

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 WHEREAS, pursuant to the LEDA Ordinance, Mesa Film Studios, LLC (the
2 "Company"), has submitted to the Council and the Albuquerque Development
3 Commission (the "Commission") an application (the "Application") requesting certain
4 economic development assistance for the acquisition, construction and improvement of
5 sound stage studios and related support facilities in Albuquerque to support operations
6 and productions of the Company, which will include the Company's obligation for
7 \$800,000,000 in production spend on or before December 31, 2033 (the "Project"); and

8 WHEREAS, the City will administer and disburse to the Company funds totaling
9 up to \$7,000,000, of which \$6,000,000 is to be received by the City from the State
10 Economic Development Department and \$1,000,000 are to be City funds; and

11 WHEREAS, the Act and the LEDA Ordinance require that the City and the
12 Company enter into a project participation agreement meeting the requirements of the
13 Act and the LEDA Ordinance; and

14 WHEREAS, City staff has worked with the Company to prepare, and has
15 negotiated the terms of, a project participation agreement (the "Agreement") and related
16 documents that will govern the relationship between the City and the Company with
17 respect to the Project; and

18 WHEREAS, the form of the proposed Agreement has been filed with the City
19 Clerk and presented to the Council; and

20 WHEREAS, the proposed Agreement contains the provisions required by the Act
21 and the LEDA Ordinance and, among other things, provides that the Company will grant
22 to the City a security instrument to secure the Company's obligations under the
23 Agreement; and

24 WHEREAS, the City has obtained a cost-benefit analysis with respect to the
25 Project on the basis of information provided to the City by the Company, which cost-
26 benefit analysis shows that the City will recoup the value of its contribution within ten
27 (10) years; and

28 WHEREAS, the Application, together with the cost-benefit analysis,
29 demonstrates the benefits that will accrue to the community as a result of the donation
30 of public resources and demonstrates that the Company, by completing the Project, will
31 be making a substantive contribution to the community, as required by the LEDA
32 Ordinance; and

1 WHEREAS, the Commission has considered the Project and the proposed
2 Agreement and has recommended that the Council approve the Company's proposal;
3 and

4 WHEREAS, the total amount of public money expended and the value of credit
5 pledged in each fiscal year in which money is expended by the City for the Project (and
6 any other approved projects) pursuant to the Act does not and will not exceed ten
7 percent of the general fund expenditures of the City in such fiscal year; and

8 WHEREAS, the City anticipates that the State will transfer to it, for subsequent
9 transfer to or on behalf of the Company pursuant to an intergovernmental agreement
10 between the City and the State, certain funds of the State that are available for the
11 Project; and

12 WHEREAS, after having considered the Application and the Agreement, the
13 Council has concluded that the economic and other benefits of the Project to the City
14 will be substantial, that it is desirable and necessary at this time to authorize the City to
15 enter into the Agreement, and that the City's provision of the assistance contemplated
16 by the Agreement will constitute a valid public purpose under the Act; and

17 WHEREAS, there has been published in The Albuquerque Journal, a newspaper
18 of general circulation in the City, public notice of the Council's intention to adopt this
19 Ordinance, which notice was published at least fourteen (14) days prior to hearing and
20 final action on this Ordinance.

21 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
22 ALBUQUERQUE:

23 Section 1. RATIFICATION. All actions not inconsistent with the provisions of this
24 Ordinance previously taken by the Council and the officials of the City directed toward
25 the provision of economic development assistance in connection with the Project be
26 approved and the same hereby are ratified, approved and confirmed.

27 Section 2. GOALS AND OBJECTIVES. The goals and objectives of the Project
28 are, as set forth in the Agreement, to create and support an economic development
29 project that fosters, promotes and enhances local economic development efforts and
30 that provides job growth and career opportunities for Albuquerque-area residents and
31 otherwise makes a substantive contribution to the community.

32 Section 3. THE PROJECT. The Project will consist of the acquisition,
33 construction and improvement of sound stage studios and related support facilities in

1 Albuquerque to support operations and productions of the Company, which will include
2 the Company's obligation for \$800,000,000 in production spend on or before December
3 31, 2033, and the Company's commitment to operate the facility within the City for a
4 minimum of ten years.

5 Section 4. FINDINGS. The Council hereby declares that it has considered all
6 relevant information presented to it relating to the Project and the Agreement and
7 hereby finds and determines that the provision of economic development assistance for
8 the Project is necessary and advisable and in the interest of the public and will promote
9 the public health, safety, morals, convenience, economy, and welfare of the City and its
10 residents.

11 Section 5. AUTHORIZATION AND APPROVAL OF THE PROJECT AND THE
12 AGREEMENT; APPROPRIATION OF FUNDS. The City hereby approves the Project
13 and the Agreement, which provides, among other things, that the City will administer
14 and disburse to the Company funds totaling up to \$7,000,000, of which \$6,000,000 is to
15 be received by the City from the State Economic Development Department and
16 \$1,000,000 are to be City funds, in exchange for which the Company will complete the
17 Project as specified in the Agreement. There is hereby appropriated for the Project up to
18 \$6,000,000 of funds received from the State Economic Development Department and
19 up to \$1,000,000 of City funds.

20 Section 6. AUTHORIZATION OF OFFICERS; APPROVAL OF DOCUMENTS.

21 (A) The form, terms, and provisions of the Agreement in the form
22 presented to the Council with this Ordinance are in all respects approved, authorized,
23 and confirmed, and the City is authorized to enter into the Agreement in substantially
24 the form thereof, with only such changes as are not inconsistent with this Ordinance or
25 such other changes as may be approved by supplemental resolution of the Council.

26 (B) The Council authorizes the Mayor or the Chief Administrative Officer
27 of the City to execute and deliver the Agreement in the name and on behalf of the City,
28 with only such changes therein as are not inconsistent with this Ordinance or such
29 changes as may be approved by supplemental resolution of the Council.

30 (C) The Mayor, Chief Administrative Officer, Chief Financial Officer, City
31 Treasurer, and City Clerk are further authorized to execute, authenticate and deliver
32 such certifications, instruments, documents, letters and other agreements, including an
33 intergovernmental agreement with the State Economic Development Department, and

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

1 any appropriate security agreements, and to do such other acts and things, either prior
2 to or after the date of delivery of the executed Agreement, as are necessary or
3 appropriate to consummate the transactions contemplated by the Agreement.

4 (D) City officials shall take such action as is necessary in conformity with
5 the Act, the LEDA Ordinance and this Ordinance to effectuate the provisions of the
6 Agreement and carry out the transactions as contemplated by this Ordinance and the
7 Agreement, including, without limitation, the execution and delivery of any documents
8 deemed necessary or appropriate in connection therewith.

9 Section 7. SEVERABILITY. If any section, paragraph, clause or provision of this
10 Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or
11 unenforceability of that section, paragraph, clause, or provision shall not affect any of
12 the remaining provisions of this Ordinance.

13 Section 8. REPEALER. All bylaws, ordinances, resolutions, and orders, or parts
14 thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the
15 extent of that inconsistency. This repealer shall not be construed to revive any bylaw,
16 ordinance, resolution, or order, or part thereof, previously repealed.

17 Section 9. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE
18 DATE. This Ordinance, immediately upon its final passage and approval, shall be
19 recorded in the ordinance book of the City, kept for that purpose, and shall be there
20 authenticated by the signature of the Mayor and the presiding officer of the City Council,
21 and by the signature of the City Clerk or any Deputy City Clerk, and notice of adoption
22 thereof shall be published once in a newspaper that maintains an office in, and is of
23 general circulation in the City, and shall be in full force and effect five (5) days following
24 such publication.

1 PASSED AND ADOPTED THIS 16th DAY OF September, 2024
2 BY A VOTE OF: 9 FOR 0 AGAINST.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33



Dan Lewis, President
City Council

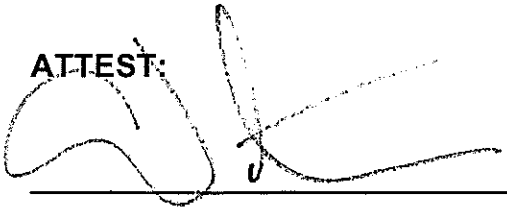
APPROVED THIS 26 DAY OF September, 2024

Bill No. O-24-44



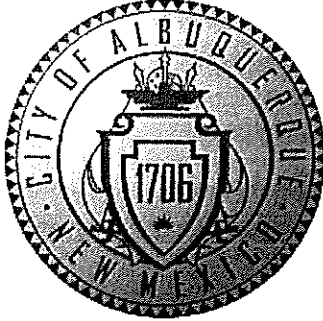
Timothy M. Keller, Mayor
City of Albuquerque

ATTEST:



Ethan Watson, City Clerk

[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion



CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

August 15, 2024

TO: Dan Lewis, President, City Council

FROM: Timothy M. Keller, Mayor



SUBJECT: Approving an Ordinance Involving Mesa Film Studios LLC Project Pursuant to the Local Economic Development Act (LEDA Project 25-1)

Attached for your consideration and approval is an Ordinance involving Mesa Film Studios LEDA Project, Pursuant to the Local Economic Development Act (LEDA-25-1).

This legislation allows for the City to administer and disburse funds to Mesa Film Studios LLC totaling up to \$7,000,000. The State has agreed to provide \$6,000,000 and the City proposes to provide \$1,000,000. LEDA funds will help the Company reimburse LEDA eligible expenses to be used for the construction and improvement of soundstages and other film production facilities (the "Project"), following execution of the Project Participation Agreement ("PPA").

The Company "Mesa Film Studios" is a newly formed venture of world-class owners and operators partnering to create a full-service media & film development campus. Their executive team boasts members with over 125 years experience in the film & television industry. The company will launch "Phase One", with the construction of a full-service purpose-built soundstage complex at Double Eagle II Airport consisting of six soundstages, production offices, mill and flex space. The complex will include an oversized 20+ acre backlot with a permanent greenscreen wall.

Mesa Film Studios is an independent film production studio complex. The project is planned to be built on a 56-acre site located on City of Albuquerque owned land at the Double Eagle II Airport approximately 17 miles west of downtown. The Company is developing and constructing a film & television production campus totaling 285,000+ square feet. Horizontal construction is projected to begin in 4Q 2024, with vertical construction and all improvements completed by 1Q 2026. Upon completion, the project will commence operations immediately.

Mesa Film Studios commits to a cumulative Direct Spend (on its own or affiliated company productions) in at the Project facilities of at least \$800,000,000. The company will provide

Cover Analysis

1. What is it?

This is an ordinance for LEDA funding in the amount of \$1,000,000 from the City for the Mesa Film Studios LLC Project (“Mesa Film Studios”). The State has agreed to provide \$6,000,000 in LEDA funds. The City will act as fiscal agent for State LEDA funds for a total of \$7,000,000. The LEDA funds are to be used for the construction of film production facilities (the “Project”). However, as usual, the State LEDA transaction is not under review for approval as part of the Council’s review of the City’s proposed \$1,000,000 LEDA award.

Mesa Film Studios will be eligible for reimbursement for costs of the construction and improvements incurred following execution of the Project Participation Agreement. Mesa Film Studios anticipates its total investment in the facilities will be approximately \$48,525,000. The company further commits to a cumulative direct production spend of at least \$800 million.

2. What will this piece of legislation do?

The ordinance authorizes \$1,000,000 in City LEDA funds for the Project and allows the City to act as fiscal agent for State of New Mexico LEDA funds in the amount of \$6,000,000. The ordinance authorizes reimbursement of approved Project costs so the Company can undertake the acquisition and construction of film production facilities located in Albuquerque. The total investment in the acquisition and construction for its new facility is estimated at \$48,525,000.

The construction project is expected to create over 230 construction jobs sourced from local labor pools.

3. Why is this project needed?

The Project represents a significant capital investment in our community and the company commits to a cumulative direct spend of at-least \$800 million in film-related expenditures. The film industry has been identified as a key, economic-base industry in Albuquerque. Albuquerque already has the talent, workforce development programs, infrastructure and intellectual capital to drive sustainable long-term growth and future investment in this industry.

The Project consists of developing and constructing a film & television production campus totaling 285,000+ square feet over 60+ acres in the West Mesa of Albuquerque, NM. Specifically, the build out will include:

- Grading and comprehensive drainage plan for the entirety of the site.
- Six Sound Stages - 20,250 sf each, 8” concrete slab to receive metal building, 40 feet to the grid, 3200 amps, 3 phases per stage, 800 amps @ 400 power, 20’ elephant doors
- Two Flex Buildings - 36,000 sf total, 6” concrete slab to receive metal building, washer/dryer hookups in each building, 20’ x 20’ elephant doors, red iron framing for dividing wall, R-19 roof insulation.

LEDA 25-1: Mesa Film Studios LEDA

ALBUQUERQUE DEVELOPMENT COMMISSION

August 4, 2024

Local Economic Development Act Hearing

Case #2024-7 Mesa Film Studios LEDA

LEDA 25-1: Mesa Film Studios LLC LEDA Project

REQUEST: Approval of an Ordinance for Mesa Media Holdings LLC Pursuant to the Local Economic Development Act

PROJECT SUMMARY:

Mesa Media Holdings LLC, a limited liability corporation registered to do business in New Mexico (“Mesa Film Studios”), is seeking the City of Albuquerque to be the fiscal agent for State LEDA funds and for the City to directly provide LEDA funds, to be used for the construction of soundstages and other film production facilities (the “Project”). Mesa Film Studios is seeking LEDA funding in the amount of \$7,000,000. The State has agreed to provide \$6,000,000 and the City proposes to provide \$1,000,000. Mesa Film Studios will be eligible for reimbursement for costs of the construction and improvements incurred following execution of the Project Participation Agreement (“PPA”).

The Company "Mesa Film Studios" is a newly formed venture of world-class owners and operators partnering to create a full-service media & film development campus. Our executive team boasts members with over 125 years experience in the film & television industry. The company will launch “Phase One”, with the construction of a full-service purpose-built soundstage complex across 60+ acres on Albuquerque’s West Mesa at Double Eagle II Airport consisting of six soundstages, production offices, mill and flex space. The complex will include an oversized 20+ acre backlot with a permanent Greenscreen wall.

Mesa Film Studios is an independent film production studio complex. The project is planned to be built on a 56-acre site located on City of Albuquerque, New Mexico owned land at the Double Eagle II Airport approximately 17 miles west of downtown in Albuquerque. The Company is developing and constructing a film & television production campus totaling 285,000+ square feet over 60+ acres in the West Mesa of Albuquerque, NM. Horizontal construction is projected to begin in 4Q 2024, with vertical construction and all improvements completed by 1Q 2026. Upon completion, the project will commence operations immediately.

Mesa Film Studios commits to a cumulative Direct Spend (on its own or affiliated company productions) in at the Project facilities of at least \$800,000,000. The company will provide approximately \$48,525,000 in investment for new construction of facilities at Double Eagle II Airport and to maintain and operate the facilities for at least ten years. The ordinance would allow reimbursement of approved Project costs so Mesa Film Studios can undertake the acquisition and construction for its new film production facilities located in Albuquerque.

Under the Local Economic Development Act, the State of New Mexico and its local governments are empowered to offer discretionary incentives to companies that support

LEDA 25-1: Mesa Film Studios LEDA

period.

The Project is expected to create approximately 230 construction jobs sourced from local labor pools, as much as possible.

The State of New Mexico and its local governments are empowered to offer discretionary incentives to companies that support economic development projects that foster, promote, and enhance local economic development efforts. Qualifying entities for these projects include:

“A corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two (2) or more of the following:

A business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in paragraph E of this definition; not including businesses primarily engaged in the sale of goods or commodities at retail;

The LEDA application, as shown in Exhibit 1 provides details of the Project, including the number and types of jobs to be created, the investment to be created, and associated community economic impacts, which are further analyzed below.

Exhibit 2 delineates the required Project Participation Agreement (“PPA”) between Mesa Film Studios and the City. The PPA is summarized in Section V.

This project includes a fiscal impact analysis provided to the City from the New Mexico Economic Development Department, using a model developed by the New Mexico Economic Development Department. The analysis estimates the impact that a potential project may have on the state and local economies and estimates the costs and benefits for the state and local economies over a 10-year period. The report and analysis uses RIMS II Multipliers produced by the U.S. Bureau of Economic Analysis (BEA). The fiscal impact determination of the project is from information the company provided. The analysis shows that the company will be making a substantive contribution to the community.

FINDINGS:

1. LEDA 25-1 is a qualified project as defined by the State’s Local Economic Development Act and the City enabling legislation (F/S O-04-10); and
2. LEDA 25-1 would make positive substantive contributions to the local economy and community by developing much needed film production facilities in Albuquerque, and committing to \$800 Million in cumulative Direct Spend on TV, film, and media productions;; and
3. LEDA 25-1 has demonstrated the financial capability to undertake and successfully manage the Project; and

LEDA 25-1: Mesa Film Studios LEDA

Description - MFS Lease Tract 2, Plat of Tract A-1 & Tract L-1 Parcels 1-5

A certain parcel of land being a portion of Tract A-1, Plat of Tract A-1 & Tract L-1 Parcels 1-5, filed in the office of the County Clerk of Bernalillo County, New Mexico on November 13, 2006, in Plat Book 2006C, Page 351, as Document No. 2006171918, and being more particularly described by New Mexico State Plane Grid Bearings (NAD 83 Central Zone) and ground distances as follows:

BEGINNING at the southeasterly corner said LEASE TRACT 2, WHENCE Albuquerque Geodetic Reference Station Brass Cap stamped "2-F6" bears South 05° 51' 11" East a distance of 1124.53 feet;

THENCE North 89° 59' 48" West a distance of 2000.00 feet to the southwesterly corner of said LEASE TRACT 2;

THENCE North 00° 00' 12" East a distance of 1260.00 feet to the northwesterly corner of said LEASE TRACT 2;

THENCE South 89° 59' 48" East a distance of 2000.00 feet to the northeasterly corner of said LEASE TRACT 2, WHENCE, as a tie, the southeasterly corner of Tract L-1 Parcel 5, as shown on said plat filed in Plat Book 2006C, Page 351 bears North 41° 51' 11" East a distance of 1124.53 feet;

THENCE South 00° 00' 12" West a distance of 580.00 feet to an angle point;

THENCE South 89° 59' 48" East a distance of 1088.82 feet to an angle point, said point being a point on the westerly easement line of a 156' Wide Public Access Easement granted by plat filed 07/10/2002, Plat Book 2002C, Page 228;

THENCE South 13° 27' 24" East a distance of 102.82 feet along said easement line to an angle point;

THENCE North 89° 59' 48" West a distance of 112.76 feet to an angle point;

THENCE South 00° 00' 12" West a distance of 580.00 feet to the POINT OF BEGINNING.

The property is zoned NON-RESIDENTIAL – SENSITIVE USE ZONE DISTRICT (NR-SU). A film studio is an allowable use in the NR-SU zone. A film studio is also allowable per the master plan at DEII.

