating the Firm for its investment in the infrastructure that benefits both the aeronautical development and the broader airport operations.

There are three public infrastructure projects that will need to be addressed. Rough estimated costs of these projects are as follows:

- Taxiway Connector: \$1,540,000
- Access Road: \$3,526,000
- Trumbull Creek: \$6,472,000

Other than the taxiway connector, it is not necessary for the Successful Firm to develop these public infrastructure in their entirety at the beginning of the Development Agreement term. The FMAA expects to negotiate the terms of the PILRO including the phasing of infrastructure in a manner that is appropriate with the scope and timeline of development. This is to ensure maximum flexibility for both the FMAA and the Successful Firm.

### **Trumbull Creek**

The Subject Property includes a section of Trumbull Creek, a waterway that must be mitigated and relocated to accommodate full development. The Successful Firm will be responsible for the necessary relocation of this portion of Trumbull Creek as part of the project. However, due to environmental regulations and requirements under the National Environmental Policy Act (NEPA), this process will involve an alternatives analysis.

The NEPA process necessitates that multiple alternatives for the creek's relocation be evaluated, which may influence the final concept for Trumbull Creek's new alignment and mitigation measures. Consequently, the developer should be aware that there is a level of uncertainty surrounding the extent to which the Subject Property and the creek's relocation will be impacted. The final configuration and approach to the creek's relocation may be adjusted based on findings from the alternatives analysis, regulatory input, and NEPA compliance.

The Successful Firm should consider these potential variables in planning and be prepared to adapt the creek relocation strategy in response to NEPA findings and environmental review requirements. This flexibility will be critical to ensuring that all environmental and regulatory conditions are satisfied while enabling project objectives to be achieved.

### **NEPA Process**

The Successful Firm is required to collaborate with the airport sponsor, the FMAA, throughout the NEPA process, rather than directly engaging with the FAA. All communications, documentation, and coordination with the FAA and other regulatory agencies will be conducted through the FMAA.

This arrangement ensures that the NEPA process aligns with the airport sponsor's requirements and that regulatory engagements are managed in a streamlined and cohesive manner. The Successful Firm must work closely with FMAA representatives to provide necessary input, respond to feedback, and address any project modifications that may result from NEPA findings. This structured approach helps maintain regulatory



compliance and keeps the FAA and other agencies informed in accordance with established airport procedures

Figure 6. SUBJECT PROPERTY – Rebated Public Infrastructure Projects

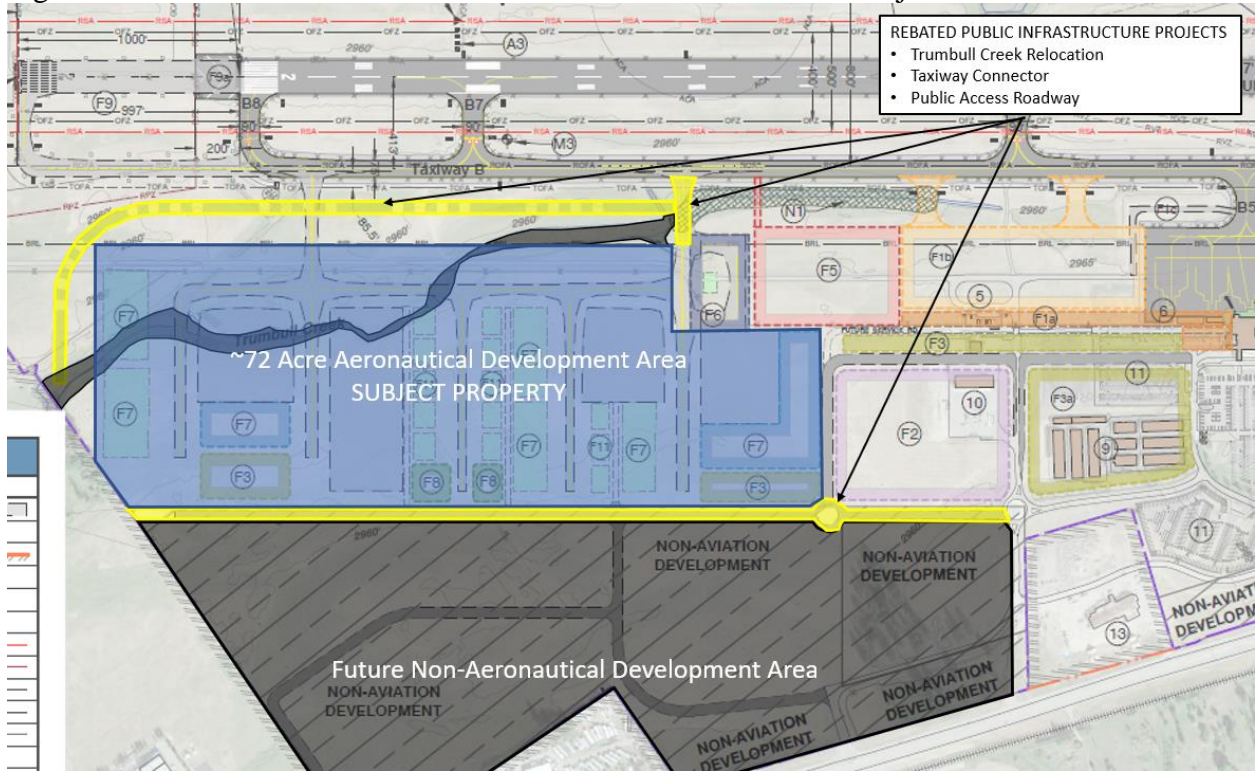


Figure 7. SUBJECT PROPERTY – Utility Access



## Selection/Approval Process for Tenants and FBOs

The Airport and the master developer will collaborate on a structured selection process to identify a Fixed Base Operator (FBO) as the anchor tenant within the master development. This process is designed to give the developer significant flexibility in choosing a business partner that aligns with their strategic vision while ensuring that the Airport retains the right to approve or provide feedback on the FBO selection to ensure that the operator meets all operational, safety, and quality standards required in an airport environment.

In this collaborative approach, the developer will lead the initial evaluation and selection stages, leveraging their industry knowledge and network to identify an FBO candidate with the capacity, expertise, and reputation suitable for the project. Once a preferred FBO partner is selected, the Airport will have the opportunity to review and assess the choice to ensure alignment with airport standards, strategic goals, and regulatory requirements.