The project also conforms to the City's Economic Development strategies:

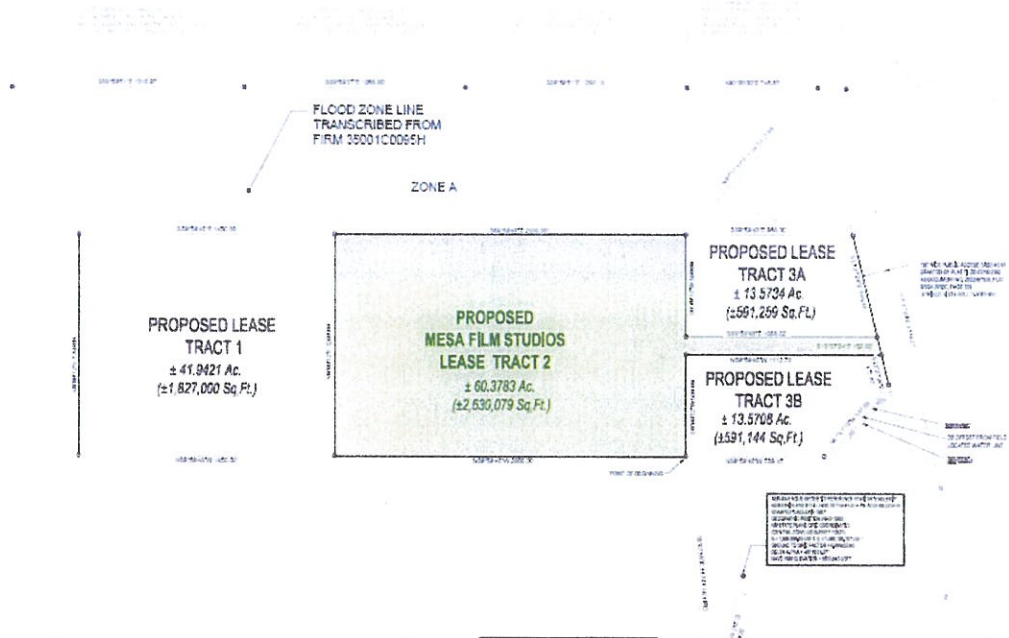
Smart Recruitment, Retention, and Expansion – The Economic Development Department (EDD) is focused on recruiting companies from specific industries that build upon Albuquerque's existing assets. The EDD supports new enterprise creation, cluster development, and strategic attraction and recruitment of businesses that align with and complement existing strengths.

2. LAND USE:

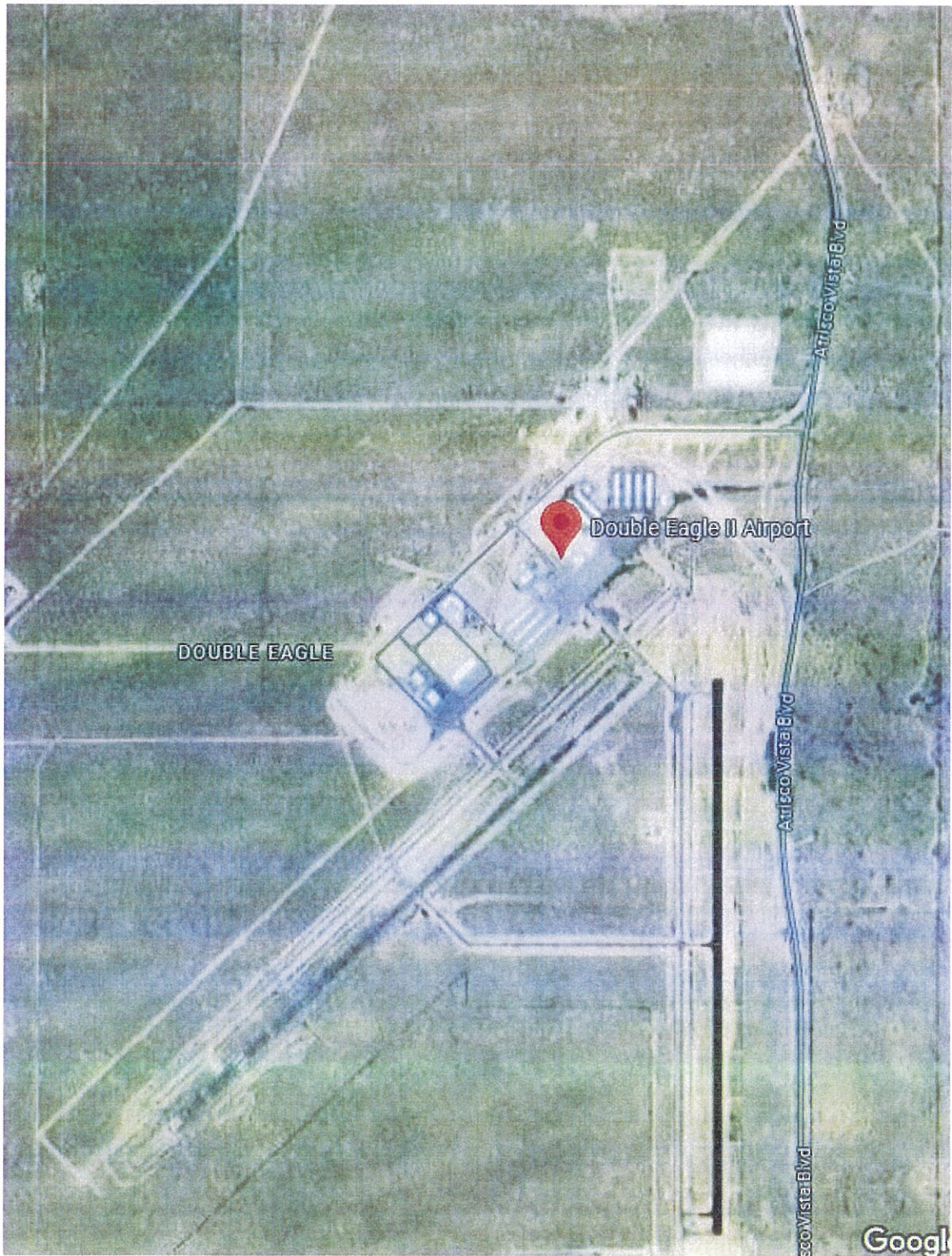
LEDA 25-1: Mesa Film Studios LEDA



BERNALILLO COUP
JANUAR



LEDA 25-1: Mesa Film Studios LEDA



4. DESIGN AND CONSERVATION:

The Project will not require significant water usage.

LEDA 25-1: Mesa Film Studios LEDA

that both are primarily focused on the production of their own content rather than leasing sound stage space to outside production companies. Except for Cinelease, other Albuquerque independent studios are relatively small without adequate facilities for major productions.

7. JOBS:

Mesa Film Studios expects to employ 25 full-time, permanent staff for day-to-day operations. These 25 employees fall under five employment categories: chief operations officer (COO), accounting, general staff, security, and janitorial. The projected total annual cost for salaries and benefits is \$1.36 million, and the average hourly wage is \$28.84.

It should be noted that none of the permanent jobs created will not be required as part of the Project Participation Agreement, but provides an additional economic benefit above the Direct Spend requirement in the PPA.

The Project is also expected to the creation of 230 construction jobs sourced from local labor pools, as much as possible. Additionally, the Project is expected to created 469 indirect and induced jobs.

IV. PROJECT FEASIBILITY

9. COST/ FEASIBILITY/ FINANCING:

The Mesa Film Studios project will be capitalized with an Applicant Equity Investment of \$35,000,000. The balance of the financing will come from bank loans. Additionally, the State has committed \$6,000,000 in LEDA funds and the City has committed an additional \$1,000,000 for a total of \$7,000,000. LEDA funding is subject to City Council approval.

10. DEVELOPER'S RECORD:

The Mesa Film Studios development is led by the partnership between Galen Walker, SR Capital and Roadtown Enterprises LTD.

Galen Walker has over 30 years in the entertainment industry managing, overseeing and facilitating 100+ projects through digital and production departments. Established in 1998, Walker founded Pacifica Media Affiliates, an audio post production company. Over a 5 year span, PMA acquired and operated five of Hollywood's largest independent sound studio facilities and later was purchased by Technicolor.

SR Capital a real estate development and investment firm a 30-year track record. A recent project is 551 West 21st Street, a 200,000 square foot residential condominium building in West Chelsea, NYC completed in 2017.

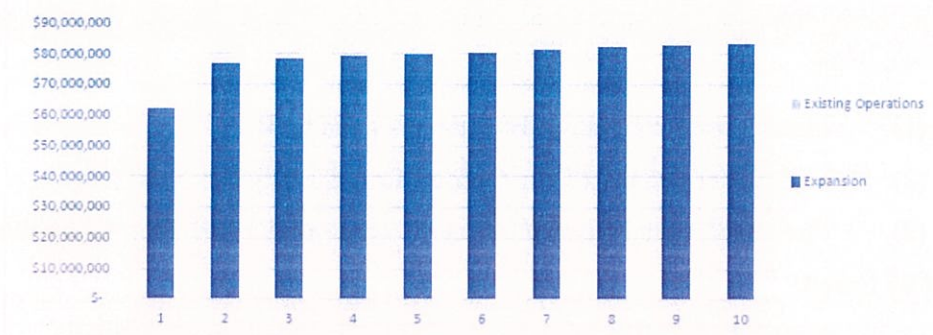
Roadtown Enterprises is a specialized consulting and management company focused on entertainment, real estate, and related industries. The company seamlessly help landowners, developers, business owners, and entrepreneurs design, build, operate, and market motion picture and television production facilities and their associated support businesses. They have designed,

LEDA 25-1: Mesa Film Studios LEDA

Total Economic Impact

| | Total |
|------------------------------------------|----------------|
| Estimated Economic Impact Over 10 Years: | \$ 784,668,326 |
| Combined Total Incentive Over 10 Years: | \$ 6,000,000 |
| Economic Impact Rate of Return: | 12.978% |

Yearly Economic Impact



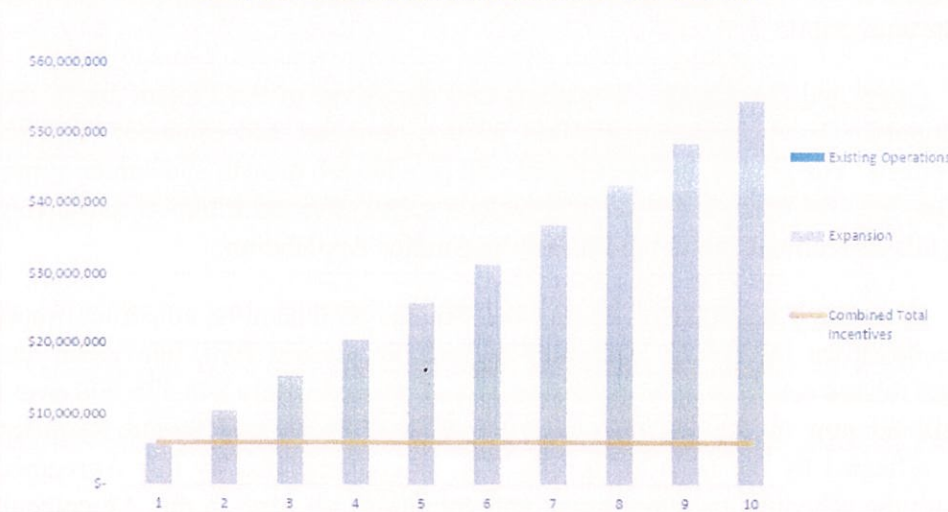
Workers and New Residents over 10 years

| | Direct | Indirect and Induced |
|--------------------------------------------------|--------|----------------------|
| Number of Jobs Created: | 512 | 469 |
| Estimated Number of Construction Workers: | 230 | |
| Estimated Number of New Residents to the State: | 8 | |
| Estimated Number of New Residents to the County: | 7 | |
| Estimated Number of New Residents to the City: | 7 | |

Total Public Net Benefit

| | Total |
|---------------------------------------------------|---------------|
| Estimated Total Public Net Benefit Over 10 Years: | \$ 54,673,586 |
| Combined Total Incentive Over 10 Years: | \$ 6,000,000 |
| Total Public Net Benefit Rate of Return: | 811% |

Yearly Combined Net Benefit vs Combined Total Incentive



LEDA 25-1: Mesa Film Studios LEDA

years. Mesa Film Studios will comply with all applicable laws in connection with the operation of the Project and will timely pay all personal property taxes with respect thereto.

3. The State Contributions: Procedure for Disbursement of the State Contributions. The City anticipates that the State Contribution of up to \$6,000,000 will be delivered to the City for subsequent disbursement to Mesa Film Studios, following enactment of the Project Ordinance and execution of this Agreement and an intergovernmental agreement between the State and the City. The City will submit an invoice to the State and request transfer of the State funds. Upon receipt, the City will place the State Contribution into a separate account established in connection with the Project, as required by law. If, and only if, the City receives the State Contribution, the City will disburse the State Contribution to Mesa Film Studios as follows:

(1) \$500,000 upon Mesa Film Studios signing the lease for the land described as Mesa Film Studios Tract 2, Plat of Tract A-1 and Tract L-1 Parcels 1-5 in the Ground Lease Agreement signed between the City of Albuquerque and Mesa Film Studios on April 28, 2024 and attached to this Agreement as Exhibit C;

(2) \$500,000 upon Mesa Film Studios breaking ground for construction of the Facility;

(3) \$1,000,000 upon the issuance of a Certificate of Occupancy for new stages at the Facility with a minimum of two (2) stages at the Facility;

(4) \$1,000,000 upon \$100,000,000 in production spending by Mesa Film Studios; and
(5) \$1,000,000 for every \$80,000,000 in production spending in excess of the \$100,000,000 mentioned above in this Section until the State LEDA funds are exhausted.

State Contribution disbursements (3), (4) and (5) are predicated on the production spending being LEDA eligible and Mesa Film Studios being current with all reporting required herein and under any other agreement or ordinance.

4. The City Contribution. Pursuant to the Project Ordinance and the LEDA Ordinance, the City has committed the amount of \$1,000,000 for use in connection with the Project. As required by the LEDA Ordinance, the City will deposit the proceeds of the City Contribution into a clearly identified separate account, which account will be subject to an annual independent audit. City funds will be dispensed to Mesa Film Studios as follows:

(1) \$125,000 upon Mesa Film Studios signing the lease for the land described as Mesa Film Studios Tract 2, Plat of Tract A-1 and Tract L-1 Parcels 1-5 in the Ground Lease Agreement signed between the City of Albuquerque and Mesa Film Studios on April 28, 2024 and attached to this Agreement as Exhibit C;

(2) \$125,000 upon Mesa Film Studios breaking ground for construction of the Facility;

LEDA 25-1: Mesa Film Studios LEDA

| | | | | |
|------|---------------|---------------------------------------|--------------|----------------------------------------------------|
| 2024 | \$0 | \$0 | \$0 | |
| 2025 | | Buffer for extended construction time | \$0 | |
| 2026 | \$93,000,000 | \$93,000,000 | \$31,000,000 | |
| 2027 | \$95,000,000 | \$188,000,000 | \$47,000,000 | |
| 2028 | \$97,000,000 | \$285,000,000 | \$57,000,000 | 100% of the percentage shortfall below the average |
| 2029 | \$99,000,000 | \$384,000,000 | \$64,000,000 | |
| 2030 | \$101,000,000 | \$485,000,000 | \$69,000,000 | |
| 2031 | \$105,000,000 | \$590,000,000 | \$72,000,000 | 75% of the percentage shortfall below the average |
| 2032 | \$105,000,000 | \$695,000,000 | \$72,000,000 | |
| 2033 | \$105,000,000 | \$800,000,000 | \$72,000,000 | 50% of the percentage shortfall below the average |

B. Maximum Clawback; Unpaid Payments. Notwithstanding anything herein to the contrary, the maximum aggregate clawbacks payable hereunder will be an aggregate of \$7,000,000, not including interest. Any clawbacks not paid when due shall bear interest at the Prime Rate plus 2% per annum from the due date until paid. “Prime Rate” means the U.S. prime rate as reported from time to time in *The Wall Street Journal* in its Bonds, Rates and Yields table, or successor table.

C. Change in Business Climate. Notwithstanding the foregoing, if Mesa Film Studios fails to achieve the performance targets as identified in Section 7.A herein, or a Facility closure occurs as provided in Section 7.D herein, and believes Business Climate Changes were the cause for its failure to meet such requirements or for the Facility closure, Mesa Film Studios will so advise the City in writing describing the Business Climate Changes in detail. “Business Climate Changes” mean substantial changes outside of the control of Mesa Film Studios, in the segment of the industry in which Mesa Film Studios operates, that cause a significant decrease in the amount of production Mesa Film Studios is able to achieve. The shifting of Mesa Film Studios’

LEDA 25-1: Mesa Film Studios LEDA

considered an Event of Default; however, the failure to make timely payment of any clawback payment due as a result thereof shall be an Event of Default.

B. Notice of Event of Default. If any Event of Default occurs, the City shall notify Mesa Film Studios in writing, and Mesa Film Studios shall have thirty (30) days in which to cure such Event of Default. If the Event of Default is not cured within such thirty-day period, the City shall have and may (1) terminate this Agreement upon notice to Mesa Film Studios and accelerate any clawback provisions and (2) exercise any remedies available at law or in equity.

10. Fees. Mesa Film Studios will promptly pay or reimburse the City for all reasonable third-party expenses incurred by the City in connection with this Agreement and the Project, provided, however, that Mesa Film Studios shall not be liable for costs incurred by the City that are the responsibility of the City in the ordinary course of business. If so determined by the City, in its sole discretion, such third-party expenses may be offset against or reimbursed from the City Contribution or the State Contribution. Although the City does not anticipate incurring significant third party expenses during the term of this Agreement, such expenses could include, without limitation, expenses associated with performance reviews or audits with respect to the Project and legal fees for outside counsel in the event of any proposed amendment to this Agreement or any necessary enforcement action with respect to this Agreement.

11. Reporting Requirement, Performance Review and Termination. Quarterly, on or before each January 31, April 30, July 31 and October 31, Mesa Film Studios will provide to the City and to State EDD the Company's ES903A with Affidavit or its equivalent filed with New Mexico's Department of Workforce Solutions for the previous quarter regarding the workforce for Mesa Film Studios and such other information necessary for the City or its independent contractor to determine whether Mesa Film Studios has met its obligations under this Agreement. Additionally, on the same quarterly schedule, Mesa Film Studios will provide the City and State data showing the production spending and cumulative totals to show compliance with Section 7 herein. Failure to complete the requirements of Section 11 herein by the quarterly deadline will result in a 10% Clawback of LEDA funds received. As required by the LEDA Ordinance, the Project will be subject to an annual performance review conducted by City staff, which will evaluate whether the Project is attaining the requirements of this Agreement. This review shall be presented to the City Administration and the City Council. If the requirements of this Agreement are not being satisfied, the City Council at a public hearing may cause the enforcement of this Agreement, including the right of the City to any Performance Clawbacks and other remedies set forth herein. In addition, pursuant to LEDA, if Mesa Film Studios has ceased operations and paid all amounts due to the City as provided herein, the City may enact an ordinance terminating the LEDA Ordinance.

FINDINGS:

1. LEDA 25-1 is a qualified project as defined by the State's Local Economic Development Act and the City enabling legislation (F/S O-04-10); and

FY23/24/25 LEDA Application-ABQ

| | |
|--------------------|-------------------------|
| Applicant | Dayan Hochman-Vigil |
| Applicant ID | APP-019006 |
| Company Name | Mesa Media Holdings LLC |
| Phone | 505-948-2320 |
| Email | day@dhv-law.com |
| Status | Submitted |
| Application Amount | \$0.00 |
| Funded/Approved | |

Contact Information

Question: Legal Company Name

Mesa Media Holdings LLC

Question: Trade Name (dba)

Not Answered

Question: Project Name

Mesal Film Studios

Question: Company Street Address

West Mesa at Double Eagle II Airport

Question: Company City

Albuquerque

Question: Company State

New Mexico

Question: Company Zip

87120

Question: Incorporation Papers

[MSF NM SOS.pdf](#) (7/17/2024, 3:21 PM)

[Mesa Film Studios LLC - EIN Applications and Assignment.pdf](#) (7/17/2024, 3:21 PM)

Question: Resumes of all principals (owners, partners, directors or officers; required for businesses 1 years or younger)

[Mesa_Report_R7-compressed \(5\) 7.pdf](#) (7/17/2024, 3:23 PM)

Question: Company Contact for Project Administration (if different from above)

Scott Resnick

Question: Title

Executive Member

Question: Telephone

917-565-3102

Question: Cell Phone

917-565-3102

Question: Email

sresnick@srcapitalnyc.com

Project Information

Please include detailed information such as:

- Executive Summary; Business description and history
- Infrastructure Development/Needs
- Market analysis and strategy
- Summary of competition
- Tax Reporting Status
- Effect on Existing Industry and Commerce during and after Construction
- Land Acquisition

production offices, mill and flex space. The complex will include an oversized 20+ acre backlot with a permanent Greenscreen wall. The actual studio facility is designed, built, and will be managed by a team of seasoned production professionals. Helming the project is Nick Smerigan and his company RoadTown Enterprises, LTD. Mr. Smerigan was responsible for building and managing Albuquerque Studios, that anchored the film industry in New Mexico and generated over a billion dollars of production revenue for the state and the eventual acquisition by the largest content streaming company in the world, Netflix. The Studio facility will create thousands of jobs statewide and will eventually expand into additional services including post-production facilities as well as film production within the state.

Question: Supporting Documentation

[MFS - Operational Org Chart v1.pdf](#) (6/25/2024, 8:09 AM)

Financial Information

*Upload sources and uses chart; enter N/A and zero for questions that do not apply to your business

Question: Provide detailed assumptions for your project including three years of projected cash flow income statements. If the applicant has been in business less than one year, you may be requested to provide additional financial information after review .

[MFS - 3yr Operating Pro Forma v1.pdf](#) (6/25/2024, 8:11 AM)

Question: Provide financial statements (balance sheet, profit and loss and cash flow) or tax returns for the past three years. Also provide interim statements within 90 days of application date.

[Question 30 Section 4.pdf](#) (7/30/2024, 1:58 PM)

Question: What is the collateral/security to be pledged to the funds awarded?

- Letter of Credit
- Surety Bond
- Mortgage Security
- Security Agreement/Escrow
- Security Agreement/Lien
- Security Interest/Lien

Question: What is the method of appraisal for stated security (if Security Mortgage or Lien were selected above)?

[4. MFS - Project Sources & Uses.xlsx](#) (6/25/2024, 8:17 AM)

Company History and Background

Question: How long has the company been in operation, as of the date of application?

N/A - this is a new venture

Question: At the time of this application, how many full-time employees do you currently employ? Please provide the most recent Department of Workforce Solutions report below. If no employees, disregard report. Enter 0.

0.00

Question: List owners with more than 20% ownership stake in the company. Additionally, please list principal directors and/or officers.

Scott Resnick. Please see document submitted in section 2 with principal member biographies.

Question: Are owners and/or officers current with financial obligations/payments to the State of New Mexico or any other Federal or State entity? If no, please explain.

Yes

Question: Does the applicant have any loans or other financial obligations on which payments are not current? If yes, please explain.

None

Question: Please identify any financially affiliated/associated companies in which any of the applicant's owners have a 20% stake.

None

Community Aspects

Question: At the community level, what are the infrastructure needs not yet in place or in process that will affect this project's application?

The current infrastructure needs not yet in place on the community level are as follows:

Power (From PNM)

Water (Water Authority)

Gas (NM Gas Company)

Sewer

Employees will be offered full benefits, as negotiated and contracted by associated labor unions, including medical, vision and dental.

Question: Outline any efforts being made or proposed by the applicant to hire people within the local employment pool.

We have conducted initial outreach to the IATSE union and are investigating partnerships with the local film school sponsored by Governor Michelle Lujan Grisham and the New Mexico Film Office.

Question: Attach job creation worksheet

[7. MFS - Job Creation Worksheet.pdf](#) (7/17/2024, 3:36 PM)

Question: Starting Headcount (from worksheet above)

24.00

Question: Total new jobs to be created Year 1 (from worksheet above)

24.00

Question: Total new payroll Year 1 (from worksheet above)

\$1,300,000.00

Question: Total number of new jobs to be created Year 2 (from worksheet above)

2.00

Question: Total new payroll Year 2 (from worksheet above)

\$110,000.00

Question: Total number of new jobs to be created Year 3 (from worksheet above)

2.00

Question: Total new payroll Year 3 (from worksheet above)

\$110,000.00

Economic Impact Analysis

NMEDD will perform an Economic Impact Analysis to address the impact to the local tax base, the school system, etc. using the Impact Data Sheet provided by the applicant.

Question: Outline any impacts to the environment, positively or negatively.

Question: Project Supporting Documents: City Zone Atlas Map of Location, aerial/satellite picture of area, conceptual overview of finished location, Fiscal Impact Analysis from UNM BBER (if requested by City ED Director), Conceptual Site Plan and Elevation.

[LEDA PACKET.pdf](#) (7/28/2024, 6:53 AM)

Question: General Description-Statement of benefit to be gained by the Albuquerque community from this development

Mesa Film Studios (MFS) is a full service, purpose-built, film and television production facility with the probability of bringing \$1.4 billion of direct economic impact to the City of Albuquerque and the state of New Mexico over a 10-year period, which includes over 11,200 high paying jobs over that time frame. Located 20 minutes from Albuquerque International Sunport and 15 minutes from downtown Albuquerque, a facility the size and scope of MFS, has the potential to provide a significant economic development impact to the local economy.

Providing a designated 12 acre backlot and a permanent 280' x 120' by 40' high blue screen, makes MFS unique to the New Mexico studio landscape. In addition to the backlot and permanent Blue Screen wall, MFS will offer its clients six sound stages, production office space, construction mill building and flex space for wardrobe, special effects, and props.

Question: Site and Existing Conditions: Legal Description-Give both the precise and complete legal description and address or identification of location.

Description - MFS Lease Tract 2, Plat of Tract A-1 & Tract L-1 Parcels 1-5

A certain parcel of land being a portion of Tract A-1, Plat of Tract A-1 & Tract L-1 Parcels 1-5, filed in the office of the County Clerk of Bernalillo County, New Mexico on November 13, 2006, in Plat Book 2006C, Page 351, as Document No. 2006171918, and being more particularly described by New Mexico State Plane Grid Bearings (NAD 83 Central Zone) and ground distances as follows:

BEGINNING at the southeasterly corner said LEASE TRACT 2, WHENCE Albuquerque Geodetic Reference Station Brass Cap stamped "2-F6" bears South 05° 51'11" East a distance of 1124.53 feet;

THENCE North 89° 59'48" West a distance of 2000.00 feet to the southwesterly corner of said LEASE TRACT 2;

THENCE North 00° 00'12" East a distance of 1260.00 feet to the northwesterly corner of said LEASE TRACT 2;

THENCE South 89° 59'48" East a distance of 2000.00 feet to the northeasterly corner of said LEASE TRACT 2, WHENCE, as a tie, the southeasterly corner of Tract L-1 Parcel 5, as shown on said plat filed in Plat Book 2006C, Page 351 bears North 41° 51'11" East a distance of 1124.53 feet;

THENCE South 00° 00'12" West a distance of 580.00 feet to an angle point;

THENCE South 89° 59'48" East a distance of 1088.82 feet to an angle point, said point being a point on the westerly easement line of a 156' Wide Public Access Easement granted by plat filed 07/10/2002, Plat Book 2002C, Page 228;

waste pollution or traffic congestion? If so, what plans are in place for the reduction and disposal of waste and/or project emissions?

MFS engineers will conduct a thorough traffic study as required by the City of Albuquerque planning process to determine the project impact on local roads. Similarly, the MFS development team is in active conversations with all relevant city departments in advance to MFS' submission to the City of Albuquerque Environmental Planning Commission to identify and address any issues flagged with regards to sewer, utility, gas, and waste management.

Question: Competition: The Development Commission and City Council do not wish to make public funds available for projects with local competition. Describe any competition in the same area of commerce or industry existing in the City.

See page 5 of the full EIS report attached to this submission.

Question: Describe the predicted effects of the project including construction jobs generated, increased employment, increased sales, new industrial base, possible spin-off business in the City.

See page 36 of the EIS report attached to this submission.

Question: Proposed Development: Describe any construction to be undertaken in the project, including square footage, construction type, location of construction on project site.

Please see the information provided in Section 3 of this application.

Question: Proposed Development: Will existing buildings will be rehabilitated or incorporated in the construction?

No. This is a vacant lot.

Question: Proposed Development: Detail any demolition required and indicate whether it involves any identified historic properties.

No demolition will be required as this is a vacant lot.

Question: Infrastructure: Indicate if the project will require any extension or relocation of utility or road systems and if so, what cost sharing agreements have been reached between the applicant and the City.

The City of Albuquerque, at its own expense, shall cause all necessary infrastructure to be extended, provided and made available for water, sewer, electricity in an amount sufficient to provide "reserve" capacity to the 130 acre development, roads, fiberoptic and natural gas connections as required by MFS to the demise line of the 130 acre project cite. As required by MFS and the project, the City of Albuquerque will assist in facilitating running such facilities from the demise line to the project at MFS' expense

Question: Area Enhancement: Describe how project design and placement will enhance the area.

See page 36 of the EIS report attached to this application.



EDD

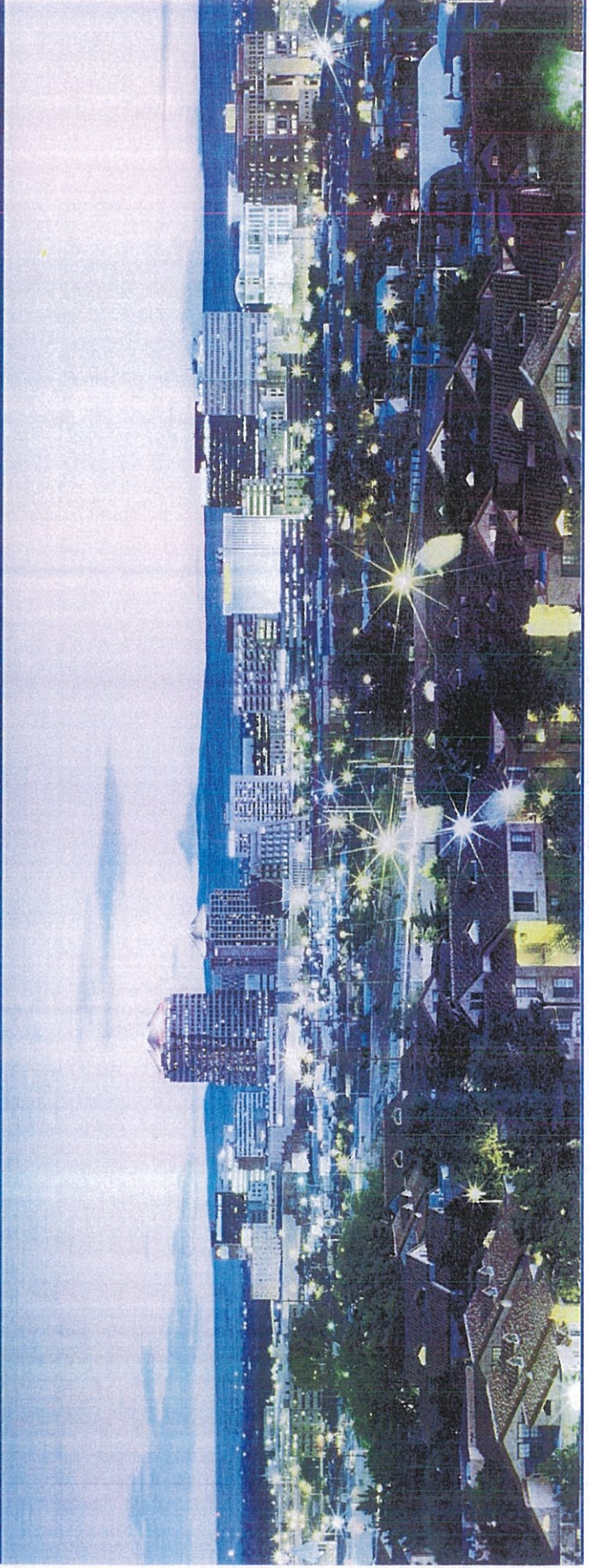
ECONOMIC
DEVELOPMENT
DEPARTMENT

3/8/2024

FISCAL IMPACT ANALYSIS AND ECONOMIC IMPACT OF THE EXPANSION OF MESA MEDIA HOLDINGS LLC

Prepared by:

New Mexico Economic Development Department
Joseph Montoya Building
1100 S. St. Francis Drive
Santa Fe, New Mexico 87505



Introduction:

This report and analysis presents the results of an economic impact analysis performed using a model developed by the New Mexico Economic Development Department. The report estimates the impact that a potential project may have on the state and local economies and estimates the costs and benefits for the state and local economies over a 10-year period. The report and analysis uses RIMS II Multipliers produced by the U.S. Bureau of Economic Analysis (BEA).

Most projects produce a growth in population and/or a growth in the workforce in a City, County and the State of New Mexico. All growth comes at a cost, the additional economic activity and population growth stimulated by the project will generate additional costs in terms of providing basic infrastructure (roadways, bridges and utilities) and public services (including public safety, schools and administrative services). For example, if the applicant hires employees from outside the State, County and City, those workers who end up relocating their residence to within one or all of those areas, the population for which the government must provide services also increases. The costs associated with the expansion are broken down into two categories: 1) New residents to the State, County and City. 2) New Mexican residents hired to work for the company. The analysis assumes that all workers will live in the area of the expansion.

Description of the Company:

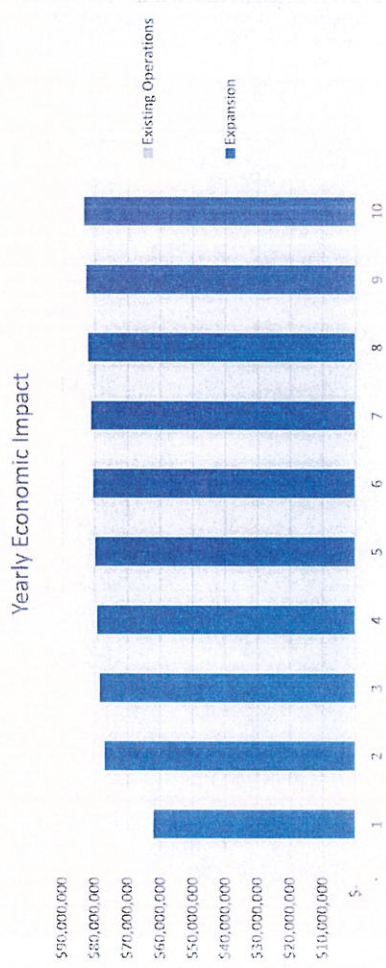
The Company "Mesa Media Holdings" is a newly formed venture of world-class owners and operators who are partnering to create a full-service media & film development campus. Our executive team boasts members with over 125 years experience in the film & television industry. The development is led by the partnership between Galen Walker, a film producer and postproduction executive, he is a 5th generation New Mexican and his films have generated over \$1bn in revenue. RoadTown Enterprises who has designed, developed and actively services studios across the country for firms like Amazon, Sony, Warner Bros, and more. Along with SR Capital, a seasoned real estate developer with a 30 year track record, we will launch "Phase one", we intend to construct a full-service purpose-built sound stage complex across 50+ acres on Albuquerque's West Mesa at Double Eagle II Airport consisting of six soundstages, production offices, mill and flex space. The complex will include a twelve-acre backlot with a permanent Greenscreen wall. The actual studio facility is designed, built, and will be managed by a team of seasoned production professionals. Helming the project is Nick Smerigan and his company RoadTown Enterprises, LTD. Mr. Smerigan was responsible for building and managing Albuquerque Studios, that anchored the film industry in New Mexico and generated over a billion dollars of production revenue for the state and the eventual acquisition by the largest content streaming company in the world, Netflix. The Studio facility will create thousands of jobs statewide and will eventually expand into additional services including postproduction facilities as well as film production within the state.

Description of the Project:

Phase one: The project involves development of approximately 54 acres of unimproved land in the West Mesa at Double Eagle II Airport. Initial grading, environmental remediation, and geotechnical work will be followed by increasing the capacity of utilities that service the site (water, power, gas, data). The improvements thereupon will total over 312,000 square feet, including 6 sound stages (20,000 sf to 25,000 sf each), an 80,000 square foot mill, 60,000 square feet of office space, and 37,000 square feet of flex space. Also included on the property will be a dedicated "back lot" area for outdoor filming, as well as a Greenscreen. This studio complex will generate many new production partners and production vendors which will result in more than 400 jobs per contracted production. The studio has a partnership with a world-class lighting and grip company which will be located within our facility. There is a plan to design a new postproduction facility for sound and picture, the studio will partner with major "Hollywood" Post facilities that will supply talent / personnel required in these high-end positions for film and television. Upon the completion of construction, the partnership plans to commence "Phase two" and double the size of the complex, expanding over the full 100 acres. Future growth at the Double Eagle II Airport will accommodate direct private flights for the production and postproduction talent between ABQ and LA. This will have a major impact on successfully keeping postproduction sustainability in NM. Mesa Holdings intends to partner with Pristine Sun to provide both on site solar power generation, as well as a dedicated array just north of the Project site, with the intent to be a fully-solar powered studio.

Total Economic Impact

| | Total |
|------------------------------------------|----------------|
| Estimated Economic Impact Over 10 Years: | \$ 784,668,326 |
| Combined Total Incentive Over 10 Years: | \$ 6,000,000 |
| Economic Impact Rate of Return: | 12,978% |



Workers and New Residents over 10 years

| | Direct | Indirect and Induced |
|--------------------------------------------------|--------|----------------------|
| Number of Jobs Created: | 512 | 469 |
| Estimated Number of Construction Workers: | 230 | |
| Estimated Number of New Residents to the State: | 8 | |
| Estimated Number of New Residents to the County: | 7 | |
| Estimated Number of New Residents to the City: | 7 | |

Fiscal Impact of Existing and Expanded Operations Over the Next Ten Years

| | Cumulative Net Benefits | | | Present Value of Net Benefits* |
|-------------------------|-------------------------|----------------------|--------------------------------|--------------------------------|
| | Existing Operations | Expansion | Existing & Expanded Operations | |
| State of New Mexico | \$ - | \$ 34,846,217 | \$ 34,846,217 | \$ 27,911,915 |
| County | \$ - | \$ 6,294,739 | \$ 6,294,739 | \$ 5,117,465 |
| City | \$ - | \$ 13,532,630 | \$ 13,532,630 | \$ 11,006,945 |
| School District | \$ - | \$ 1,541,981 | \$ 1,541,981 | \$ 1,235,499 |
| Special Taxing District | \$ - | \$ 2,435,356 | \$ 2,435,356 | \$ 1,951,308 |
| Total | \$ - | \$ 58,650,924 | \$ 58,650,924 | \$ 47,223,132 |

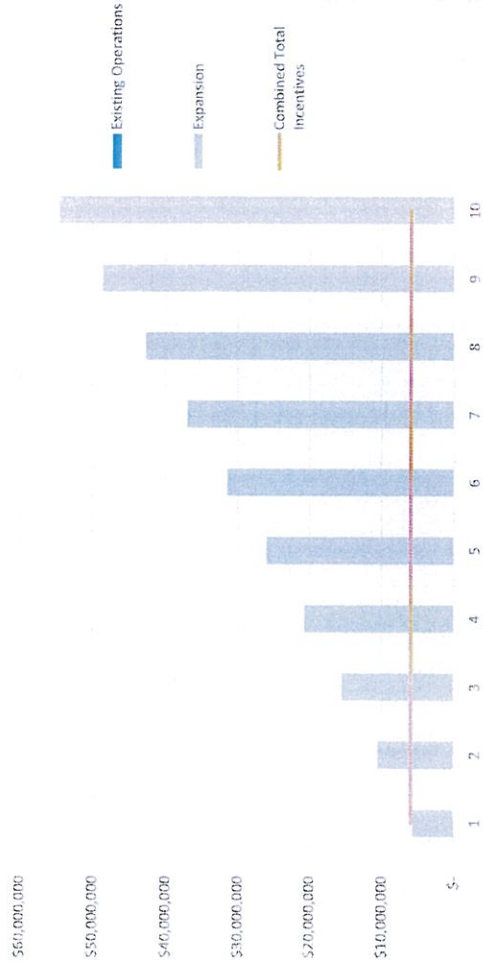
* The Present Value of Net Benefits expresses the future stream of net benefits received over several years as a single value in today's dollars. Today's dollar and a dollar to be received at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 5% to make the dollars comparable.