The overall intent of the process is to allow the developer to pursue a strong partnership while ensuring the Airport maintains a role in the approval process to safeguard its interests, preserve operational integrity, and enhance the overall development's success. As usual, all operating and sub-lease agreements are subject to final consent by the FMAA and Firms are reminded of the requirement to disclose any conflicts of interest.

### SOQ Contents:

The Firm shall provide the following information regarding its company and team's qualifications and experience:

1. **Letter of Transmittal** - A Letter of Transmittal must accompany the Firm's Statement of Qualifications (SOQ) and contain:
  - a. A description of the Firm's interest in the project and any key reasons why the Firm is best qualified to serve as the FMAA's long-term partner for the master development opportunity.
  - b. Identification and type of legal entity or entities of Firm. If Firm includes multiple entities, Firm shall clearly identify the roles and responsibilities of each entity.
  - c. The name of all the persons authorized to make representations for and bind the Firm, including the titles, addresses, and telephone numbers of such persons.
  - d. Identification of lead negotiator and any limitations of authority to contractually bind the Firm in negotiations.
  - e. An appended and signed "Form 1: Firm's Representations and Warranties; Acknowledgments and Agreements"
  
2. **Team and Qualifications** - Detailed description of the Firm and disclosure of all Members and Key Personnel, including employees, consultants, subcontractors, subconsultants and partners, including:
  - a. Provide a brief history of the Firm's proposed team – development, operating, and equity partners (if applicable) – and resumes, experience, roles/responsibilities, current/projected capacity, and location of key personnel that will be leading and working on this project.
  - b. Firms are encouraged to submit a narrative or any other related information that best describes its organization and team, and what the Firm believes by way of background, qualifications,

or other factors, sets its team apart from the competition.

- c. Development activities in the aviation sector or aviation- related sectors, preferably with a full disclosure of activities in the last five years. Please provide detailed information on these activities, including designation of subject airports, locations and a detailed nature of property management operations. Emphasize the Firm's experience holding and managing developments, tenants, sub-tenants, and lessees for extended periods of time. Include specific details of the Firm's ability to stand between property owner (i.e. airport sponsor) and various developers, hangar owners, and aeronautical business operators. Firms should focus on detailing experience of not only planning, funding, and developing large scale airport development but also the long-term management of the same projects. Ideally using the same examples, Firms should explain how they managed relationships between multiple stakeholders and balanced the interests of the airport sponsor all while ensuring strict compliance with Federal Requirements.
- d. Firms shall disclose all litigation, bankruptcy, administrative actions, FAA fines or disciplinary actions or any litigation with airport or airport sponsor occurring over the last five (5) years from the date of issuance of this RFP. If the Firm has changed names or ownership structure, disclosure of such information for the predecessor, for the same timeframe, is required. If Firm is a new venture formed for this procurement, the same disclosures are required of the controlling owner of the venture.
- e. Firms are encouraged to submit a narrative or any other related, experiential information that best describes what Firm believes sets its team apart from the competition.

3. **Demonstrated Experience** - Detailed description of the Firm's relevant experience and history in related business activities, including a narrative description of existing operations, to include:

- a. Present three relevant (e.g. comparable size, scope, and/or transaction structure) master aeronautical development projects that clearly demonstrate the Firm's ability to deliver the opportunity highlighted in this solicitation. Each project example should include the following key information.
  - 1. Project location, name, and airport sponsor
  - 2. Project size including number of hangars, FBOs, aeronautical businesses and facilities, tiedowns, vehicle parking areas and access, taxilanes and apron areas, fuel farm capacity, acres of leased area, etc. Include total project cost, cost of individual phases and, as able, provide a breakout of costs for individual facilities.
  - 3. Transaction/ownership structure, milestone dates from selection through project opening, agreement length (term), services performed by the principal Firm and team, and plan of finance
  - 4. Reference information, including name, title, phone number, and email address for each relevant project.
- b. Present relevant (e.g. comparable size, scope, and/or transaction structure) projects that clearly demonstrate the Firm's ability to manage long term aeronautical developments with a diverse array of tenants including aircraft owners, FBOs, and aeronautical business operators such as charter, maintenance, aircraft rental, flight schools, cargo, etc. Each project example should include the following key information.
  - 1. Project location, name, and airport sponsor

2. Relevant experience managing property, aeronautical development, facilities, and infrastructure.
  3. Ability to establish effective partnerships with the airport sponsor and other key stakeholders including an array of tenants and competing commercial aeronautical operators.
  4. Reference information, including name, title, phone number, and email address for each relevant project
  5. If applicable, these may include the referenced projects provided in part 2, above.
- c. Describe the Firm's process and approach to development, management, and operations for these types of master aeronautical development projects. Explain how the Firm will work closely with the FMAA and other stakeholders to successfully serve as the master developer and property manager for this set of opportunities. Please include the following items and others that the Selection Committee may find relevant:
1. Schedule management (pre-development and construction)
  2. Engaging with institutional stakeholders
  3. Design and pre-construction
  4. Property management and operations
  5. Development oversight

#### 4. Demonstrated Financial Strength

The FMAA seeks specific financial data from each Firm demonstrating how it will be able to fund the development of the Subject Property, including potential revenue projections and specific financial terms to the FMAA. The FMAA also requires demonstrated financial strength and disclosure of financial data such that the FMAA can perform due diligence on the long-term viability of each Firm and its proposed master development plan.

- a. **Financial Strength/Proof of Financing** – The FMAA requires proof of each Firm's financial strength, and any necessary proof of financing, to support the master development of the Subject Property and cover the associated long-term operations. The onus shall be solely on each Firm to determine what level of financial information it chooses to disclose at this stage in the procurement process. It shall be the sole discretion of the Review Committee and the Board regarding what level of financial disclosure is acceptable to demonstrate sufficient financial strength, and how it weighs and evaluates such disclosure relative to the disclosures of other Firms. These financial disclosures may include, but are not limited to:
1. Audited financial statements, preferably for a minimum of three (3) years including current balance sheets, income statements and notes to financial statements;
  2. Firm's most recent unaudited quarterly financial statements;
  3. If financial statements are not audited, unaudited financial statements, preferably for a minimum of three (3) years;
  4. Dun and Bradstreet (D&B) rating and printout out current D&B statements;
  5. Letters of Credit, lender term sheets or other proof of financing related to proposed business or development plans; and

6. Any other information that any Firm deems relevant to its financial qualifications.

## **Submittal Instructions**

**Submittal Bond:** Firms submitting SOQs in response to this RFQ must include a submittal bond in the amount of \$115,000 in the form of a certified bank or financial institution guarantee, payable to the FMAA (the “Submittal Bond”). The Submittal Bond should be submitted in a sealed envelope, clearly marked as “Submittal Bond,” along with the Firm’s SOQ.