** In the cumulative net benefits of the existing and expanded operations for the State of New Mexico, corporate income tax has been removed from the existing operations total to avoid double counting.

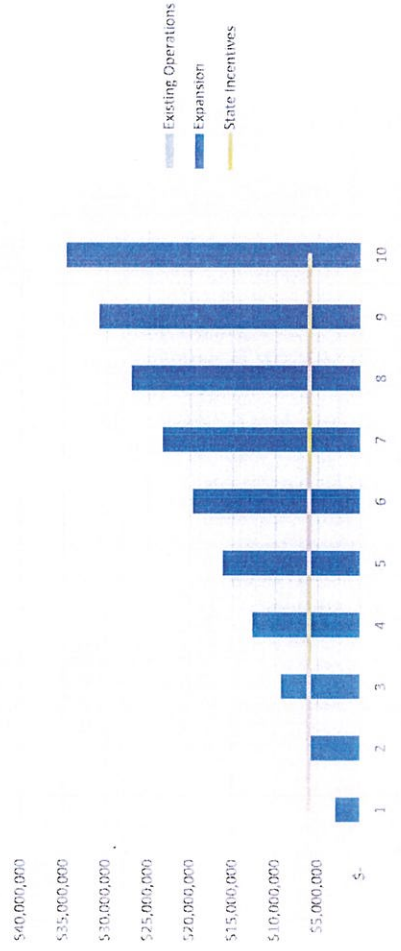
Total Public Net Benefit

| | |
|---------------------------------------------------|---------------|
| Estimated Total Public Net Benefit Over 10 Years: | \$ 54,673,586 |
| Combined Total Incentive Over 10 Years: | \$ 6,000,000 |
| Total Public Net Benefit Rate of Return: | 811% |

Yearly Combined Net Benefit vs Combined Total Incentive



State Cumulative Fiscal Net Benefit vs State Incentives



Incentives

| | |
|--------------------------|--------------|
| Total State Incentive: | \$ 6,000,000 |
| State Incentive Per Job: | \$ 157,895 |

Combined Payback and Return

| | |
|--------------------------------|------------|
| State Payback Period Combined: | 1.98 Years |
| State Rate of Return Combined: | 365% |

Expansion Only Payback and Return

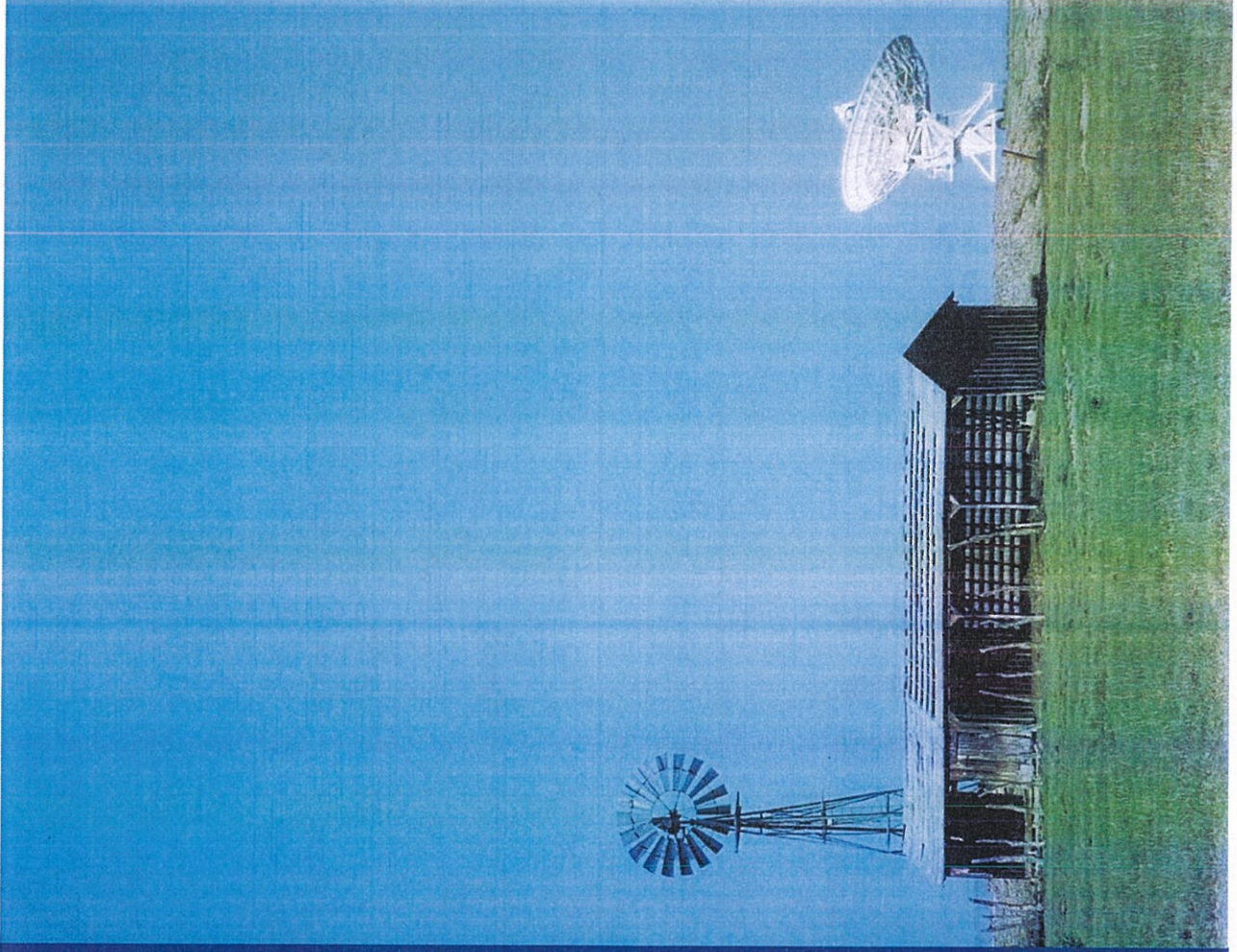
| | |
|---------------------------------|------------|
| State Payback Period Expansion: | 1.98 Years |
| State Rate of Return Expansion: | 365% |

State Net Benefits Of Current Operations

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|------|----------|-------|--------------|-------------------------|
| 1 | \$ - | \$ - | \$ - | \$ - |
| 2 | \$ - | \$ - | \$ - | \$ - |
| 3 | \$ - | \$ - | \$ - | \$ - |
| 4 | \$ - | \$ - | \$ - | \$ - |
| 5 | \$ - | \$ - | \$ - | \$ - |
| 6 | \$ - | \$ - | \$ - | \$ - |
| 7 | \$ - | \$ - | \$ - | \$ - |
| 8 | \$ - | \$ - | \$ - | \$ - |
| 9 | \$ - | \$ - | \$ - | \$ - |
| 10 | \$ - | \$ - | \$ - | \$ - |

County

Impacts



County Net Benefits Of Expansion

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|------|------------|----------|--------------|-------------------------|
| 1 | \$ 888,217 | \$ 1,197 | \$ 887,020 | \$ 887,020 |
| 2 | \$ 527,465 | \$ 1,333 | \$ 526,132 | \$ 1,413,151 |
| 3 | \$ 553,321 | \$ 1,473 | \$ 551,848 | \$ 1,964,999 |
| 4 | \$ 569,817 | \$ 1,617 | \$ 568,200 | \$ 2,533,199 |
| 5 | \$ 586,027 | \$ 1,713 | \$ 584,313 | \$ 3,117,513 |
| 6 | \$ 602,398 | \$ 1,813 | \$ 600,585 | \$ 3,718,098 |
| 7 | \$ 619,433 | \$ 1,966 | \$ 617,467 | \$ 4,335,565 |
| 8 | \$ 637,860 | \$ 2,123 | \$ 635,737 | \$ 4,971,302 |
| 9 | \$ 654,816 | \$ 2,234 | \$ 652,581 | \$ 5,623,883 |
| 10 | \$ 673,204 | \$ 2,348 | \$ 670,856 | \$ 6,294,739 |

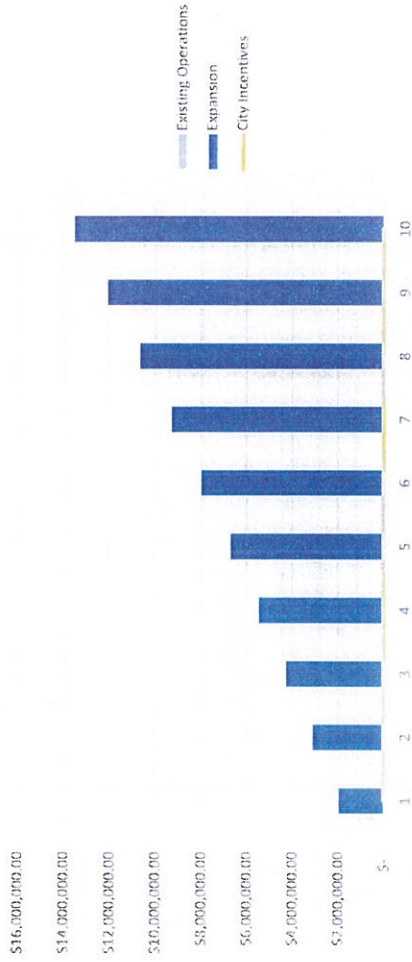
County Combined Net Benefits

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|------|------------|----------|--------------|-------------------------|
| 1 | \$ 888,217 | \$ 1,197 | \$ 887,020 | \$ 887,020 |
| 2 | \$ 527,465 | \$ 1,333 | \$ 526,132 | \$ 1,413,151 |
| 3 | \$ 553,321 | \$ 1,473 | \$ 551,848 | \$ 1,964,999 |
| 4 | \$ 569,817 | \$ 1,617 | \$ 568,200 | \$ 2,533,199 |
| 5 | \$ 586,027 | \$ 1,713 | \$ 584,313 | \$ 3,117,513 |
| 6 | \$ 602,398 | \$ 1,813 | \$ 600,585 | \$ 3,718,098 |
| 7 | \$ 619,433 | \$ 1,966 | \$ 617,467 | \$ 4,335,565 |
| 8 | \$ 637,860 | \$ 2,123 | \$ 635,737 | \$ 4,971,302 |
| 9 | \$ 654,816 | \$ 2,234 | \$ 652,581 | \$ 5,623,883 |
| 10 | \$ 673,204 | \$ 2,348 | \$ 670,856 | \$ 6,294,739 |

County Breakdown of Combined Benefits, Costs, and Net Benefits Over the Next 10 Years

| Taxes and Revenue | |
|-----------------------------|---------------------|
| Gross Receipt Taxes | \$ 4,607,618 |
| Misc. Taxes and Revenue | \$ 41,075 |
| Property Taxes | \$ 1,663,864 |
| Subtotal of Benefits | \$ 6,312,556 |
| Costs | |
| Costs | \$ 17,817 |
| Subtotal of Costs | \$ 17,817 |
| Net Benefits | \$ 6,294,739 |
| Present Value | \$ 5,117,465 |

City Fiscal Net Benefit vs City Incentives



Incentives

| | |
|-------------------------|------|
| Total City Incentive: | \$ - |
| City Incentive Per Job: | \$ - |

Combined Payback and Return

| | | |
|-------------------------------|-----|-------|
| City Payback Period Combined: | - | Years |
| City Rate of Return Combined: | N/A | |

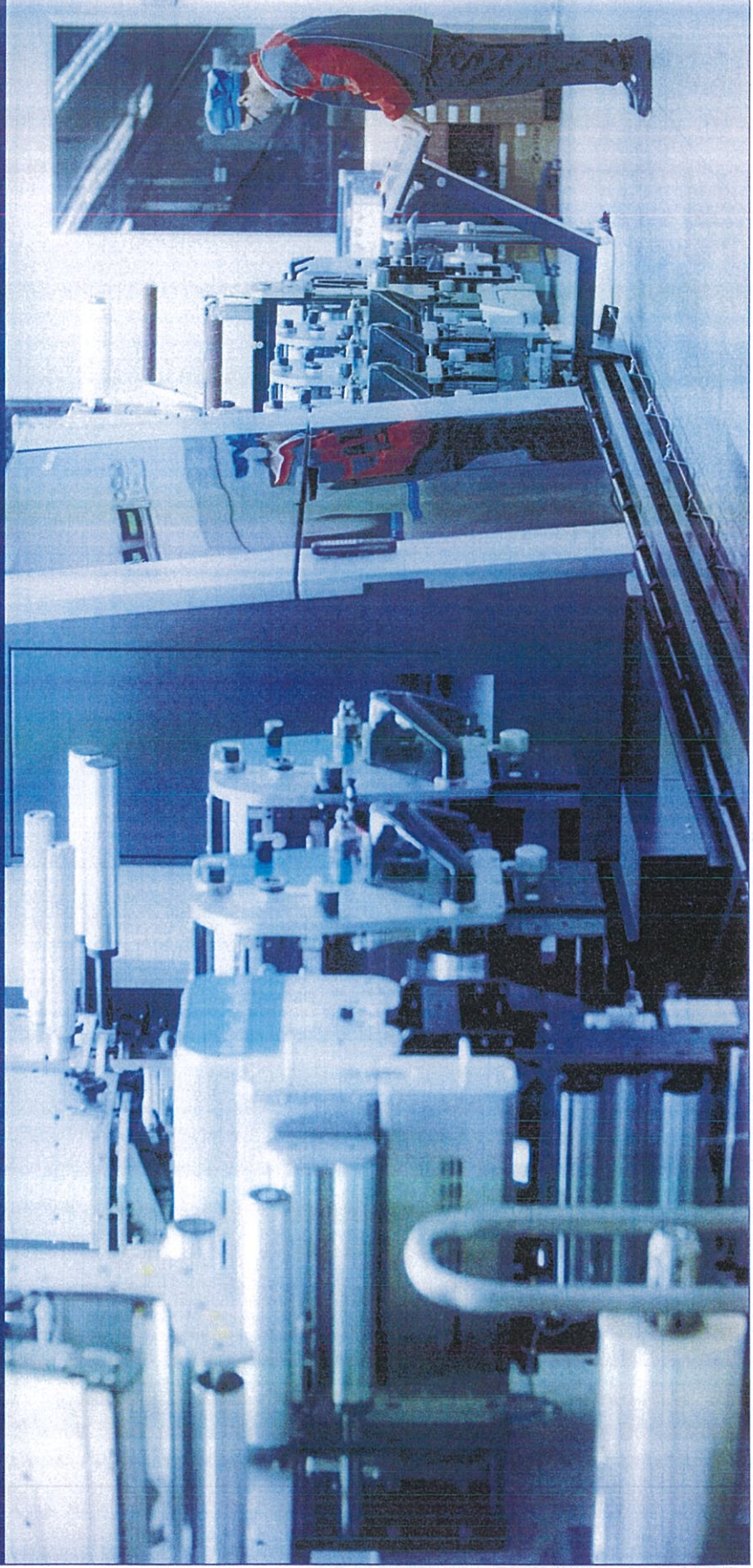
Expansion Only Payback and Return

| | | |
|--------------------------------|-----|-------|
| City Payback Period Expansion: | - | Years |
| City Rate of Return Expansion: | N/A | |

City Net Benefits Of Current Operations

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|------|----------|-------|--------------|-------------------------|
| 1 | \$ - | \$ - | \$ - | \$ - |
| 2 | \$ - | \$ - | \$ - | \$ - |
| 3 | \$ - | \$ - | \$ - | \$ - |
| 4 | \$ - | \$ - | \$ - | \$ - |
| 5 | \$ - | \$ - | \$ - | \$ - |
| 6 | \$ - | \$ - | \$ - | \$ - |
| 7 | \$ - | \$ - | \$ - | \$ - |
| 8 | \$ - | \$ - | \$ - | \$ - |
| 9 | \$ - | \$ - | \$ - | \$ - |
| 10 | \$ - | \$ - | \$ - | \$ - |

Special Taxing District and Public Schools



Public Schools

Public Schools Net Benefits of Current Operations

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|------|----------|-------|--------------|-------------------------|
| 1 | \$ - | \$ - | \$ - | \$ - |
| 2 | \$ - | \$ - | \$ - | \$ - |
| 3 | \$ - | \$ - | \$ - | \$ - |
| 4 | \$ - | \$ - | \$ - | \$ - |
| 5 | \$ - | \$ - | \$ - | \$ - |
| 6 | \$ - | \$ - | \$ - | \$ - |
| 7 | \$ - | \$ - | \$ - | \$ - |
| 8 | \$ - | \$ - | \$ - | \$ - |
| 9 | \$ - | \$ - | \$ - | \$ - |
| 10 | \$ - | \$ - | \$ - | \$ - |

Public Schools Net Benefits of Expansion

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|------|------------|-------|--------------|-------------------------|
| 1 | \$ 134,032 | \$ - | \$ 134,032 | \$ 134,032 |
| 2 | \$ 138,414 | \$ - | \$ 138,414 | \$ 272,446 |
| 3 | \$ 142,849 | \$ - | \$ 142,849 | \$ 415,295 |
| 4 | \$ 147,310 | \$ - | \$ 147,310 | \$ 562,605 |
| 5 | \$ 151,800 | \$ - | \$ 151,800 | \$ 714,405 |
| 6 | \$ 156,318 | \$ - | \$ 156,318 | \$ 870,723 |
| 7 | \$ 160,867 | \$ - | \$ 160,867 | \$ 1,031,590 |
| 8 | \$ 165,452 | \$ - | \$ 165,452 | \$ 1,197,042 |
| 9 | \$ 170,100 | \$ - | \$ 170,100 | \$ 1,367,142 |
| 10 | \$ 174,839 | \$ - | \$ 174,839 | \$ 1,541,981 |

Public Schools Combined Net Benefits

| Year | Benefits | Costs | Net Benefits | Cumulative Net Benefits |
|------|------------|-------|--------------|-------------------------|
| 1 | \$ 134,032 | \$ - | \$ 134,032 | \$ 134,032 |
| 2 | \$ 138,414 | \$ - | \$ 138,414 | \$ 272,446 |
| 3 | \$ 142,849 | \$ - | \$ 142,849 | \$ 415,295 |
| 4 | \$ 147,310 | \$ - | \$ 147,310 | \$ 562,605 |
| 5 | \$ 151,800 | \$ - | \$ 151,800 | \$ 714,405 |
| 6 | \$ 156,318 | \$ - | \$ 156,318 | \$ 870,723 |
| 7 | \$ 160,867 | \$ - | \$ 160,867 | \$ 1,031,590 |
| 8 | \$ 165,452 | \$ - | \$ 165,452 | \$ 1,197,042 |
| 9 | \$ 170,100 | \$ - | \$ 170,100 | \$ 1,367,142 |
| 10 | \$ 174,839 | \$ - | \$ 174,839 | \$ 1,541,981 |

Property Tax Exemptions and Industrial Revenue Bonds

The City and/or the County is considering abating taxes on the Project's property. Below is a table that identifies the types of property that are under consideration for property tax abatement:

| | |
|-------------------------------------|----|
| Land: | No |
| Building and Property Improvements: | No |
| Furniture, Fixtures and Equipment: | No |

Property Tax Percentage Exemptions On Land and Building

| | County | City | Schools | Special Taxing District |
|--|--------|------|---------|-------------------------|
| | 0% | 0% | 0% | 0% |

Property Tax Percentage Exemptions On Furniture, Fixtures and Equipment

| | County | City | Schools | Special Taxing District |
|--|--------|------|---------|-------------------------|
| | 0% | 0% | 0% | 0% |

| | | | | |
|------------------------------------------------------|------|------|------|------|
| Value of Exemption Through 10 Years: | \$ - | \$ - | \$ - | \$ - |
| *Value of Payment in Lieu of Taxes Through 10 Years: | \$ - | \$ - | \$ - | \$ - |

*The modal assumes that the payment in lieu of taxes will be administered to the either the county or city, and the local government will disperse the amounts to the appropriate districts.