The Submittal Bond must remain valid for a period not less than three hundred sixty-five (365) days beyond the SOQ Due Date.

The Submittal Bond will be returned promptly to all unsuccessful Firms upon the granting of the Notice of Award to the Successful Firm. Upon execution of the Agreement with the Successful Firm, the Submittal Bond will be returned in full to the Successful Firm and the Successful Firm shall pay \$115,000 to FMAA as a lump sum consideration payment in accordance with the terms of the Agreement.

In the event that a Firm withdraws its SOQ after the SOQ Due Date, fails to honor the terms of the SOQ, or, if selected as the Successful Firm, refuses to enter into the Agreement with the FMAA, the FMAA reserves the right to collect the forfeiture of the Submittal Bond as liquidated damages.

**Page Limit:** There is no hard page limit requirement; however, it is appreciated if SOQs do not exceed 100 pages double-sided or 200 pages single-sided.

**Format and Number of SOQs:** Seven hard copies of the SOQ should be submitted in spiral bound or three-ring binders and printed on 8 ½ x 11” paper with concept drawings and other exhibits printed on 11 x 17” paper. Two hard copies of the concept drawings should be submitted on stapled or bound 24 x 36” paper. One electronic copy of the SOQ should be submitted on USB/thumb drive.

All SOQs must be delivered and received before the time and date shown below:

**SOQ Deadline: February 27, 2025 – 4:00 PM Local Time**

Address: Respondents must submit SOQs to the following address:

Flathead Municipal Airport Authority  
Glacier Park International Airport  
Attn: Ian McKay – Deputy Airport Director  
4170 Highway 2 East  
Kalispell, MT 59901

## **Evaluation Criteria and Process**

This is a qualifications based selection; hence, the Successful Firm will be chose based on their qualifications, experience, and financial strength, but not on the merits of a development proposal.

### **Step One: Review the Statements of Qualifications (SOQ)**

The Review Committee shall evaluate and rank the Firms (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc.) in each factor set forth in this RFQ, as follows:

- 1. Team and Qualifications**
- 2. Demonstrated Experience**
- 3. Demonstrated Financial Strength**

The Review Committee will tally the ranking numbers in all three categories, with the Firm having the highest total number of ranking points being ranked first for award consideration. Each Review Committee member shall complete a separate score sheet as set forth below. The ranking numbers will be cumulatively tallied by adding the combined scores of each member of the Review Committee.

Firm	(1) 30pts Team & Qualifications	(2) 40pts Demonstrated Experience	(3) 30pts Demonstrated Financial Strength	Total Ranking Points 100pts (Add (1) – (3) )
Firm #1				
Firm #2				
Firm #3				

The objective is to identify through ranking the most responsive and qualified Firms whose selection for interviews is in the best interest of the FMAA (i.e., most advantageous), based on the evaluative criteria.

**Step Two: Interviews**

Following review of the SOQs, the full Board of Directors shall conduct formal, closed session (i.e., one-on-one) presentations and interviews with each Firm. Firms will be advised of the dates and times of the interviews, and any associated details regarding the interview process. The interviews are expected to last 120 minutes and begin with a 30-minute presentation by the Firm followed by 90 minutes of Q&A and discussion.

**Step Three: Notice of Award & Execution of Agreement**

Upon the successful conclusion of negotiations, the Successful Firm will be recommended to the Board for approval to enter into an Agreement with the FMAA. Once approved by the Board, a Notice of Award will be granted to the Successful Firm and the decision will be made known to all Firms that have participated in the Solicitation process. The Successful Firm will have thirty (30) days from the date of the Notice of Award to execute the Agreement with the FMAA.

**Additional Rights and Provisions**

**Waiver**

By requesting and participating in any debriefing session, a Firm and its participants will be deemed to have waived any right to use any information provided by the FMAA in good faith during such a debriefing against the FMAA or its representatives in any way whatsoever, including in any legal action.

### **The FMAA's Reserved Rights**

In connection with the Solicitation, the FMAA reserves to itself any and all of the rights set out in this and any other rights available to it under applicable law (any of which rights will be exercisable by the FMAA in its sole discretion, with or without cause and with or without notice). The rights referred to in the preceding sentence include the right to:

- 1) modify the Solicitation process described this RFQ to address:
  - a) applicable law; or
  - b) the best interest of the FMAA
- 2) in reviewing and/or evaluating SOQs:
  - a) terminate evaluation of SOQs received at any time;
  - b) waive deficiencies, nonconformities, irregularities, and apparent clerical mistakes in a SOQ, accept and review a SOQ that it could otherwise have determined to have failed to satisfy any of the Pass/Fail Criteria, or permit clarifications or additional information to be submitted with respect to a SOQ;
  - c) make independent calculations with respect to numbers and calculations submitted in a SOQ for purposes of evaluating the Firm; and/or
  - d) seek or obtain data from any source that has the potential to improve the FMAA's understanding and evaluation of a SOQ.
- 3) take such steps as appear to be appropriate to it under the circumstances, including:
  - a) modifying any element of this RFQ;
  - b) seeking additional or updated SOQ;
  - c) seeking information or clarifications from other Firms; or
  - d) suspending or terminating this Solicitation at any time.
- 4) in otherwise conducting the Solicitation process under this RFQ:
  - a) modify any and all dates set in this RFQ;
  - b) reject any and all submittals, responses, SOQs received at any time;
  - c) not select any Firm for consideration or award;
  - d) engage in negotiations with the highest-ranked Shortlisted Firm or with the next ranked Shortlisted Firm, if negotiations between the highest-ranked Shortlisted Firm (or next ranked Firm) are unsuccessful;
  - e) negotiate with a Shortlisted Firm without being bound by any provision in its SOQ or subsequent SOQ; and/or
  - f) disqualify any Firm from the Solicitation that changes its SOQ after the SOQ Deadline without approval or that violates any rule or requirement of the Solicitation specified in (A) the RFQ, (B) any other communication from the FMAA, or (D) applicable law.
- 5) manage and develop the Subject Property, including any portion thereof, in any manner that it deems necessary, including the right to:
  - a) modify the scope, structure, schedule, and/or specific terms of, or cancel, the RFQ in whole or in part at any time prior to the execution by the FMAA of the Agreement, without incurring any cost obligations or liabilities;
  - b) modify the scope of the RFQ, or Agreement during the Solicitation process;
  - c) issue addenda, supplements, and modifications to this RFQ;
  - d) issue a new request for SOQs after cancellation of this RFQ;
  - e) elect not to commence or continue negotiations with the Successful Firm or any other Shortlisted Firm, and/or suspend or terminate negotiations at any time; and/or
  - f) develop some or all of the Subject Property itself or through another entity.