Percentage of Gross Receipt Taxes Foregone on Newly Purchased Furniture, Fixtures and Equipment Over 10 Years

| Year | State | County | City |
|--------------------------------------|-------|--------|------|
| 1 | 0% | 0% | 0% |
| 2 | 0% | 0% | 0% |
| 3 | 0% | 0% | 0% |
| 4 | 0% | 0% | 0% |
| 5 | 0% | 0% | 0% |
| 6 | 0% | 0% | 0% |
| 7 | 0% | 0% | 0% |
| 8 | 0% | 0% | 0% |
| 9 | 0% | 0% | 0% |
| 10 | 0% | 0% | 0% |
| Value of Exemption Through 10 Years: | \$ - | \$ - | \$ - |

| | | |
|--------------------|--------------------------------------------------------------|-----------|
| 5.3 | Holding Over by Lessee..... | 18 |
| Section 6. | Rent and Fees..... | 19 |
| 6.1 | Rent Adjustment..... | 19 |
| 6.2 | Fair Market Rent Determination Process..... | 19 |
| 6.2.1 | Determination of Fair Market Value of the Land..... | 19 |
| 6.2.2 | Determination of Fair Market Rent..... | 20 |
| 6.2.3. | True-Up Rent Payment..... | 20 |
| 6.2.4 | No City Council Approval..... | 21 |
| 6.3 | Place of Payment..... | 21 |
| 6.4 | Late Payment Fee..... | 21 |
| 6.5 | Net Lease..... | 21 |
| Section 7. | Provisions Incorporated by Exhibits..... | 21 |
| 7.1 | Exhibit C: Insurance and Indemnity Provisions..... | 21 |
| 7.1.1 | Commercial General Liability Insurance..... | 22 |
| 7.1.2 | Commercial Automobile Liability Insurance..... | 22 |
| 7.1.3 | Workers' Compensation and Employers Liability Insurance..... | 22 |
| 7.1.4 | Commercial Property Insurance..... | 22 |
| 7.1.5 | Builders' Risk Insurance..... | 22 |
| 7.2 | Exhibit D: Security Deposit Provisions..... | 22 |
| 7.3 | Exhibit E: Environmental Provisions..... | 22 |
| 7.4 | Exhibit F: General Conditions..... | 22 |
| 7.5 | Exhibit G: Mortgagee Provisions..... | 23 |
| Section 8. | Termination of Agreement..... | 23 |
| 8.1 | Termination by City: 15-Day Cure Period..... | 23 |
| 8.2 | Termination by City: 60-Day Cure Period..... | 23 |
| 8.3 | City's Non-Waiver..... | 24 |
| 8.4 | Termination by Lessee: 30-Day Cure Period..... | 24 |
| 8.5 | Other Termination by Lessee..... | 25 |
| Section 9. | Approvals, Consents, and Notices..... | 25 |
| Section 10. | Savings..... | 26 |
| Section 11. | Approval of Agreement..... | 26 |
| Exhibit A | Airport Property Map..... | 28 |
| Exhibit B | Premises..... | 29 |
| Exhibit C | Insurance and Indemnity Provisions..... | 42 |
| Exhibit D | Security Deposit Provisions..... | 48 |
| Exhibit E | Environmental Provisions..... | 52 |
| Exhibit F | General Conditions..... | 57 |
| Exhibit G | Mortgagee Provisions..... | 74 |
| Exhibit H | PHASE 1 PLANS..... | 83 |

all necessary due diligence and has independently determined that, except for City's full performance of each City Delivery Obligation (as hereinafter defined), the Premises is suitable for the use permitted under this Agreement. Notwithstanding anything to the contrary contained in this Agreement, except for City's full performance of each City Delivery Obligation, Lessee acknowledges that it has fully inspected the Premises in its present condition and it is understood and agreed that the Premises is accepted AS IS, WHERE IS, AND WITH ALL FAULTS, WITHOUT ANY REPRESENTATION OR WARRANTY FROM CITY. LESSEE ACKNOWLEDGES THAT CITY HAS MADE NO EXPRESSED OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE CONDITION OF THE PREMISES, INCLUDING WITHOUT LIMITATION ANY REPRESENTATION OR WARRANTY REGARDING COMPLIANCE WITH ENVIRONMENTAL LAWS OR THE SUITABILITY FOR THE USE ANTICIPATED IN THIS AGREEMENT. Notwithstanding the foregoing, City represents and warrants to Lessee that (a) no person or entity has any possessory right to the Premises and no person or entity has any right or claim to occupy, license, lease, sublease, use, manage, use or control the Premises or any portion thereof other than Lessee in accordance with the terms of this Agreement, and (b) there are no unrecorded easements, burdens, restrictions, covenants or other encumbrances affecting the Premises that have not been disclosed in writing to Lessee.

2.4 Right to Additional Sixty-Nine (69) Acres. City grants to Lessee the right (each, an "**Expansion Option**"), exercisable at any time and from time-to-time until the fifteenth (15th) anniversary of the completion of the Project Improvements (as hereinafter defined), to lease, in increments of not less than ten (10) acres, up to an additional appurtenant sixty-nine and eight-hundred and sixty-three ten-thousandths (69.0863) acres (to constitute, along with the initial 60.3783 acres, up to approximately one hundred-thirty (130) acres (the "**130 Acres**")), upon the same terms and conditions as the Premises. The entire 130 Acres, and the location of the additional 69.0863 acres (the "**Expansion Acres**") is each shown and described on **Exhibit B**, attached hereto. Lessee shall provide written notice to City of Lessee's election to exercise an Expansion Option (each such written notice, an "**Expansion Notice**"). An Expansion Notice shall include a survey of the portion of the Expansion Acres (each such portion, an "**Expansion Premises**") that Lessee desires to lease pursuant to this Agreement. The survey referenced in the immediately preceding sentence shall be prepared by Lessee at its expense and shall include a metes-and-bounds of the Premises aggregated with the applicable Expansion Premises. Upon City's receipt of an Expansion Notice, this Agreement shall automatically be deemed modified so that the Premises includes the applicable Expansion Premises. At Lessee's written request, City shall execute, acknowledge and consent to the recording of such documents as are reasonably requested by Lessee to memorialize any modification of this Agreement to include the Expansion Premises; provided the failure to enter into any such documents shall not affect the inclusion of the Expansion Premises in the Premises as hereinabove described.

2.5 Competing Uses and Activities. During the initial twenty (20) years of the Term, City will not: (a) transfer, lease, license or otherwise grant the right to occupy any portion of the Airport (which, for the avoidance of doubt, means the entire property shown on **Exhibit A**) to any person or entity seeking to construct motion picture facilities, television and media production facilities, sound stages, production offices, or set construction buildings, or (b) permit any person or entity to engage in, and will prohibit any person or entity from engaging in, including through deed restrictions, any activity that involves, makes possible, or is required for

on the part of City described in the foregoing clause, the "**Utility Connections Obligation**"). As required by Lessee, City will assist in facilitating running such utilities from the demise line to the Project Improvements at Lessee's expense. City shall be required to timely fulfill the Utility Connections Obligation on or before the date that is one-hundred eighty (180) days after Lessee's commencement of construction of the Project Improvements. If City notifies Lessee in writing of any delays in City's fulfillment of the Utility Connections Obligation that makes the fulfillment thereof on or before the City Delivery Deadline therefor unfeasible, and to the extent it is practicable for Lessee to take any action that is reasonably likely to mitigate such delay by City or actually fulfill the Utility Connections Obligation with respect to any one or more utility (such as, by way of example only, Lessee contracting directly with a gas utility to provide gas to the demise line of the 130 Acres), then Lessee may endeavor to take such mitigatory action at Lessee's out-of-pocket cost and expense and shall have the right to offset against any Annual Base Rent payable by Lessee to City the dollar-amount expended by Lessee in connection with such mitigatory action taken by Lessee.

2.7.2 City, at City's expense, shall cause the Premises to be legally subdivided in accordance with applicable law such that the Premises shall constitute a single distinct parcel and tax lot (the "**City's Legal Subdivision Obligation**"). If, in connection with the City's Legal Subdivision Obligation, City proposes a form of plat, easement agreement, declaration, restrictive covenant agreement or similar agreement, as applicable, (collectively, the "**Subdivision Title Documents**") that shall be applicable to or otherwise affect or encumber the Premises, as subdivided, such Subdivision Title Documents shall be in form and substance reasonably satisfactory to Lessee but shall in no event adversely affect the Premises, Lessee's construction of the Project Improvements, Lessee's use and enjoyment of the Premises or leasehold estate therein. City shall be required to fulfill the City's Legal Subdivision Obligation on or before the date that is forty-two (42) days following the Effective Date.

2.7.3 City, at City's expense, shall provide written assurance to Lessee of the location of any retention pond required to render the Premises and the intended Project Improvements in compliance with applicable federal, state, and local stormwater regulations and, in all cases, to allow Lessee to obtain site plan approval for the Project Improvements (the "**Retention Pond Location**"; the retention pond located on such Retention Pond Location, the "**Retention Pond**"), which Retention Pond Location shall not be situated within the 130 Acres, but rather on land furnished by City for such purpose at no cost or expense to Lessee, and City shall, upon request of Lessee, provide such proof of the same as may be required for all land use approvals, including site plan approval (the foregoing, the "**City's Retention Pond Obligation**"). Further, in connection with the City's Retention Pond Obligation, City shall be required to (i) complete construction of the Retention Pond in a permanent Retention Pond Location and complete a permanent stormwater drainage plan in connection with such Retention Pond and the 130 Acres, in each case, prior to Lessee's commencement of operations of its business at the Premises, and (ii) commit to (x) the Retention Pond Location, and (y) a stormwater drainage plan for the 130 Acres relating to the Retention Pond, in each case, in quality and character sufficient for Lessee to obtain requisite land use approvals, including site plan approval, for the Project Improvements, on or before April 1, 2024 (such date, the "**Retention Pond Outside Date**"). If, in fulfillment of the City's Retention Pond Obligation as described in the foregoing clause (ii), City furnishes a temporary (as opposed to a permanent) Retention Pond in

the Premises solely for the purpose of: (a) film studios, including film and sound stages; (b) office space; (c) back lot uses (provided the structures are not permanent structures); (d) mill and warehouse spaces; (e) post-production facility space; and (f) parking to accommodate all of the foregoing (collectively, the "**Film Studio Uses**"); subject, in the case of structures, to a height limitation of 150 feet above highest point of the usable landing area of the Airport. In addition to the foregoing, from and after Lessee's completion of the Project Improvements pursuant to **Section 3.2**, Lessee shall be permitted to use the Premises for another lawful purpose, provided, that Lessee provides City at least six (6) months' advance written notice, and further provided that Lessee's proposed additional use conforms with City's Double Eagle II Airport Master Plan then in effect. To the extent such purpose requires any permits or approvals from any governmental agencies, City shall reasonably cooperate with Lessee, at Lessee's sole cost and expense, to procure same. LESSEE ACKNOWLEDGES AND AGREES THAT (X) AS OF THE EFFECTIVE DATE, CITY HAS SOUGHT AND RECEIVED APPROVAL FROM THE FEDERAL AVIATION ADMINISTRATION (THE "**FAA**") TO ALLOW THE PREMISES TO BE USED FOR FILM STUDIO USES, AND (Y) ANY ADDITIONAL USE PROPOSED BY LESSEE AFTER THE EFFECTIVE DATE WILL REQUIRE FAA USE CHANGE APPROVAL. CITY MAKES NO REPRESENTATION, GUARANTEE, OR WARRANTY, EXPRESS OR IMPLIED, REGARDING THE OUTCOME OF FAA REVIEW OF A USE CHANGE PROPOSED BY LESSEE. Except as provided in the preceding provisions of this **Section 3.1**, Lessee shall not use the Premises for any other purpose than as specified herein without the prior written consent of City, such consent not to be unreasonably withheld. In connection with Lessee's use of the Premises, Lessee shall abide by all applicable ordinances, rules, and regulations established by any federal, state, or local government agency or by City. City hereby represents to Lessee that the Film Studio Uses comply with all City, state and federal laws and environmental requirements. Without limiting the effect of this **Section 3.1**, if any rule or regulation is promulgated by City which has the effect of reducing the fair market value of the Project Improvements, Lessee's business, and/or its leasehold interest in the 130 Acres by more than ten percent (10%), as determined by baseball arbitration, then, City shall be deemed to be in breach of this Agreement and Lessee shall be entitled to (x) pursue and avail itself of any and all rights and remedies available to Lessee under this Agreement and under applicable law, or (y) to offset against Lessee's Annual Base Rent an amount equal to such reduction in fair market value unless and until such rule or regulation is rescinded by City. Lessee shall not use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful or illegal use or purpose, or in such manner as to constitute a nuisance of any kind, whether public or private. Lessee shall take, immediately upon the discovery of any such unlawful or illegal use, all necessary actions, legal and equitable, to compel the discontinuance of such use. Lessee may, at its cost and expense, contest in good faith by appropriate legal proceeding any laws, ordinances, rules or regulations affecting the Premises, provided that Lessee complies with such laws, ordinances, rules or regulations (as the case may be) during the pendency of such contest.

3.2 Termination of Use. Lessee shall begin construction pursuant to the Film Studio Uses allowed in **Section 3.1** above within one (1) year following the Effective Date (such date, as the same may be tolled pursuant to **Section 2.7** and the further provisions of this **Section 3.2**, the "**Construction Commencement Deadline**"), and shall have four (4) years from the Construction Commencement Deadline to complete the Project Improvements on the Premises. Without limiting any other activity that would constitute the beginning of construction, an example of an activity that would constitute beginning construction shall include the commencement of

Any review or approval by Director of Lessee's plans or any inspection by City of the work or materials, shall not be deemed to constitute a waiver or release by City of any obligation or responsibility of Lessee under this Agreement, or an assumption of any risk or liability by City with respect thereto, and Lessee shall make no claim against City on account of such review, approval, or inspection. City reviews, approvals, and inspections shall not constitute assumption by City of any responsibility for the adequacy of the design or construction. Such responsibility shall remain totally with Lessee and its architects, engineers, and contractors. Lessee shall cause all Project Improvements and Major Improvements authorized under this Agreement to be constructed only by a contractor properly licensed by the State of New Mexico to construct such improvements.

4.2 Construction Plans and Specifications. No Project Improvements or Major Improvements of any kind shall be erected, placed, assembled, constructed, or permitted on the Premises until preliminary and final plans showing the type of use, location, size, and design have been approved by City, to the extent such approval is required by the further provisions of this **Section 4.2**. When applicable, such plans must be prepared and stamped by an architect and/or engineer licensed to practice in the State of New Mexico. Within a reasonable time after the execution of this Agreement, the Director shall contact Lessee to schedule a pre-project meeting to brief City staff on the proposed Project Improvements. City hereby acknowledges and agrees that the conceptual plans for the Project Improvements attached hereto as **Exhibit H** (the "**Phase 1 Plans**") have been prepared by Lessee. Any preliminary plans or other deliverables required under this **Section 4** or otherwise directly or indirectly contemplated in this Agreement to be submitted to and approved by the Director which contain features shown, detailed, or described on the Phase 1 Plans shall be deemed approved by the Director to the extent such features are materially consistent with those described on the Phase 1 Plans.

4.2.1 Preliminary Plans. In the event the Project Improvements and/or Major Improvements proposed by Lessee are of a nature such that the services of an architect and/or engineer are required, then electronic sets of preliminary plans prepared and stamped by the architect and/or engineer must be submitted to the Director. Such preliminary plans shall show the full extent of the Project Improvements and/or Major Improvements to be constructed, including but not limited to, grading, drainage, landscaping, paving, signs, structural details and utility locations, showing the relationship of each proposed Project Improvement to all adjacent Airport parcels, public roadways, or service roadways. Plans shall include complete specifications in sufficient detail for Director to determine compatibility with any and all Aviation Department Development Guidelines and their overall objectives for the aesthetic character and quality of the Project Improvements and/or Major Improvements. Architectural submittals shall include an accurate architectural perspective color rendering of the Project Improvements and/or Major Improvements, including the proposed exterior color scheme, style, materials, and wording and placement of all signs.

Within thirty (30) days following receipt thereof, Director shall review such preliminary plans, and transmit to Lessee written approval or rejection thereof, in whole or in part. In the event of rejection, within sixty (60) days after receipt of the rejection notice, Lessee shall amend such plans to comply with the items set forth in the rejection notice and submit amended plans to

4.3.2 Permits, licenses, and approvals of: (a) the City of Albuquerque Planning Department, the City of Albuquerque Fire Department, and the City of Albuquerque Building and Safety Division; and (b) the Insurance Services Office, Inc. or other similar organizations for the prevention of fire or for the correction of unhealthy or hazardous conditions; and

4.3.3 Permits, licenses and approvals for compliance with storm water management, sediment, and erosion control requirements pursuant to the regulations of the New Mexico Environment Department.

4.4 Notice to Proceed, Construction Bonds, and Insurance. Director's approval of Lessee's final plans and specifications, to the extent such approval is required as described above, shall constitute Lessee's notice to proceed with construction of the Project Improvements and/or Major Improvements, provided that, in addition to any other insurance and indemnity requirements provided hereinafter, Lessee satisfies the following requirements:

4.4.1 Lessee has delivered to Director for approval, and Director has approved, certificates of insurance for coverage evidencing Lessee's construction contractor's: (a) "all risk" type builders' risk insurance coverage and workers' compensation insurance coverage; and (b) compliance with the applicable insurance provision of **Exhibit D**; and

4.4.2 Lessee's construction contractor has duly executed a Labor and Materials Payment Bond or Letter of Credit with a surety authorized to do so in the State of New Mexico, in an amount equal to the value of its contract for construction of the Project Improvements and/or Major Improvements to insure City against loss by reason of any lien or liens that may be filed against the Premises or Airport property. Lessee shall provide City with a true copy of such executed bond, upon request by Director.

Lessee shall be solely responsible for payment, promptly when due, to all persons supplying labor and materials to its contractor(s) for all elements of construction of Project Improvements and/or Major Improvements. Lessee shall keep the Premises free and clear of all liens resulting from any construction and shall permit no lien or claim to be filed or prosecuted against City on account of any such construction or materials furnished. Lessee may contest the correctness or validity of any such lien, but Lessee shall indemnify, defend, and hold harmless City, its elected representatives, officers, agents, and employees and the Premises from any and all claims and liability (excluding consequential, special and punitive damages) for payment of any such lien and reasonable out-of-pocket attorney's fees, except to the extent the foregoing is caused by the negligence, error, omission, or willful misconduct on the part of City, its officers, employees, or agents.

4.4.3 Lessee's construction contractor has duly executed a performance bond or letter of credit securing contractor's performance of its obligations relating to the construction of the Project Improvements and/or Major Improvements, in an amount equal to the value of its construction contract, naming City as obligee thereunder. Lessee shall provide City with a true copy of such executed bond, upon request by Director. In the alternative, subject to the approval of City, Lessee may submit to Director in lieu of a Performance Bond, a cash deposit in an amount equal to the total value of Lessee's construction contract; and

4.9 Removal of Unapproved Improvements. Project Improvements made on or to the Premises without the Director's written approval as required or portions of the improvements that are not constructed substantially as indicated and specified on approved plans (subject to changes thereto that are permitted pursuant to **Section 4.2**) will be considered to be unapproved improvements constructed in violation of the provisions of this Agreement. Unapproved improvements shall be either removed by Lessee or modified in a manner acceptable to Director, in both cases at Lessee's sole expense, as promptly as possible following Lessee's receipt of written notice from the Director.