## **No Commitment or Liability**

Nothing in this Solicitation commits or binds the FMAA to enter into an Agreement or to proceed with this Solicitation. The FMAA does not assume any obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by Firms considering a response to and/or responding to the RFQ and all such costs will be borne solely by each Firm.

ATTACHMENT  
DRAFT AGREEMENT

# GLACIER PARK INTERNATIONAL AIRPORT PRE-DEVELOPMENT AGREEMENT

THIS PRE-DEVELOPMENT AGREEMENT (this “Agreement”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2024 (the “Effective Date”), by and between the Flathead Municipal Airport Authority (the “Authority”), the owner/operator of the Glacier Park International Airport, and [\_\_\_\_], having its principal place of business in [\_\_\_\_] (the “Developer”) (each a “Party” and collectively the “Parties”).

## RECITALS

A. The Authority is the owner and operator of the airport known as the Glacier Park International Airport in Flathead County, Montana (the “Airport”), and is the sponsor of the Airport pursuant to federal law and certain grant agreements entered thereunder.

B. The Authority has the right and the obligation to regulate commercial aeronautical activities on the Airport under the laws of the State of Montana and the United States and under the regulations and policies promulgated by the Federal Aviation Administration (the “FAA”).

C. On November 21, 2024, the Authority issued a Request for Qualifications (the “RFQ”) for the selection of a firm to negotiate a master aeronautical development agreement with the Authority for the planning, design, development, construction, and management of general aviation (“GA”) and fixed base operator (“FBO”) facilities on a parcel of approximately 72 acres, as legally described and/or depicted on **Exhibit A** attached hereto and incorporated herein (the “Premises”).

D. The Developer submitted a proposal in response to the Authority’s RFQ and the Authority selected the Developer as the preferred property development and management team of the Premises after an open and competitive process based on the statement of qualifications attached hereto and incorporated herein as **Exhibit B** (the “Qualifications”).

E. The Authority has agreed to enter into this Agreement with the Developer for the purpose of negotiating and preparing a mutually beneficial development agreement (“Development Agreement”), development plan (“Development Plan”), and any other transaction documents (together with the Development Agreement and Development Plan, the “Transaction Documents”) necessary to develop, construct, and manage GA and FBO facilities and other aeronautical development (“Proposed Project”), subject to the terms and provisions of this Agreement.

NOW THEREFORE, for and in consideration of the foregoing recitals (which are incorporated into this Agreement by reference), the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority and the Developer agree to be bound by the terms of this Agreement as stated below.

## AGREEMENT

### 1. Grant and Term of Exclusivity.

**1.01 Grant of Exclusivity.** Subject to the terms and conditions of this Agreement, the Authority hereby grants to the Developer the exclusive right to negotiate the terms of a Development Agreement, prepare a Development Plan for the Premises, and negotiate other Transaction Documents with the Authority for the Proposed Project.

**1.02 Term.** Unless earlier terminated as provided in this Agreement, the grant of exclusivity shall commence on the Effective Date and remain in full force and effect for a period of one (1) year, terminating at 12:00 a.m. on the day after the first (1<sup>st</sup>) anniversary of the Effective Date (“Initial Term”). Provided (i) the Developer is not then in default of this Agreement beyond the notice and cure period set forth in Section 8 below, (ii) the Parties have agreed upon the terms and provisions of a letter of intent to enter into the Development Agreement within the Initial Term, and (iii) this Agreement has not otherwise been terminated pursuant to the terms herein, then the Developer may extend the Initial Term for an additional period of sixty (60) days (the “Extended Term” and, together with the Initial Term, the “Term”) by giving written notice to the Authority at least thirty (30) days prior to the expiration of the Initial Term. Thereafter, the Developer may extend the Term only with the Authority’s written consent, which may be conditioned or withheld in the Authority’s sole and absolute discretion, including without limitation the Authority’s right to condition such extension on the payment of the prevailing aeronautical lease rate for the Premises or a portion thereof, as determined by the Authority.

**2. Payment.** In exchange for the rights granted by the Authority to the Developer under this Agreement, the Developer shall pay to the Authority an amount equal to approximately seven and one half percent (7.5%) of the current annual ground rent for the Premises, equaling a lump sum payment of One Hundred and Fifteen Thousand Dollars (\$115,000) (“Consideration”). The Consideration shall be due and payable to the Authority in full upon execution of this Agreement in the manner prescribed by the Authority. The Authority shall return a prorated portion of the Consideration in the event this Agreement is terminated prior to the first anniversary of the Effective Date.

**3. Confidentiality.** The Parties acknowledge that there will be a public announcement of the finalized Transaction Documents at an appropriate date and time, and agree that any public announcements or communications, and the date and time, will be coordinated and mutually agreed upon by the Parties prior to any release. The Parties further acknowledge that the Authority is a public agency subject to the Montana Public Records Act, M.C.A. §§ 2-6-1001, et seq., (“Public Records Act”) and that all documents submitted to the Authority may be subject to public disclosure. If an exemption to the Public Records Act applies, the Developer may seek to shield certain portions of its documents and reports from disclosure by marking such documents individually and conspicuously as “Confidential” or “Privileged,” if such are the case. The Authority shall promptly notify the Developer of any requests under the Public Record Act for documents that have been marked “Confidential” or “Privileged” by the Developer and shall consult with the Developer prior to disclosure of any such documents on whether some or all of the requested documents are exempt from disclosure under the Public Records Act, with the Developer having the burden to provide the justification for any such exemption. Subject to the time periods imposed by the Public Records Act for responses to public record

requests, the Authority shall give the Developer a reasonable opportunity to interpose an objection or to seek a protective order. In the event the Authority is required to defend an action under the Public Records Act with regard to a request for disclosure of any of the documents or reports marked, “Confidential,” “Privileged” or otherwise identified as not subject to disclosure by the Developer, the Developer shall defend and indemnify the Authority from all costs and expenses of such defense, including attorneys’ fees incurred by the Authority or attorneys’ fees awarded by a court arising out of such action.