4.10 Improvements by Lessee to Remain Throughout Term. Subject to the provisions of **Section 4.13**, all of Lessee's Improvements shall remain on the Premises throughout the Term.

4.11 Ownership of Improvements. All Improvements constructed by Lessee shall be owned by Lessee until expiration or earlier termination of this Agreement; provided, however, that if the terms of any Economic Development Incentives require, title to the Improvements shall be deemed to be vested in the necessary party required per such Economic Development Incentives, but only for so long as such Economic Development Incentives are in effect and/or require such vesting of title. Lessee shall not, however, remove any of its Improvements from the Premises, nor waste, destroy, demolish, or materially alter any of the Improvements on the Premises except as permitted pursuant to this Agreement. All Improvements on the Premises at the expiration or earlier termination of this Agreement shall automatically, without compensation to Lessee (subject, however, to the immediately succeeding sentence), become property of City, free and clear of any and all rights to possession and all claims to or against them created by Lessee. If (i) (A) for any reason, **Section 5.2.2** and/or **Section 5.2.3** is invalid or unenforceable by Lessee, or (B) Lessee requests the Extension Period in accordance with **Section 5.2.2** and, at such time, one or more Extension Period Prohibitions apply, and (ii) this Agreement terminates at the end of the Term set forth in **Section 5.1** for any reason, then, as a condition to any subsequent lease, transfer, purchase or other conveyance of any interest in the Premises, City shall, or shall cause any subsequent lessee, purchaser, or other transferee of the Premises, to remit to Lessee an amount equal to the fair market value of the Improvements then-existing on the Premises, in each case, as determined by a Final EFP Appraisal (as defined below) calculated in accordance with **Section 4.11.1** below (such sum, the "**Extension Failure Payment**"). City's obligation described in the immediately preceding sentence shall survive the expiration or earlier termination of this Agreement.

4.11.1 Appraisal Process In Connection With Extension Failure Payment. Upon the occurrence of an event causing the Extension Failure Payment to be due to Lessee in accordance with **Section 4.11**, Lessee shall, at its sole cost and expense, select and retain a Qualified Appraiser (as defined in **Section 6.2.1**) to prepare and provide a written appraisal of the Improvements constructed or located on the Leased Land (as defined in **Section 6.2.1**) at the time such Extension Failure Payment is due, and such Qualified Appraiser shall satisfy any qualifications for appraisers set forth in any then-applicable FAA standards for appraisals (such qualifications for the Qualified Appraiser, the "**Extension Failure Payment Appraisal Criteria**", and such an appraisal, the "**First EFP Reappraisal**"); and Lessee shall promptly

Lessee must be installed and maintained by Lessee at Lessee's expense.

4.13 Future Alterations. Following completion of the construction of the initial phase of Project Improvements, Lessee shall be permitted to make (a) De Minimis Alterations to the Premises, without the prior written approval of Director, provided that Lessee obtains all legally required approvals and permits therefor and performs such work in a good and workmanlike manner and in compliance with laws, (b) Minor Improvements to the Premises, subject to receipt of the prior written approval of City, such approval not to be unreasonably conditioned, withheld or delayed (and, for the avoidance of doubt, not requiring approval from Director or being subject to the approval procedures applicable to Project Improvements), and (c) Major Improvements to the Premises, subject to receipt of prior written approval from City and Director in the same manner as applicable to the Project Improvements. "**De Minimis Alterations**" means, individually or collectively, any changes, alterations, additions, or improvements that do not materially adversely affect the structural integrity of the Project Improvements and/or Improvements. "**Major Improvements**" means, individually or collectively, vertical structures of a height of at least 12 feet requiring substantial details of construction and mechanical adjustment and the construction of which requires significant arrangements for the connections of utilities thereto. "**Minor Improvements**" means, individually or collectively, improvements and alterations that are neither De Minimis Alterations nor Major Improvements. Notwithstanding anything to the contrary contained herein, Lessee may, without City's approval, demolish any Improvements due to the obsolescence of such Improvements. Any improvements, including, without limitation, the Project Improvements, Major Improvements and De Minimis Improvements, if any, that exist from time to time on the Premises are referred to herein as the "**Improvements**".

4.14 Intentionally Omitted.

Section 5. Term; Holding Over.

5.1 Initial Term. The term of this Agreement shall be for fifty (50) years (the "**Term**"), commencing on the Effective Date, unless earlier terminated pursuant to any provisions of this Agreement.

5.2 Extension of the Term.

5.2.1 For purposes of this **Section 5.2**:

- (i) the term "**Extension Obligations**" means the obligations imposed on the City pursuant to Section 5.2.2 below;
- (ii) the term "**Extension Period Prohibition**" means any law, rule or regulation (other than a law, rule or regulation promulgated by City), or Grant Assurance (as defined below), that prohibits, restricts or limits the ability of City from satisfying any or all of its Extension Obligations;

but the Government Approval is not obtained, then, if requested in writing by Lessee, City shall act in good faith and expeditiously to fulfill, to the greatest extent possible without violation such Extension Period Prohibition(s), all of the City's Extension Obligations, including, but not limited to, negotiating in good faith with Lessee.

In furtherance and not in limitation of clause (ii) of this **Section 5.2.3**, if one or more Extension Period Prohibitions apply to one or more economic provisions of this Agreement, City shall negotiate in good faith with Lessee changes to this Agreement (including **Section 5.2.2**) that avoid violating such Extension Period Prohibition(s) but preserve, to the greatest extent possible, the overall economics of this Agreement (including **Section 5.2.2**).

5.2.4 If, at any time on or after the Effective Date, Lessee determines, in its sole discretion, that the entirety of or any provision in this **Section 5.2** requires Government Approval (including, without limitation, effectuating the Extension Period), then: (i) upon the written request of Lessee (which Lessee may deliver to City at any time and from time to time, including on the Effective Date), City shall, at its sole cost and expense, promptly, diligently, and continuously pursue such Government Approval; and (ii) Lessee shall not be required to agree to any amendment to this Agreement (including, without limitation, the Annual Base Rent provision of **Section 5.2**), or to otherwise pay or incur any amount, to obtain such Government Approval. In connection with clause (i) of this **Section 5.2.4**, City shall keep Lessee reasonably informed of City's efforts to obtain such Government Approval, including promptly providing to Lessee any correspondence sent or received by City in connection with such efforts. City makes no representation, warranty or guaranty that it will receive any Government Approval, and City shall not be liable to Lessee due to any non-occurrence of any Government Approval, provided that City has satisfied its obligations under this **Section 5.2**.

5.2.5 If (i) (A) for any reason, **Section 5.2.2** and/or **Section 5.2.3** is invalid or unenforceable by Lessee, or (B) Lessee requests the Extension Period in accordance with **Section 5.2.2** and, at such time, one or more Extension Period Prohibitions apply, and (ii) this Agreement terminates at the end of the Term set forth in **Section 5.1** for any reason, then, in addition to any other rights Lessee may have at law or in equity (any or all of which City acknowledges and agrees that Lessee shall be entitled to pursue), Lessee shall have the right, by written notice to City, to elect the remedy set forth in **Section 4.11**.

5.3 Holding Over by Lessee. Holding over by Lessee after the expiration of the Term without the exercise of Lessee's right to extend pursuant to **Section 5.2.2** above or otherwise at the expiration of any Extension Period, shall not operate to extend or renew this Agreement (unless the Renewed Lease is entered into). Any such holding over without the consent of City shall be construed as a month-to-month tenancy on the same terms and conditions of this Agreement then in effect, except only as to: (a) the Term of this Agreement; and (b) the monthly rent, which during such tenancy shall be equal to one hundred ten percent (110%) of the monthly rent paid by Lessee during the last month of the Term of this Agreement (without any application of the 2% Per Annum Escalation).

either Lessee notifies City in writing that Lessee accepts the results of the First Reappraisal, or Lessee fails to deliver to City a written acceptance or rejection of the First Reappraisal, then the First Reappraisal shall constitute the Final Reappraisal (as hereinafter defined) for purposes of **Section 6.2.2** below. If Lessee delivers a written notice to City within thirty (30) days following Lessee's receipt of the First Reappraisal via the First Reappraisal Notice rejecting the First Reappraisal, then Lessee shall, at its sole cost and expense, select and retain a Qualified Appraiser to prepare and provide a written appraisal of the Leased Land using the Appraisal Criteria (the "**Second Reappraisal**").

If the First Reappraisal and the Second Reappraisal are within ten percent (10%) of each other (i.e., the higher of the First Reappraisal and the Second Reappraisal is no more than 1.1 times the lower of the First Reappraisal and the Second Reappraisal), then the Final Reappraisal for purposes of **Section 6.2.2** below shall equal (i) the sum of the First Reappraisal and the Second Reappraisal, divided by (ii) two (2). If the First Reappraisal and the Second Reappraisal are not within ten percent (10%) of each other, then: (A) City and Lessee shall promptly instruct the two appraisers to, within thirty (30) days following the date that Lessee delivers the Second Reappraisal to City, select a third appraiser (the "**Third Appraiser**"); (B) City and Lessee shall promptly deliver to the Third Appraiser a copy of the First Reappraisal and the Second Reappraisal; (C) the Third Appraiser shall be instructed to choose whichever of the First Reappraisal or the Second Reappraisal (and no other valuation) the Third Appraiser determines to be closer to the fair market value of the Leased Land as determined by the Third Appraiser using the Appraisal Criteria; (D) the appraisal chosen by the Third Appraiser pursuant to clause (C) shall constitute the "**Final Reappraisal**" for purposes of **Section 6.2.2** below; and (E) City and Lessee shall each bear fifty percent (50%) of the fees and expenses of the Third Appraiser.

If the two appraisers who prepared the First Reappraisal and the Second Reappraisal cannot agree on the Third Appraiser within the 30-day period noted above, then City and Lessee shall promptly request AAA (or, if AAA no longer exists, its successor or another nationally recognized arbitration organization) to select the Third Appraiser, and City and Lessee shall each bear fifty percent (50%) of any fees or other charges of AAA (or such other arbitration organization).

For purposes of this **Section 6.2.1**, a "**Qualified Appraiser**" means an appraiser licensed in the State of New Mexico and having at least ten (10) years' experience in valuing land similar to the land comprising the Premises.

6.2.2 Determination of Fair Market Rent. Upon the determination of the Final Reappraisal pursuant to **Section 6.2.1** above, the fair market rent for the applicable Extension Period shall be established as, and deemed to be, an amount equal to five percent (5%) of the value of the Leased Land based upon the Appraisal Criteria pursuant to such Final Reappraisal (the "**Fair Market Rent**").

6.2.3. True-Up Rent Payment. If, as of the Rent Reset Date, the Fair Market Rent has not yet been determined pursuant to **Sections 6.2.1** and **6.2.2** above, then: (a) until the Fair Market Rent has been so determined, the Annual Base Rent due under the Agreement shall equal the Annual Base Rent that was payable on the Premises immediately prior to the Rent

7.1.1 Commercial General Liability Insurance. Lessee shall have liability limits in amounts not less than **TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00)**.

TWO MILLION DOLLARS (\$2,000,000.00) Per Occurrence;
TWO MILLION DOLLARS (\$2,000,000.00) Policy Aggregate;
ONE MILLION DOLLARS (\$1,000,000.00) Product Liability/Completed Operation;
ONE MILLION DOLLARS (\$1,000,000.00) Personal and Advertising Injury; and
FIVE THOUSAND DOLLARS (\$5,000.00) Medical Payments.

The Commercial General Liability ("CGL") insurance policy must include coverage for all operations performed for City by the vendor/contractor, and the contractual liability coverage shall specifically insure the hold harmless provisions of City's contract with the vendor/contractor. City shall also be listed as an "additional insured" by endorsement onto the CGL policy. Proof of this additional insured relationship shall be evidenced on the Certificate of Insurance ("COI") and on the insurance endorsement.

7.1.2 Commercial Automobile Liability Insurance. Lessee shall have liability limits in amounts not less than **ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00)** should Lessee, its officers, agents, or employees access the Premises using Lessee-owned automobiles.

7.1.3 Workers' Compensation and Employers Liability Insurance. The provisions of this paragraph shall be carried and maintained as required by New Mexico Law.

7.1.4 Commercial Property Insurance. Commercial property insurance shall be purchased and maintained in an amount equal to the replacement cost of the Improvements and all personal property situated on the Lessee's Premises.

7.1.5 Builders' Risk Insurance. During any period of construction or reconstruction that Lessee contracts Lessee shall carry, or shall require its contractors to carry, Builders' Risk Insurance in an amount sufficient to insure the value of the work.

7.2 Exhibit D: Security Deposit Provisions. Per the terms of the Letter of Intent between the Lessee and City, effective June 16, 2023, Lessee has deposited **TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00)** in a form that conforms to the requirements provided in **Exhibit D**, attached hereto and incorporated herein, with City for consideration for keeping the Premises off of the market. In accordance with the terms of the Letter of Intent, this amount will be credited towards the security deposit for this Agreement upon commencement of this Agreement.

7.3 Exhibit E: Environmental Provisions.

7.4 Exhibit F: General Conditions.

however, that if prior to Lessee's receipt of the Notice of Termination Lessee has commenced corrective action, then this Agreement shall remain in full force and effect and the Notice of Termination shall be null and void.

The rest of this **Section 8** notwithstanding, if Lessee fails to comply with any provision of this Agreement for twenty-four (24) hours following a Notice of Non-Compliance, and such non-compliance is or is reasonably likely to be the cause, in whole or in part, of actual or imminent harm to human health or the environment, risks to safety or security of aeronautical operations at the Airport, or any other emergency condition ("**Emergency Non-Compliance**"), City may but is not obligated to immediately enter onto the Premises and resolve such Emergency Non-Compliance to its reasonable satisfaction. In such cases, provided that City has identified the Emergency Non-Compliance in the corresponding Notice of Non-Compliance, Lessee shall bear City's reasonable costs in resolving the Emergency Non-Compliance, plus a 10% administrative fee.

8.3 City's Non-Waiver. Subject to the provisions of Exhibit G, City's performance of all or any part of this Agreement for or during any period or periods following a default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any rights on the part of City to terminate this Agreement for failure by Lessee to perform, keep, or observe any of the terms, covenants, or conditions herein contained and shall not be construed to be or act as a waiver by City of any subsequent default of any of the terms, covenants, and conditions herein contained to be performed, kept and observed by Lessee.

8.4 Termination by Lessee: 30-Day Cure Period. If City fails to comply with any covenant or provision herein required for a period of thirty (30) days following receipt from Lessee of written Notice of Non-Compliance, Lessee shall be entitled to terminate this Agreement by sending City a written Notice of Termination. Termination of this Agreement shall take effect immediately upon City's receipt of the Notice of Termination unless stated otherwise in the Notice of Termination, provided, however, that if prior to City's receipt of the Notice of Termination, City has fully complied with all covenants and provisions identified in the Notice of Non-Compliance, then this Agreement shall remain in full force and effect and the Notice of Termination shall be null and void. Upon any such default by City, which is not cured in a timely manner, whether or not Lessee terminates this Agreement, Lessee shall have all remedies available to it at law or in equity or pursuant to any applicable statute.

For events of non-compliance, which cannot reasonably be cured within a period of thirty (30) days following receipt from Lessee of written Notice of Non-Compliance, City shall commence corrective action within said thirty (30) day period, and shall continue appropriate curative action until such default has been fully cured. In the event City fails to meet its obligation as provided for herein, Lessee shall be entitled to terminate this Agreement by sending City a written Notice of Termination. Termination of this Agreement shall take effect immediately upon City's receipt of the Notice of Termination unless stated otherwise in the Notice of Termination, provided, however, that if prior to City's receipt of the Notice of Termination City has commenced corrective action, then this Agreement shall remain in full force and effect and the Notice of Termination shall be null and void.

Lessee: Mesa Media Holdings LLC
Lessee Official: Scott Resnick
Title: Authorized Signatory
Certified Mail and Personal Delivery: c/o SR Capital
375 Park Avenue
Suite 1504
New York, NY 10152

Telephone: (917) 565-3102
Email: SResnick@srcapitalnyc.com

with a copy to: Galen Walker
5929 Canyon Ridge Pl NE
Albuquerque, NM 87111
Attention: Galen Walker
Email: gwalker@gama-ent.com

and to: Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004
Attention: Michael J. Werner, Esq.
Email: Michael.Werner@friedfrank.com

If notice, consent, or approval is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.

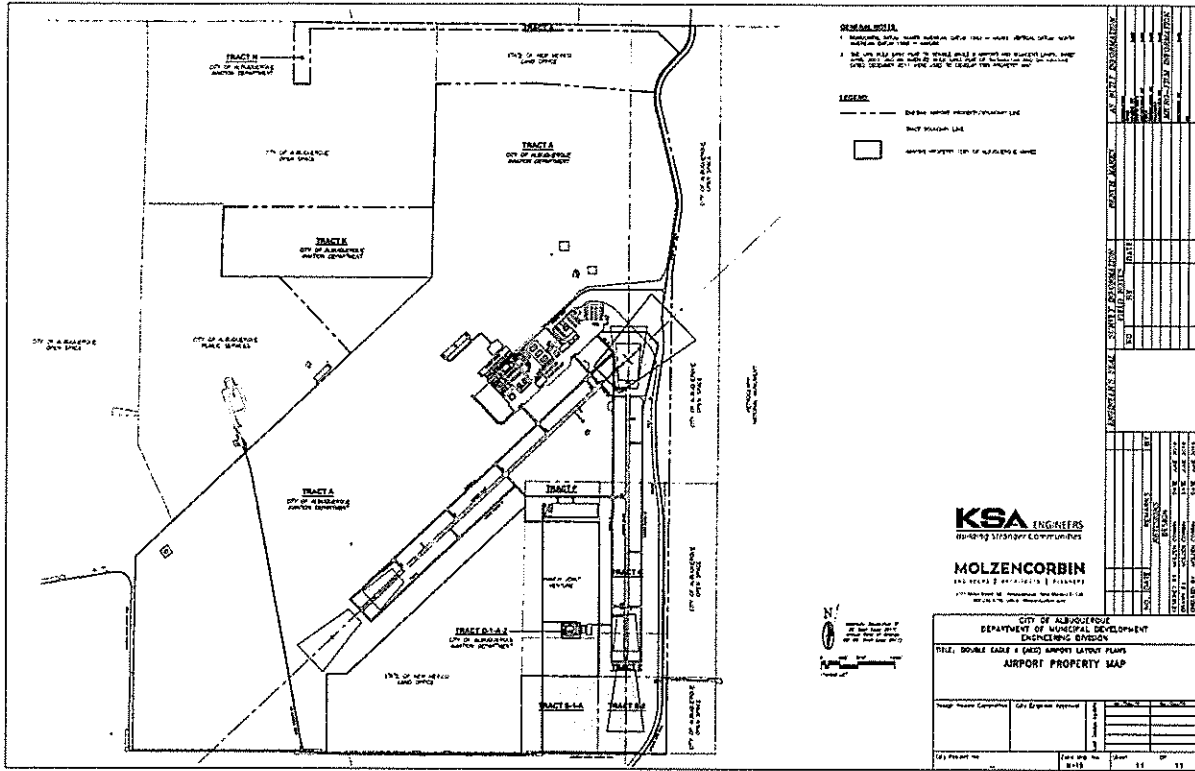
The effective date of such notice, consent, or approval shall be the date of the receipt as shown by the U.S. Postal Service Return Receipt, or the date personal delivery is certified, or one business day after depositing the same with a reputable overnight courier, or the date of electronic verification of the facsimile or email transmission, unless provided otherwise in this Agreement.

Section 10. Savings. The Parties acknowledge they have thoroughly read this Agreement, including all exhibits hereto, and have sought and received whatever competent advice and counsel that was necessary for them to form a full and complete understanding of all rights and obligations herein. The Parties further acknowledge that this Agreement is the result of extensive negotiations between them and that this Agreement shall not be construed against either Party by reason of that Party's preparation of all or part of this Agreement.

Section 11. Approval of Agreement. This Agreement shall not become effective or binding until signed by the Chief Administrative Officer of the City of Albuquerque and by Lessee.

[SIGNATURE PAGE FOLLOWS]

Exhibit A Airport Property Map



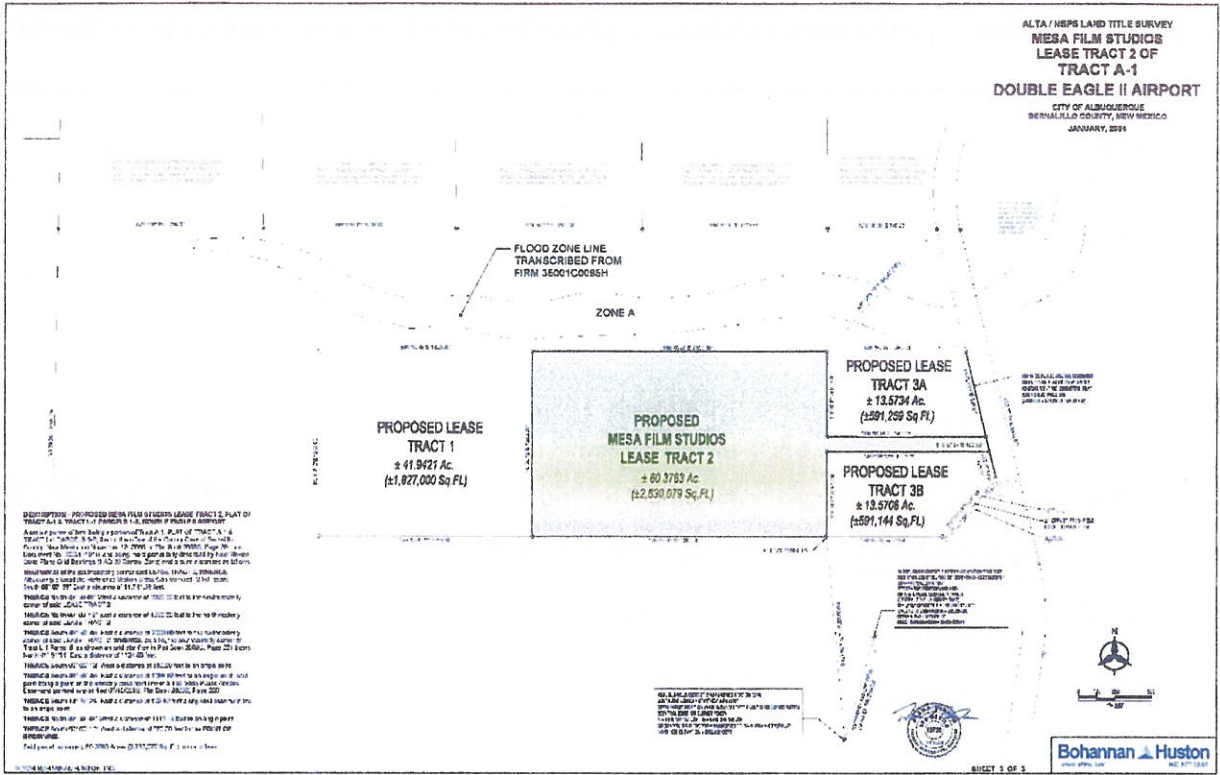
LOCATION MAP

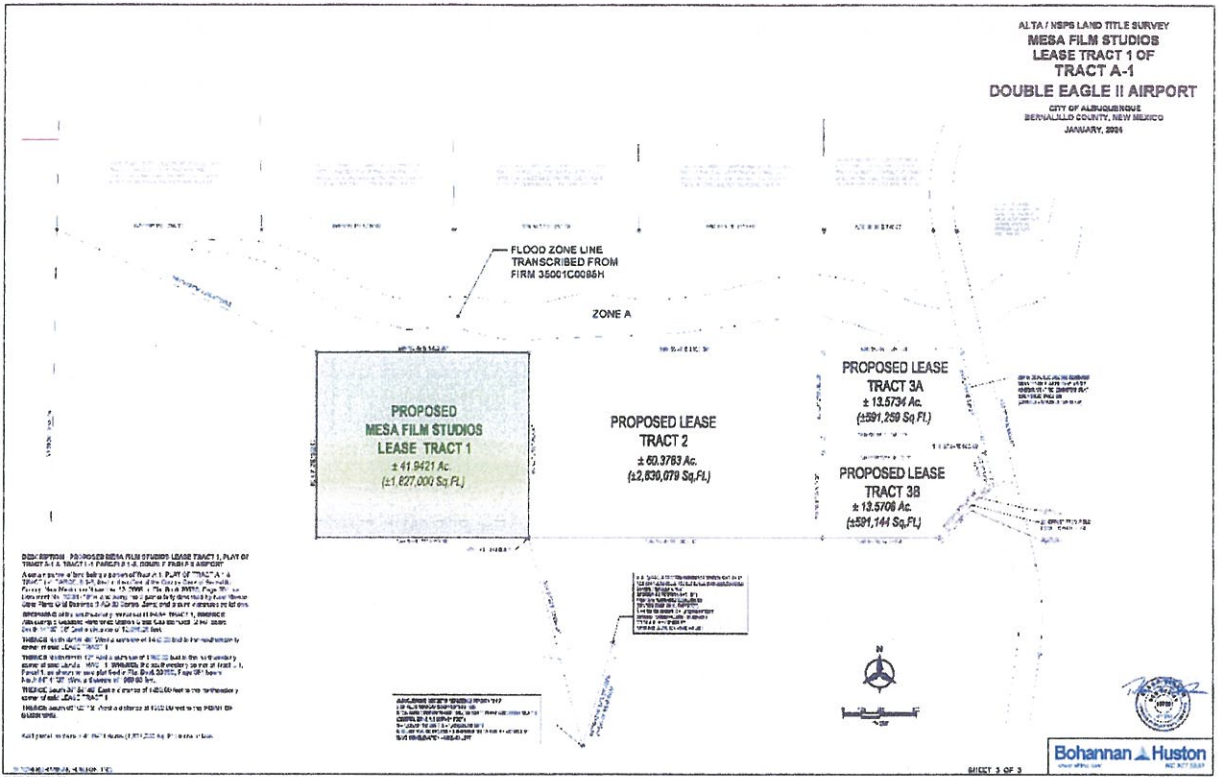
NOTES

1. THIS SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
2. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
3. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
4. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
5. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
6. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
7. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
8. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
9. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
10. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
11. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
12. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
13. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
14. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
15. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
16. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
17. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
18. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
19. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.
20. THE SURVEY WAS MADE BY THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE SURVEYOR HAS NOT BEEN LICENSED BY THE STATE OF NEW MEXICO.

ALTA/MPS LAND TITLE SURVEY
MESA FILM STUDIOS
LEASE TRACT 2 OF
TRACT A-1
DOUBLE EAGLE II AIRPORT
 CITY OF ALBUQUERQUE,
 BERNALILLO COUNTY, NEW MEXICO
 JANUARY, 2014

BOHANNAN & HUSTON
 ATTORNEYS AT LAW





southeasterly corner of said LEASE TRACT 3B;

THENCE North 89° 59'48" West a distance of 789.45 feet to the **POINT OF BEGINNING**.

Said parcel contains ± 13.5708 Acres (591,144 Sq. Ft.) more or less

[See attached survey]

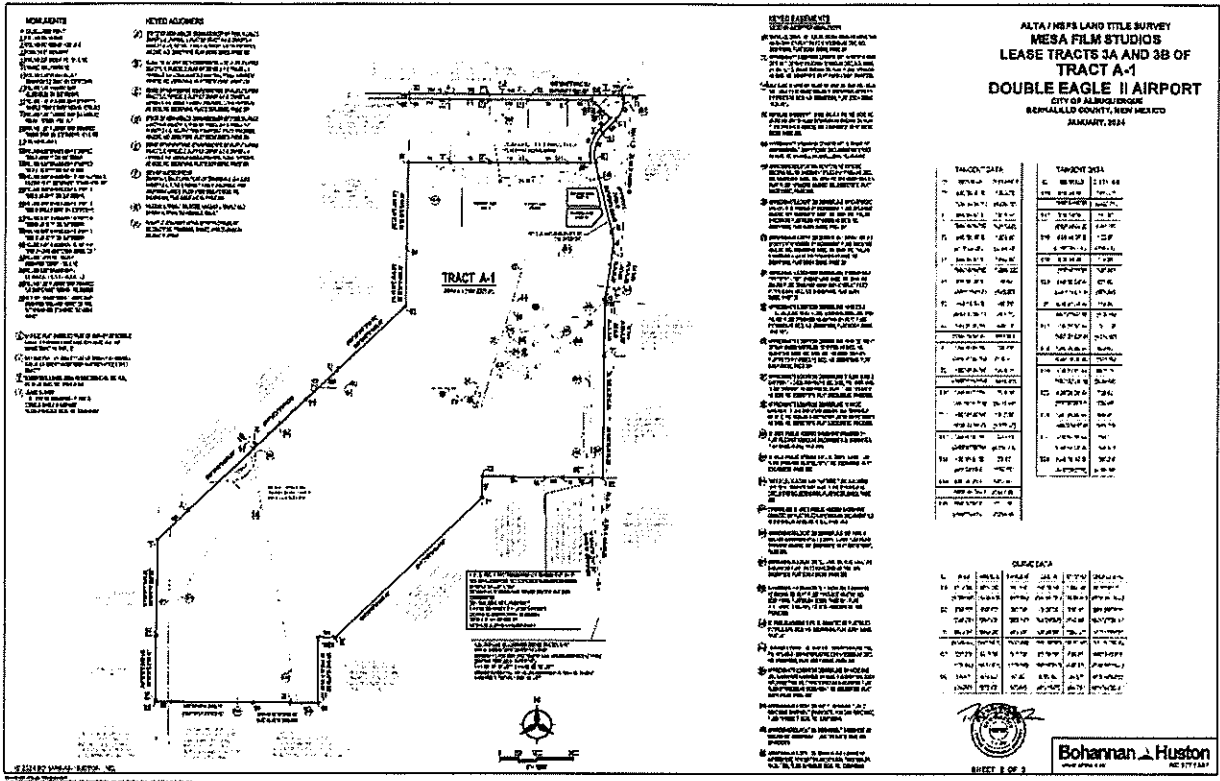


Exhibit C Insurance and Indemnity Provisions

1. Insurance

1.1 General Requirements. For the term of this Agreement Lessee shall, at its sole cost and expense, procure and maintain insurance in conformance with the requirements set forth in this Section. Lessee will use insurance companies authorized to do business in the State of New Mexico and with a minimum A.M. Best rating of A-VII or its equivalent, or as approved by City, covering all operations under this Agreement, whether performed by it or its agents. Various types of required insurance may be written in one or more policies.

When requested by City, Lessee shall allow City to review in the presence of Lessee's insurance representatives any or all policies of insurance for the insurance coverage required herein. Policies of insurance shall be procured for all insurance required and coverage limits of such policies of insurance shall not be reduced or replaced in part or in whole by self-insurance, including self-insurance retention amounts, except as provided below.

Lessee shall not violate the terms or prohibitions of insurance policies required to be furnished by Lessee. Lessee shall promptly notify City of any claim or loss at the Airport or on the Premises exceeding the amount of the deductible under any liability insurance policies, and certify that proper notice has been given to the appropriate insurance carrier.

1.2 Additional Insured. With respect to all coverage required other than workers' compensation, City shall be a certificate holder and endorsed as an additional insured or loss payee. All coverage afforded shall be primary and non-contributory with respect to operations provided. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not make City a partner or joint venturer with Lessee in its operations on the Airport.

Coverage for an additional insured shall **not** be limited to its vicarious liability, and coverage shall extend to damage, destruction, and injury to City-owned or City-leased property and City personnel, and caused by or resulting from work, acts, operations, or omissions of Lessee, its officers, agents, employees, and independent contractors on the Airport, notwithstanding City's status as an additional insured.

1.3 Insurance Certificates and Endorsements. On or before the Effective Date and on the renewal of all coverage, Lessee shall furnish to the Director of Aviation, Albuquerque International Sunport, P.O. Box 9948, Albuquerque, New Mexico 87119-1048, all necessary certificates and additional insured endorsements in form satisfactory to City showing that it has complied with this Section. All insurance certificates shall provide that thirty (30) days written notice, seven (7) days in the case of War & Allied Perils, ten (10) days for non-payment of premium, be given to the Director of Aviation before a policy is canceled, materially changed, or not renewed. Acceptance of the Certificates of Insurance and endorsements by City shall not relieve Lessee of any of the insurance requirements set forth herein, nor decrease the liability of

- (c) include a severability of interest provision applicable to all insureds and additional insureds separately, except with respect to the insurer's limits of liability.

1.4.5 Workers' Compensation and Employers Liability Insurance. Lessee shall comply with the provisions of the New Mexico Workers' Compensation Act, the Subsequent Injury Act, and the New Mexico Occupational Disease Disablement Law. Lessee shall procure and maintain during the term of this Agreement complete Workers' and Employer's Liability Insurance in accordance with New Mexico laws and regulations. Coverage shall include coverage permitted under NMSA 1978 § 52-1-10 for safety devices. The insurance shall also include a waiver of subrogation against City and its employees and agents.

With respect to Workers' Compensation Insurance, if Lessee elects to be self-insured, Lessee shall comply with the applicable requirements of law. If any portion of the work is to be sublet, Lessee shall require the sublessees similarly to provide such coverage (or qualify as a self-insured) for all the latter's employees to be engaged in such work. Lessee hereby covenants and agrees that City, its officers, or employees will not be liable or responsible for any claims or actions occasioned by Lessee's failure to comply with the provisions of this subparagraph and that the indemnification provision of this Agreement shall apply to this paragraph. It is expressly agreed that the employees of Lessee are not City employees for any purpose.

1.4.6 Commercial Property Insurance in an amount equal to the replacement cost of Lessee's Improvements and all personal property situated on the Lessee's Premises.

1.4.7 Builders Risk Insurance during any period of construction or reconstruction for which Lessee contracts. Lessee shall carry, or shall require its contractor or contractors to carry, Builders Risk Insurance in an amount sufficient to insure the value of the work.

1.5 Minimum Insurance. The insurance requirements of this Agreement shall be the greater of: (a) the minimum coverage limits specified in this Agreement; or (b) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required here. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Lessee under this Agreement.

1.6. Self-Insurance Retention. In the event any of the insurance policies required in this Section (except as allowed by New Mexico law regarding Workers' Compensation) contain a self-insurance retention provision, for each such amount, Lessee shall post a bond or an irrevocable letter of credit made exclusively for the benefit of City and held by a bank authorized to do business in New Mexico which is acceptable to City, or provide City with evidence that its net worth (as shown by independently audited financial statements) is in excess of the amount of the total self-insurance retentions.

the negligence, error, omission, or willful misconduct of City, its officers, employees, or agents and shall in no event include special, punitive, consequential or similar damages.

2.4 Scope of Indemnification. In addition, with respect to any claims, actions, suits, damages or judgments caused by or resulting from the negligent acts, omissions or operations of Lessee, its agents, servants, or employees, Lessee shall: (a) investigate or cause the investigation of accidents involving such injuries; (b) negotiate or cause to be negotiated all claims made as may be deemed expedient by Lessee, and defend, or cause to be defended, suits for damages, even if groundless, false or fraudulent, brought on account of such injuries or damages, in the name and on behalf of City; (c) pay and satisfy judgments finally establishing the liability of City in all actions defended by Lessee pursuant to this Section; (d) resolve claims by performing remediation activities, to the extent authorized and required by applicable Environmental Laws, utilizing commercial/industrial cleanup standards and other engineered barriers and institutional controls; and (e) pay or cause to be paid: (i) all costs taxed against City in any legal proceeding defended or caused to be defended by Lessee as aforesaid; (ii) any interest, if any, accruing up to the date of payment by Lessee; (iii) all premiums charged upon appeal bonds required in such proceedings, if any; and (iv) all reasonable, actual out-of-pocket expenses incurred by City for investigation, negotiation, and defense, including but not limited to reasonable expert witnesses' and attorneys' fees incurred, should Lessee fail to provide the defense and indemnification required herein for more than sixty (60) days after City sends to Lessee written notice of such failure.

By way of further clarification, these requirements do not apply (a) to the extent the claims, actions, suits, damages, or judgments are caused by the negligence, error, omission, or willful misconduct on the part of City, its officers, employees, or agents, or (b) consequential, special or punitive damages.

2.5 Miscellaneous. City shall, promptly upon receipt, give Lessee every demand, notice, summons, or other process received in any claim or legal proceeding contemplated herein. In the event City shall fail to give Lessee notice of any such demand, notice, summons, or other process received by City and such failure to give notice shall result in prejudice to Lessee in the defense of any action or legal proceeding contemplated herein, such failure or delay shall release Lessee of its liability as set forth in this paragraph insofar as only the particular claim or legal proceeding is concerned, and only to the extent of such prejudice. Nothing herein shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim or legal liability against City. This Section shall not be construed as a waiver of City's immunity. The provisions of this Section shall not be construed to prohibit Lessee from seeking contribution or indemnity from any third party which may have caused or contributed to the event for which Lessee indemnified City.

3. Non-liability of City. City shall not in any event be liable for any acts or omissions of Lessee, or its agents, servants, employees, or independent contractors, or for any condition resulting from the operations or activities of Lessee, Lessee's agents, servants, employees, or independent contractors working for, or on behalf of, Lessee, except to the extent caused by the negligence, error, omission, or willful misconduct on the part of City, its officers, employees or agents.

Exhibit D Security Deposit Provisions

Purpose of Security Deposit. The irrevocable letter of credit ("**LOC**") or security bond ("**Bond**") will be held by City as security ("**Security Deposit**") for the full and faithful performance of all the terms, covenants and conditions to be performed by Lessee under this Agreement.

Form of Security Deposit. Such Security Deposit shall be a Bond or LOC in a form substantially the same as attached hereto and incorporated herein. The Bond shall be made payable on demand to the City of Albuquerque. The LOC shall be made to the order of the City of Albuquerque.

The LOC or Bond shall expressly permit partial payment and shall be issued exclusively to City of Albuquerque. The LOC or Bond shall allow presentment of claims by City by mail and shall not restrict such presentment to in-person appearances at a particular place. If a Bond is provided, such Bond shall be issued with City of Albuquerque as obligee by a surety licensed to conduct business in the State of New Mexico that has sufficient bonding capacity for the amount of the Bond and is named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in the Federal Register by the U.S. Treasury Department or its successor agency.

Document(s) evidencing the Security Deposit shall provide that it shall remain in full force and effect for a period of sixty (60) days following termination or cancellation of this Agreement, and shall allow City to make a partial draw on such Security Deposit. In the event of a partial draw, Lessee shall immediately reinstate the Security Deposit to the full amount required in this Section. Documents establishing the continuation or replacement of a LOC or Bond shall be received by the Aviation Department no less than thirty (30) days prior to the expiration of the existing LOC or Bond. If payments required by Lessee under the terms of this Agreement are not made in accordance with the payment provisions set forth in **Section 6** above, City shall have the right to forfeit, take, and use as much of such Security Deposit as may be necessary to make such payment in full and to exercise any other legal remedies to which it may be entitled. The LOC or Bond shall be released by City within sixty (60) days following expiration or termination of this Agreement, provided Lessee has fully performed.