#### **4. Scope of Negotiations; Non-Negotiable Terms.**

**4.01 Scope.** During the Term, the Parties shall work cooperatively and in good faith to (i) negotiate key terms and provisions of the Development Agreement, which shall, among other things, address the scope of the Proposed Project, development phasing for the Proposed Project, takedown schedules for each phase, leasing and subleasing terms to be included in a ground lease (“Ground Lease”), infrastructure development responsibilities, and any financial or operational requirements; and (ii) develop a preliminary Development Plan detailing, among other things, a preliminary site layout, proposed improvements (including but not limited to two (2) FBO facilities satisfying the Authority’s Minimum Standards), infrastructure requirements, and facility specifications. Upon completion of the obligations in this Agreement, provided that the Parties have reached mutually agreeable terms, the Parties may finalize and execute a Development Agreement and Development Plan based upon such mutually agreed-upon terms.

**4.02 Non-Negotiable Terms.** The Development Agreement and other Transaction Documents contemplated in this Agreement, as applicable, shall include and/or be subject to the following non-negotiable terms:

(a) The Developer shall be required to pay to the Authority as rent an amount equal to seven and one half percent (7.5%) of the then-current aeronautical lease rate, as may be amended from time to time, for portions of the Premises not sublet during the term(s) of the Development Agreement and/or Ground Lease.

(b) Any lease of Airport property, including the Premises, shall be limited to a maximum term of fifty (50) years.

(c) The Authority’s current aeronautical lease rate is \$0.48 per square foot per year with annual adjustments based on the Consumer Price Index.

(d) The Developer shall be required to develop the Premises within a period of time that is commensurate with the scope of the Proposed Project and in accordance with the Authority’s obligations under the Grant Assurances (as defined in Section 24(a)).

(e) The Development Agreement, Ground Lease, and any subsequent lease or sublease agreements shall be subordinate to all Applicable Law (as defined in Section 22), and to any the provisions of any existing or future agreements between the Authority and the United States of America, including the Grant Assurances, and shall include language to this effect.

(f) The Developer shall be required to develop the Premises or provide for the development of the Premises in accordance with Applicable Law, including all regulatory, licensing, and environmental requirements, and in a manner consistent with the Authority’s Development Policy, subject to any waivers or exemptions agreed to by the Authority.

(g) The Developer shall be required to negotiate and prepare development plans for individual phases subject to approval by the Authority.

(h) The Developer shall be required to actively market and advertise the Premises for development in accordance with Applicable Law and any applicable procurement rules, regulations, or policies.

(i) The Developer shall be required to manage the Premises in accordance with Applicable Law, including but not limited to the Grant Assurances, and ensure all facilities on the Premises are maintained in good working condition and an aesthetically pleasing manner.

(j) The Developer shall be required to manage ongoing operational issues between stakeholders and tenants in accordance with the Authority's Rules and Regulations.

(k) The Developer shall be required to provide equal opportunity to aeronautical operators seeking to sub-lease, occupy, or otherwise operate from facilities within the Premises, in a manner consistent with the Authority's Grant Assurance obligations.

(l) The Developer shall be required to negotiate operating agreements with prospective operators on the Premises subject to the Authority's Minimum Standards.

(m) In the event the Developer fails to develop or complete any portion of the planned development of the Premises pursuant to the Development Agreement, the Developer shall forfeit its rights to those undeveloped portions of the Premises and shall no longer have development rights to, leasehold interest in, or management over such undeveloped areas. Notwithstanding the foregoing, the Developer shall continue to manage those developed portions of the Premises and the applicable Transaction Documents shall continue in full force and effect only with regard to the developed portions of the Premises.

(n) The Developer shall be required to develop, at its expense, plans, specifications, drawings, reports, and other information for the Proposed Project in connection with any environmental approvals required under the National Environmental Policy Act ("NEPA"), the Montana Environmental Policy Act ("MEPA"), and such other regulatory compliance and review necessary for the development of the Proposed Project.

## **5. Right of Entry.**

**5.01 Entry.** The Authority hereby grants the Developer and its agents, employees, consultants, surveyors, engineers, and contractors, and existing and potential investors, joint venturers and/or lenders (collectively, "Authorized Agents") the right to enter upon the Premises during the Term for the limited purpose of making or conducting any reasonable inspection, investigation, test, or survey (collectively, "Inspections") at no cost to the Authority, which are reasonably related to the Developer's due diligence concerning the Proposed Project. Such Inspections shall include the following:

(a) surveys, environmental assessments, soil and geotechnical studies, and utility evaluations to determine the feasibility of development on the site;

(b) market and economic feasibility analyses to ensure alignment with demand for aeronautical facilities, ensuring that the planned development supports Airport objectives and responds to market conditions;

(c) investigation of any and all relevant federal, state, or local regulatory requirements that may impact the scope, design, or feasibility of the Proposed Project; and

(d) cost estimation, financing strategy evaluations, and economic impact assessments to ensure the financial viability of the Proposed Project.

**5.02 Insurance and Indemnity.** Such Inspections are subject to the Authority's insurance requirements and right to require indemnification for any loss, cost, or damage (including, without limitation, reasonable attorneys' fees) caused, related to, or arising out of Authorized Agents' access and Inspections of the Premises.

**5.03 Copies.** The Developer shall provide the Authority with copies of all final reports, studies, and analyses prepared or produced as a result of such Inspections ("Due Diligence Documents"), excluding any internal documents or information and documents or information from and to legal counsel covered by the attorney-client or attorney work product privileges.

**6. Record Inspections.** During the Term, the Authority shall, at no cost to the Authority, provide the Developer and its Authorized Agents with reasonable access during normal business hours and with reasonable advance notice to (or in the Authority's discretion, copies of) all reports, studies, and analyses in the Authority's possession, pertaining to the Premises or any part thereof (subject to the Developer's compliance with applicable laws, rules, and regulations and excluding privileged information), as may be reasonably necessary to allow the Developer and its Authorized Agents to conduct such initial due diligence. This access shall be subject to reasonable restrictions imposed on advice of counsel respecting the provision of any competitively sensitive information, or other information exempt from disclosure under the Public Records Act or any other applicable law, rule, or regulation. In the event that the Authority identifies reports, studies, or analyses not in the Authority's possession but that may be available to third parties under the Authority's reasonable control, upon request, the Authority will make good faith efforts to obtain copies of same. Nothing in this section shall obligate the Authority to undertake any studies or analyses or to incur any additional costs hereunder.

**7. Covenants.**

**7.01** During the Term, subject to the terms and conditions of this Agreement, the Parties will negotiate in good faith and with due diligence in order to agree on key terms and provisions of a Development Agreement, develop a Development Plan, and reach mutually acceptable provisions contained in the other Transaction Documents for the Proposed Project.

**7.02** During the Term, the Authority will not (a) negotiate with any person or entity other than the Developer regarding the Proposed Project, the Premises or any development or use within the Premises that would conflict or interfere with the Proposed Project or the Developer's rights under this Agreement, or (b) entertain or consider inquiries, offers, or proposals to enter into any contracts, agreements, or understandings with any person or entity other than the Developer to develop the Premises or undertake any development or use within the Premises that would conflict

or interfere with the Proposed Project. The Parties understand and agree that notwithstanding the obligation in this Agreement to negotiate exclusively and in good faith, the Parties may not reach mutual agreement on the essential terms of a Development Agreement, Development Plan, or other Transaction Documents and further agree that neither Party is under any obligation whatsoever to enter into such Transaction Documents.

**7.03** The Developer shall participate in any public meetings and/or hearings as such meetings relate to the Proposed Project and/or are reasonably deemed necessary or desirable by the Authority. The Authority will make good faith efforts to provide notice to the Developer at least ten (10) days in advance of each such meeting where Developer's attendance is required.

**8. Negation of Obligation to Consummate Transaction.** This Agreement shall not obligate either Party to enter into the Transaction Documents or to enter into any particular agreement. The Parties do not intend this Agreement to be a lease agreement, or any similar definitive contract, or to be bound in any way by this Agreement except to negotiate exclusively and in good faith, as specified by this Agreement. By execution of this Agreement, the Authority is not committing itself to or agreeing to undertake leasing of the Premises to the Developer, or to approve the Proposed Project or any particular development project, nor is the Developer committing itself to undertake the leasing or development of the Premises. Execution of this Agreement by the Parties is merely an agreement to take the actions that are reasonably necessary to conduct exclusive negotiations for a specified period of time that may or may not lead to the execution of Transaction Documents relating to the Premises. The Parties agree that unless and until the Transaction Documents have been executed and following conduct of all legally required proceedings, including, without limitation, review under NEPA, neither Party will be under any obligation with respect to such Transaction Documents (other than as expressly herein provided) by virtue of this or any written or oral expression by either of the Parties or any of their respective officers, directors, employees or agents. Each Party assumes the risk that, notwithstanding this Agreement and good faith negotiations, the Parties may not enter into the Transaction Documents due to the Parties' failure to agree upon essential terms. Except as expressly provided in this Agreement, the Developer agrees that the Authority shall have no obligations or duties hereunder and no liability whatsoever in the event the Parties fail to execute the Transaction Documents. Before the approval and execution of the Transaction Documents, the Authority retains the absolute discretion to modify the transaction or the Proposed Project (or any part thereof) and/or determine not to proceed with the Proposed Project or the Transaction Documents.

**9. Termination; Remedies for Default**

**9.01 Developer Early Termination.** During the Term, the Developer may begin its inspections (as defined in Section 3 above) and other due diligence review and determine the suitability of the Premises for the Proposed Project. This Agreement may be terminated by the Developer prior to expiration of the Term by providing thirty (30) days' written notice (the "Developer Notice") to the Authority if the Developer determines that the Proposed Project is not feasible or financeable, that it cannot reasonably undertake the development of the Proposed Project due to the condition of the Premises, or that there is no reasonable prospect of reaching satisfactory terms on the Development Agreement or other Transaction Documents. During said thirty-day period, the Parties shall meet and confer in good faith to identify potential solutions or improvements to the Proposed Project, if applicable. If no solutions or improvements are available



or mutually agreeable, then this Agreement shall terminate thirty (30) days from the Authority's receipt of the Developer Notice. In the event of termination under this Section 10.02, Developer shall not be entitled to any portion of the Compensation and hereby releases and waives any claims to recover any portion of such Compensation.

**9.02** In the event of a default of this Agreement by either Party, the other Party's sole remedy shall be recovery of costs and expenses actually incurred or expended in connection with its performance under this Agreement. In no event shall either Party be liable for any loss of profit, indirect, incidental, special, punitive, or consequential damages of any kind or nature. Neither Party shall be deemed to be in default unless and until the other Party has provided the defaulting Party with written notice of such default and such defaulting Party shall have failed to cure such default within the period of thirty (30) days following receipt of such notice from the other Party.

- 10. Binding Effect.** This Agreement shall be binding on and inure to the benefit of the Parties and their authorized successors and assigns.
- 11. Assignment.** The Developer shall not assign its rights under this Agreement without the prior written approval of the Authority, which approval may be withheld in its sole and absolute discretion. Nothing herein shall be construed to preclude an approved Affiliate (as defined herein) or entity, in which the Developer or any of its Affiliates directly or indirectly holds an ownership interest, from entering into the Transactions Documents, and Authority's approval of such Affiliate or entity shall not be unreasonably withheld. For purposes of this Agreement, "Affiliate" means any entity that controls, is controlled by, or is under common control with the Developer, and "control" means the possession, directly or indirectly, of the power to direct or cause the day-to-day direction of management and policies of a designated entity, whether through direct or indirect ownership of voting securities, general or limited partnership interests, interests in a limited liability company, by contract, or by other means.
- 12. Proprietary Rights.** All work product generated by and/or on behalf of the Developer with respect to the Proposed Project, including but not limited to documents relating to the design and planning of the Proposed Project, are trade secrets and the sole and exclusive intellectual property of the Developer. The Developer retains sole and exclusive ownership and all right, title, and interest in and to all of its trade secrets and all other intellectual property generated by and/or on behalf of the Developer. Except for the Due Diligence Documents provided to the Authority in accordance with Section 5.03, which Authority may hereby use for any lawful purpose, and subject to Applicable Law, including the Public Records Act, there are no licenses, transfers, and/or assignments of trade secrets or intellectual property granted to the Authority under this Agreement, whether express or implied; provided however that the Developer hereby allows the Authority to use such trade secrets and intellectual property that it shares with the Authority solely to the extent necessary for the Authority to review the Proposed Project, to participate in public community meetings, to obtain regulatory approval for the Proposed Project, and to perform under the Transaction Documents (if entered into by the Parties).
- 13. Insurance.** Prior to entering the Premises or conducting any Inspections thereon, the Developer shall (i) obtain and maintain insurance in the types and amounts required in **Exhibit D** to this Agreement ("Insurance Requirements"), which is attached hereto and

incorporated herein, and (ii) submit to the Authority certificates of insurance evincing the Developer's compliance with such Insurance Requirements.

- 14. **Indemnification.** To the fullest extent permitted by law, the Developer shall defend, indemnify, and hold harmless the Authority and its officers, agents, and employees, individually or collectively, from and against any and all liabilities, breach, claims, demands, losses, obligations, fines, liens, penalties, actions, judgements, damages (of any kind or nature-including, but not limited to, direct damages, consequential damages, liquidated damages, and/or special damages), costs, charges and expenses (including, but not limited to, attorneys' fees and litigation expenses) for any claim or cause of action of any nature arising out of or in connection to this Agreement or the exercise of the Developer's rights hereunder.
- 15. **Attorney Fees.** If any suit, action, claim, or other measure is filed or instituted by either Party to enforce this Agreement or otherwise with respect to the subject matter of this Agreement, the prevailing Party shall be entitled to recover reasonable attorney fees incurred in preparation or in prosecution or defense of such suit or action as fixed by the trial court, and if any appeal is taken from the decision of the trial court, reasonable attorney fees as fixed by the appellate court.
- 16. **Notices.** All notices required under this Agreement shall be in writing and delivered personally, by email or by first class certified mail, return receipt. If delivered personally, notice shall be deemed given when actually received. If delivered email, notice shall be deemed given upon full transmission of such notice and confirmation of receipt during regular business hours. If delivered by mail, notice shall be deemed given at the date and time indicated on the return receipt. Notice shall be delivered to:

Authority:                      Glacier Park International Airport  
  Attn: Ian McKay, A.A.E.  
  4170 Highway 2 East  
  Kalispell, Montana 59901  
  Facsimile: [\_\_\_\_\_]

Developer:                      [\_\_\_\_\_]   
  [\_\_\_\_\_]   
  [\_\_\_\_\_]   
  [\_\_\_\_\_]

All notices shall be effective on the next regular working day after delivery by hand or facsimile or actual receipt by whatever means.

- 17. **No Liens.** The Developer shall not allow any lien, claim, or monetary encumbrance to be placed upon or recorded against the Premises arising out of the Developer's rights hereunder. Within fifteen (15) days of filing of any lien or claim, Lessee shall pay all lawful claims made against the Authority and discharge all liens filed or which exist against the Premises or any other portion of the Airport to the extent such claims arise out of or in connection with, whether directly or indirectly, the failure to make payment for work done

by or for the Developer, its subcontractors, consultants, or other entities performing due diligence or pre-development activities under this Agreement.

18. **Amendments and Changes.** Except where otherwise provided herein, any amendments, changes, or modifications to this Agreement or any of its Exhibits must be in writing and executed by authorized agents or representatives of the Authority and the Developer.
19. **Severability and Governmental Action.** If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid, or unenforceable, or in conflict with any Applicable Law, it is agreed that the remainder of the Agreement shall remain in full force and effect as if such invalid or inconsistent provision was not included.
20. **Waiver.** No delay or omission in the exercise of any right or remedy of either Party on any default by either Party shall impair such a right or remedy or be construed as a waiver. Any waiver by either Party of any event of default on the part of the other must be in writing and shall not be a waiver of any other event of default concerning the same or any other provision of the Agreement.
21. **Compliance with Laws.** The Parties shall conduct all activities under this Agreement in accordance with all applicable federal, state, and local laws, rules, regulations, ordinances, and policies, as they may be amended, enacted, or promulgated from time to time, including but not limited to the Grant Assurances, the Authority's Rules and Regulations, and the Federal Clauses (defined below) (collectively, "Applicable Law").
22. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Montana and any applicable provisions of the federal laws of the United States and regulations issued thereunder. The parties submit this Agreement and any dispute arising under this Agreement to the sole and exclusive jurisdiction of the courts in and for Flathead County, Montana. Any action to enforce or interpret the provisions of this Agreement shall be brought in a court in and for Flathead County, Montana.
23. **Subordination to Agreements and Law.** The Authority and the Developer expressly agree and understand that the Authority has entered into certain agreements and accepted certain obligations under laws and governmental regulations, ordinances, codes, and policies, to which this Agreement shall be subordinate. The Authority, as an express or implied covenant of these prior agreements, is required to secure the acknowledgement of the Developer that this Agreement and the rights of the Developer are subject and subordinate to these prior agreements and Applicable Law, and any amendments thereto, imposed upon the Authority because of its entry into these prior agreements. If some future change to these senior agreements or Applicable Law shall operate to substantially terminate the Developer's rights hereunder or otherwise destroy the expectations of the Authority and the Developer, including the Developer's ability to carry out its business as contemplated hereunder; then this Agreement shall be terminated without an event of default of either Party, and both parties shall cooperate to minimize the economic losses of both parties occasioned by such termination. Specifically, this Agreement is subject to the following agreements or obligations:

(a) **Grant Assurances.** This Agreement shall be subordinate to the provisions of any existing or future agreements between the Authority and the United States of America,

relative to the operation and maintenance of the Airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to the Authority of federal funds for the development of the Airport (“Grant Assurances”). In the event that this Agreement, either on its own terms or by any other reason, conflicts with or violates any such Grant Assurances, the Authority has the right to amend, alter or otherwise modify the terms of this Agreement in order to resolve such conflict or violation.

(b) **Bond Enabling Legislation.** This Agreement and all rights of the Developer hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made (at any time) by the Authority to secure bond financing. This Agreement is subject and subordinate to the terms, covenants, and conditions of present and future enabling legislation authorizing the issuance of bonds by the Authority.

(c) **Required Federal Clauses.** The Developer acknowledges that the Authority is required by the FAA under the terms of its Grant Assurances to include in this Agreement certain required contract provisions, included as **Exhibit C** hereto (the “Federal Clauses”). Developer further acknowledges that the FAA may from time to time amend or augment the Federal Clauses. In such event, the Authority may provide Developer with a substitute **Exhibit C** reflecting such amendment or augmentation, and such substitute **Exhibit C** shall be effective and binding as if originally annexed hereto. The Developer agrees to comply with the Federal Clauses and, where applicable, include the Federal Clauses in each of its subcontracts without limitation or alteration. The Developer acknowledges that a failure to comply with the Federal Clauses constitutes an event of default.

(d) **No Exclusive Rights.** It is understood and agreed that nothing contained in this Agreement shall be construed to grant or authorize the granting of an exclusive right prohibited by 49 U.S.C. § 40103(e), as may from time to time be amended. The Authority reserves the right to grant to others the privilege and right of conducting aeronautical or non-aeronautical activities on the Airport.

(e) **War Powers.** This Agreement and all the provisions hereof shall be subject to whatever right the United States government now has, or in the future may have or acquire, affecting the control, operation, regulation, and taking over of said Airport for the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

(f) **Public Interest.** The Authority is obligated to act in the public interest and must operate the Airport and offer access to all users in a fair, reasonable, and not unjustly discriminatory manner. Therefore, in executing this Agreement and its provisions and in any future amendments, or changes to it, the Authority is and will in the future act with the intent to carry out this provision.

24. **Entire Agreement.** The foregoing, together with the Exhibits to this Agreement and any other documents incorporated into the Agreement by reference, constitute the entire agreement between the parties and supersedes all other agreements or representations of any nature, whether oral or written, made by or between the Authority and the Developer, except those that are expressly acknowledged in this Agreement. The Authority and the Developer understand and agree that they are relying only upon the written representations,

covenants, and promises contained in this Agreement and that they have consulted legal counsel as to the nature and extent of their obligations contained herein.

25. **Relationship of Parties.** This Agreement does not create any partnership, joint venture, employment, or agency relationship between the Developer and the Authority. Nothing in this Agreement shall confer upon any other person or entity any right, benefit, or remedy of any nature.
26. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original. Delivery of an executed signature page of this Agreement by facsimile or email transmission will constitute effective and binding execution and delivery of this Agreement. The Authority and the Developer agree to allow the use of electronic signatures for execution of this Agreement. All documents must be properly notarized, if applicable.

*[signature pages follow]*

IN WITNESS WHEREOF, the Authority and the Developer, by their duly authorized officers or legal representative, have executed this Agreement as of the day and year stated next to their signature, to evidence their complete understanding and intent to be bound to the terms stated in this Agreement as of the date stated at the beginning of this Agreement.

**DEVELOPER:**

[ \_\_\_\_\_ ]

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

WITNESS my hand and official seal.  
My commission expires: \_\_\_\_\_

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

[SEAL]

**FLATHEAD MUNICIPAL AIRPORT AUTHORITY**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

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

[SEAL]

**EXHIBIT A**

**LEGAL DESCRIPTION AND MAP OF THE PREMISES**

[to be inserted]



**EXHIBIT B**  
**COPY OF PROPOSAL**

[to be inserted]

## EXHIBIT C

### REQUIRED FEDERAL CLAUSES

A. Compliance with Nondiscrimination Provisions. During the performance of this Agreement, the Developer, for itself, its assignees, and successors in interest (hereinafter collectively referred to as “Operator”) agrees as follows:

1. **Compliance with Regulations:** The Operator 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 Agreement.
2. **Non-discrimination:** The Operator, with regard to the work performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of contractors, including procurements of materials and leases of equipment. The Operator 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 Agreements, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Operator for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential contractor or supplier will be notified by the Operator of the Operator’s obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Operator 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 determined by 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 the Operator is in the exclusive possession of another who fails or refuses to furnish the information, the Operator will so certify to the Authority 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 the Operator’s noncompliance with the Non-discrimination provisions of this contract, the Authority will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to cancelling, terminating, or suspending the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The Operator will include the provisions of paragraphs one through six of this Exhibit C, Section (A) in every contract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Operator will take action with respect to any contract or procurement as the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Operator becomes involved in, or is threatened with litigation by a contractor, or supplier because of such direction, the Operator may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, the Operator may request the United States to enter into the litigation to protect the interests of the United States.

B. Real Property Acquired or Improved Under the Airport Improvement Program. The Operator for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Operator will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

C. Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program. The Operator for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that the Operator will furnish its services in compliance with all other requirements imposed by or pursuant to the List of Nondiscrimination Acts And Authorities.

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

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- ii. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

- iii. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- iv. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- v. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- vi. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- vii. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- viii. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- ix. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- x. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- xi. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- xii. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and

- xiii. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

E. General Civil Rights Provision. The Operator agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Operator transfers its obligation to another, the transferee is obligated in the same manner as the Operator. This provision obligates the Operator for the period during which the property is owned, used, or possessed by the Operator and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

F. Right of Re-entry. In the event of breach of any of the above Nondiscrimination covenants, the Authority will have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

G. Subcontracts. The Operator agrees that it shall insert the above six provisions (Section (A) through Section (F)) in any agreement by which the Operator grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.

## **EXHIBIT D**

### **INSURANCE REQUIREMENTS**

Liability Insurance. Commercial general liability insurance, including coverage for premises liability, bodily injury and death, property damage, and contractual liability with limits of not less than \$1,000,000 per occurrence. Commercial automobile liability insurance covering all owned, non-owned and hired automobiles with limits of not less than \$1,000,000 per occurrence. The foregoing liability insurance shall name FMAA as an additional insured and shall be primary and non-contributory with any insurance obtained by FMAA.

- a. Workers Compensation Insurance. Worker's compensation insurance in amounts and with coverages required by Montana law.
- b. Proof of Insurance/Endorsements. At least ten (10) days prior to commencing any work on the Improvements, Developer agrees to provide to FMAA current certificate(s) of insurance for all of Developer's contractors and subcontractors showing that the above-required insurance is in full force and effect.