City shall have the option of accepting cash security deposits. City shall not be required to place cash Security Deposits in interest-bearing accounts; however, should City elect to do so, City shall be entitled to all interest earned from such account as compensation for handling such account. City shall not be required to keep cash Security Deposits in separate accounts.

At any time, this Agreement requires the return of the Security Deposit, such provision shall be deemed to require the return of all deposits held by City under the terms of this Agreement, and the release of any supporting rights and documentation, including Uniform Commercial Code security interests and control agreements.

STATE OF _____)
) ss.
COUNTY OF _____)

I, _____, a Notary Public in and for the State and County aforesaid, do hereby certify that _____ of the _____ who is personally known to me, appeared before me this day and acknowledged that he/she signed, sealed and delivered the foregoing instrument as his/her free and voluntary act as _____ of the _____, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this _____ day of _____, _____.

Notary Public

Exhibit E Environmental Provisions

1. Definitions. The following words and phrases, wherever used in the Agreement and this **Exhibit E**, shall have the following meanings:

1.1 "Contamination" shall mean the presence of Hazardous Substances in the soil, soil vapor, sediment, surface water, or groundwater requiring investigation and/or remediation pursuant to applicable Environmental Laws.

1.2 "Environmental Laws" shall mean any and all federal, state, and local statutes, ordinances, regulations, rules, policies, procedures, or guidelines having the force and effect of law now or hereafter in effect during the term of this agreement, as the same may be amended from time to time, which govern Hazardous Substances or relate to the protection of human health or safety (to the extent relating to Hazardous Substances), wildlife, or the environment.

1.3 "Hazardous Substances" or "Contaminants" shall mean any and all substances, materials, wastes, pollutants, oils or governmental regulated substances or contaminants as defined or designated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws, including but not limited to asbestos and asbestos containing materials, petroleum products including crude oil or any fraction thereof, gasoline, aviation fuel, jet fuel, diesel fuel, lubricating oils and solvents, urea formaldehyde, flammable explosives, PCBs, radioactive materials or waste. Hazardous Substances shall also mean any substances regulated or defined as hazardous materials, hazardous wastes, or toxic substances under any applicable Environmental Laws.

1.4 "Remediation Equipment" means all equipment used in connection with corrective action, including but not limited to groundwater monitoring, extraction, and sparging wells, piping, and equipment.

2. Compliance with Environmental Laws. In connection with its operations or any other activity at the Airport, Lessee shall at all times comply with all applicable Environmental Laws including Federal, State and local laws, ordinances and regulations pertaining to Hazardous Substances, which are applicable to Lessee's operations at the Premises and Airport. Upon expiration or earlier termination of this Agreement, Lessee shall cause all Hazardous Substances introduced to the Premises and the Airport by Lessee or its agents or invitees to be removed from the Premises and the Airport as required by and in compliance with applicable Environmental Laws, and transported for use, storage, or disposal in accordance and in compliance with all applicable Environmental Laws.

3. Intentionally omitted.

4. Intentionally omitted.

5. Prior Written Consent. Except for Hazardous Substances (a) customarily used or stored in connection with the development, construction, operation or maintenance of film studios,

the date of full execution of this Agreement, or (b) any Hazardous Substance or Contamination migrating to the Premises from nearby or adjacent properties (including, but not limited to, the Airport), except, in each case of (a) and (b), to the extent that such Hazardous Substance(s) or Contamination are released as a result of the negligent, willful, or intentional actions or omissions of Lessee. However, the Parties recognize that there has been no environmental assessment establishing the presence or absence of any Hazardous Substance or Contamination on, under or about the Premises as of the date of full execution of this Agreement. City represents that, as of the date of full execution of this Agreement, it is not aware of the existence of any Hazardous Substance or Contamination on, under or about the Premises.

7. Notices. Lessee and City shall promptly notify the other in writing of (a) any enforcement, clean-up, removal or other governmental or regulatory action instituted, completed or threatened pursuant to any Environmental Laws related to the Premises to the extent such action is reasonably likely to materially impair the value of the Premises or result in material restrictions on the use of the Premises, and (b) any other third-party claim giving rise to either Party's indemnification obligations pursuant to this **Exhibit E**. Without limiting the foregoing, Lessee shall also provide City as promptly as possible, and in any event within ten (10) business days after Lessee first receives or sends the same, with copies of all claims, complaints, notices of violation or asserted violations arising under Environmental Law and relating in any way to the Premises or Lessee's use thereof to the extent such matters are reasonably likely to materially impair the value of the Premises or result in material restrictions on the use of the Premises.

8. Environmental Record Maintenance. To the extent required by applicable Environmental Law, Lessee shall maintain any written release notices or reports that Lessee is required to submit to any environmental agency with respect to releases of any and all Hazardous Substances or Contaminants at the Premises during the Term and shall make such notices or reports available to City promptly upon written request by City.

9. City's Right of Entry. Subject to the terms of this paragraph and generally applicable rules, regulations and safety and security standards of the Premises established from time to time by Lessee in writing, and provided only if such generally applicable rules, regulations and safety and security standards do not unreasonably restrict or prohibit the Director or other authorized representatives from entering and/or testing for Hazardous Substance Contamination of the Premises in accordance with the terms of this paragraph, during the Term, Director, or those authorized by Director, shall have the right of entry to test and determine the extent of any Hazardous Substance Contamination of the Premises in the event (a) Director reasonably believes that there exists any such Hazardous Substance Contamination that is reasonably likely to materially impair the value of the Premises or result in material restrictions on the use of the Premises, and (b) Director first requests Lessee to conduct any such test and Lessee fails to do so within one-hundred twenty (120) days after written request from Director. Entry for this purpose shall be with advance notice, at reasonable times, except in case of emergency, and shall not unreasonably interfere with Lessee's use of the Premises (and, for any portions of the Premises which are then subleased, licensed, or otherwise occupied by any third party, Director, City and its authorized officers, employees, agents, contractors, subcontractors, and other representatives shall not interfere with such subtenant's, licensee's, or other occupant's operations).

to install Remediation Equipment, or perform any corrective action that would materially impair ingress, egress, parking, business operations, or City's redevelopment of the Airport, or if a law, governmental order, or court order requires Lessee to be in possession of the Affected Areas after such thirty (30) day period, this Agreement will not be considered to be renewed. Instead, Lessee will be considered to be in possession of the Affected Areas under a month-to-month holdover tenancy until Lessee can surrender the Affected Areas to City in a condition that will not materially impair City's redevelopment or use of the Affected Areas. For each month during such holdover tenancy, Lessee shall perform and be bound by all terms, conditions, and covenants contained in this Agreement.

Agreement, Lessee shall, within at least thirty (30) days prior notice to Lessee from City requesting the removal of any and all non-permanent equipment, trade fixtures, materials, supplies, and other personal property placed on or about the Premises by Lessee ("**Personal Property**"), remove any and all Personal Property on or about the Premises, provided, however, that City shall have the right to occupy and use the Premises immediately upon the expiration of this Agreement.

3.2 Ownership of Property Not Removed. In the event Lessee fails to remove some or all Personal Property within thirty (30) days after written notice to Lessee from City requesting removal of same (the "**Removal Notice**"), City shall have the options of: (a) removing Lessee's Personal Property at Lessee's reasonable out-of-pocket expense but only in the event Lessee takes possession of such personal property immediately upon such removal; or (b) if Lessee refuses to take possession of Lessee's Personal Property within forty-five (45) calendar days following receipt of the Removal Notice, taking title to Lessee's personal property in lieu of Lessee's removal.

In the event City takes title to such personal property, City shall be entitled to all proceeds of the sale of such Lessee personal property as liquidated damages for the breach of Lessee's covenant to remove.

4. Title to Land. Fee simple title to the real property underlying the Premises is and shall remain vested in City. Nothing contained in this Agreement or any action or inaction by City shall be deemed or construed to mean that City has granted to Lessee any right, power or permission to do any act or to make any agreement that may create, give rise to, or be the foundation for any right, title, interest, lien, charge or other encumbrance upon the fee simple title of City in the land underlying the Premises, other than the leasehold estate created by this Agreement and any other encumbrances contemplated by this Agreement which may impact title to the Premises or which may be necessary or advisable in Lessee's reasonable determination in connection with the construction of the Project Improvements, any future Improvements, and/or the use of the Premises for the Film Studio Uses, which encumbrances, for the avoidance of doubt, shall be expressly allowed.

5. Compliance with Law. Lessee shall not use the Airport or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, contractors, sublessees, invitees, or licensees for any illegal purposes and shall, at all times during the term of this Agreement, comply with all applicable regulations, ordinances, and laws of any city, county, or state government or of the U.S. Government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass laws or ordinances or to make and enforce rules or regulations with respect to the uses hereunder or the Premises.

Lessee shall comply with and conform to all present and future statutes and ordinances, and regulations promulgated thereunder, of all federal, state, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Lessee or Lessee's operations and activities under this Agreement.

6. Rules, Regulations and Procedures. Lessee shall observe and obey all lawful and applicable executive instructions, administrative instructions, Airport security requirements, access control procedures, minimum standards, and other rules and regulations governing

(3) Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

(4) Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be 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 a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

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

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

(6) Incorporation of Provisions: The Contractor will include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

7.2.3 Title VI Clauses for Lease of Real Property. Lessee, 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: (a) 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; (b) 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, creed, color, national origin, sex, age, or disability will be excluded from participation in, denied the benefits of, or otherwise be subjected to

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 (2005));

- 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.).

8. Disability Laws and Accessibility Requirements. Lessee shall comply with provisions of the Americans with Disabilities Act of 1990 ("**ADA**"), and federal regulations promulgated thereunder. With respect to any Improvements, Lessee agrees to meet all the requirements of the ADA which are imposed directly on the Lessee or which would be imposed on City as a public entity. Lessee agrees to be responsible for knowing all applicable rules and requirements of the ADA and to defend, indemnify and hold harmless City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against City as a result of any acts or omissions of Lessee or its contractors or agents in violation of the ADA, all (a) except to the extent caused by the negligence, error, omission, or willful misconduct on the part of City, its officers, employees, or agents, (b) excluding consequential, special and punitive damages, and (c) in no event including losses in the nature of lost profits or diminution of value.

9. Lessee's Compliance with Environmental Laws. In connection with its operations or any other activity conducted by Lessee at the Airport, Lessee shall at all times comply with all Environmental Laws (as defined in **Exhibit E**) pertaining to Hazardous Substances (as defined in **Exhibit E**). Upon expiration or earlier termination of this Agreement, Lessee shall cause all hazardous substances introduced at the Airport by Lessee, its personnel, or its agents to be removed from the Airport and transported for use, storage, or disposal in accordance and compliance with all applicable environmental laws. Lessee shall further comply with any environmental provisions provided as an exhibit to this Agreement.

10. City's Right of Inspection/City's Right to Enter. Subject to generally applicable rules, regulations and safety and security standards of the Premises established from time to time by Lessee in writing, City, by its authorized officers, employees, agents, contractors, subcontractors, and other representatives, shall have the right, but not the obligation, upon reasonable advance notice to Lessee and at such times as may be reasonable under the circumstances and with as little interruption of Lessee's operations as possible, to enter upon the Premises (and, for any portions of the Premises which are then subleased, licensed or otherwise occupied by any third party, City and its authorized officers, employees, agents, contractors, subcontractors, and other representatives shall not interfere with such subtenant's, licensee's, or other occupant's operations), accompanied by an authorized Lessee, representative to inspect such space to determine whether Lessee is in compliance with the terms and conditions of this Agreement, including inspection for safety, fire protection, or security purposes. Lessee further agrees to make any and all corrections of violations observed by City as a result of this inspection to the extent such violations constitute violations of applicable law; however, in no event shall Lessee be required to correct any violations that precede the Effective Date.

The failure of City to inspect or monitor or give Lessee notice of a default or a notice of a hazardous or unsafe condition with respect to Lessee's operations under this Agreement shall not release Lessee from its liability to perform its obligations under this Agreement or impose any

priority as referenced in this subsection, is reserved upon and subject to certain conditions and restrictions including Lessee's limitations: (a) to cause electrical, electronic or other interference with radio, radar, microwave or other similar means of communications between the Airport and any aircraft; (b) to adversely affect or impair the ability of operators of aircraft to distinguish between regularly installed air navigation lights and visual aids and other lights serving the Airport; or (c) to cause glare in the eyes of operators of aircraft approaching or departing the Airport, or to impair visibility in the vicinity of the Airport, or to otherwise endanger the approaching, landing upon, taking off from, maneuvering about or operating of aircraft on, above and about the Airport; provided, however, that, notwithstanding any contrary provision contained above, Lessee shall be permitted to construct and maintain such improvements and to utilize all lighting, finishes and building materials as shall have been submitted to and approved by City pursuant to the terms of this Agreement.

14. Subordination to Agreements with the U.S Government. This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to City for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as amended, or in accordance with successive airport development acts.

City will make said agreements available to Lessee for review upon Lessee's request.

15. Other Subordination. This Agreement is subject to and subordinate to any and all Bond Ordinances pertaining to Airport Bonds.

16. No Exclusive Rights. Nothing herein contained shall be deemed to grant to Lessee any exclusive right or privilege within the meaning of 49 U.S.C. § 40103(e) and FAA Advisory Circular 150/5190-6 or the most recent versions thereof for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, Lessee shall have the right to exclusive possession of the Premises leased to Lessee under the provisions of this Agreement, and further provided that in no event shall the foregoing statute and circular, as may be amended, adversely affect the Premises, Lessee's construction of the Project Improvements, Lessee's use and enjoyment of the Premises or leasehold estate therein.

17. Intentionally Omitted.

18. Amendment and Waiver. This Agreement may be amended in writing as allowed by City Ordinance, except that Director shall have the authority to waive requirements and prohibitions or otherwise modify this Agreement by written supplement signed by the Parties, to address changes in circumstances which will benefit the Parties and the traveling public, provided that such modifications are nondiscriminatory, and do not extend the term of the Agreement or modify rent and fee provisions. No modification of this Agreement will be effective unless executed and delivered by Lessee. No custom or practice, or waiver of default, which may evolve between the Parties in the administration of the terms of this Agreement, may be construed to waive or lessen the right of either Party to insist upon the performance of the other Party in strict accordance with the terms of this Agreement.

independent contractors either to Lessee or to any other person.

23. No Partnership or Agency. Nothing contained in this Agreement is intended or shall be construed in any respect to create or establish any relationship other than that of lessor and Lessee, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Lessee the general representative or agent of City for any purpose whatsoever.

24. Force Majeure. Neither Party shall be liable for any failure of or delay in performance of its obligations (except for payment obligations) under this Agreement to the extent such failure or delay is due to acts of God, acts of a public enemy, fires, floods, power outages, pandemics, epidemics, quarantine restrictions, wars, civil disturbances, sabotage, terrorism, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes (whether or not the employees' demands are reasonable and/or within the Party's power to satisfy), failure of common carriers, Internet Service Providers, or other communication devices, acts of cyber criminals, terrorists or other criminals, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a Party is obtaining or must obtain approvals, authorizations, licenses, franchises or permits, inability to obtain labor, materials, power, equipment, or transportation, or other circumstances beyond its reasonable control (collectively referred to herein as "**Force Majeure Occurrences**"). Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays. Neither Party shall be liable to the other for any liability claims, damages or other loss caused by or resulting from a Force Majeure Occurrence.

25. Submission to Jurisdiction. Any legal suit, action, or proceeding arising out of this Agreement shall be instituted in the federal courts of the United States of America or the courts of the State of New Mexico, in each case located in the City of Albuquerque and County of Bernalillo, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. The Parties irrevocably and unconditionally waive any objection to venue of any suit, action, or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

26. Ethics.

26.1 Conflict of Interest. Upon execution of this Agreement, or within five (5) days following the acquisition of any interest in this Agreement during the term of this Agreement, Lessee shall disclose in writing to City whether any City Councilor, Albuquerque Airport Advisory Board member, officer or employee of City has or hereafter acquires any direct, indirect, legal, or beneficial interest in Lessee or in any contract or agreement between City and Lessee (including this Agreement), or in any franchise, concession, right, or privilege of any nature granted by City to Lessee in this Agreement or otherwise.

26.2 Fair Dealing. Lessee covenants and warrants that the only entity interested in this Agreement is named in this Agreement and that no other person or firm has any interest in this Agreement, and this Agreement is entered into by Lessee without collusion on the part of Lessee with any person or firm, without fraud and in good faith. Lessee also covenants and

to include the plural, unless the context otherwise requires.

29.4 Captions and Section Headings. The captions, section headings, and table of contents contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Agreement.

29.5 Entire Agreement. This Agreement represents the entire contract between the Parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the Parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the Parties concerning the subject matter of this contract, and all such conditions, understandings and agreements have been merged into this Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this written Agreement.

29.6 Relationship of Contract Documents. All documents attached to this Agreement or incorporated into this Agreement are complementary, and any requirement of one contract document shall be as binding as if required by all.

29.7 Exhibits, Certificates, Documents Incorporated and Attachments. Incorporation by Reference: All certificates, documents, exhibits, attachments, riders, and addenda referred to in this Agreement, including but not limited to the exhibits referred to in this Agreement, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

29.8 Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico without giving effect to any choice or conflict of law provision or rule (whether of the State of New Mexico or any other jurisdiction), and the laws, rules and regulations of the City of Albuquerque.

29.9 Successors. All covenants, stipulations and agreements in this Agreement shall extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

29.10 Governmental Rights and Powers. Nothing in this Agreement shall be construed or interpreted as limiting, relinquishing or waiving any rights of ownership enjoyed by City in the Airport property, or waiving or limiting City's control over the management, operations or maintenance of property, except as specifically provided in this Agreement, or impairing, exercising, waiving, or defining governmental rights and the police powers of City.

29.11 Cross References. References in the text of this Agreement to articles, sections or exhibits pertain to articles, sections or exhibits of this Agreement, unless otherwise specified.

29.12 Business Days. Unless otherwise stated in this Agreement, all references herein to "days" mean business days.

30. Quiet Enjoyment. Upon payment of rents and fees, and performance of the covenants and agreements by Lessee, and subject to the terms and conditions of this Agreement, and so

34.1 Subleases. Lessee shall be permitted to enter into subleases, licenses and other occupancy agreements for all or any portion of the Premises without the prior written consent of City, provided such subleases, licenses or other occupancy agreements shall be subject to the terms of this Agreement and shall not be for a term longer than the then-remaining term of this Agreement (or, if such term extends beyond the then-remaining term of this Agreement, the granting of such term is continued on extension of the term of this Agreement or the entering into of a Renewed Lease). If requested by City in writing, Lessee shall provide City with a copy of any such sublease, license or occupancy agreement, as the case may be; provided, that, Lessee may redact any information contained in such sublease, license or occupancy agreement that Lessee (in its or in any sublessee's, licensee's, or occupant's good faith judgment) determines is sensitive or confidential. City, for the benefit of any subtenant, shall recognize such subtenant as the direct tenant of City upon the termination of this Agreement pursuant to the terms hereof, provided (x) City receives a copy of such sublease, and (y) at the time of the termination of this Agreement (I) no default exists under such sublease beyond the expiration of any applicable cure period, which at such time would permit the landlord thereunder to terminate the sublease or to exercise any remedy for dispossession provided for therein, and (II) such subtenant delivers to City an instrument confirming the agreement of the subtenant to attorn to City and to recognize City as the subtenant's landlord under its sublease. City shall, within thirty (30) days following receipt of such request and delivery by Lessee of the subject sublease and any other information reasonably required by City, execute and deliver an agreement, in form and substance reasonably satisfactory to City, Lessee and such subtenant, confirming that such subtenant is entitled to such recognition as of the date of termination of this Agreement.

34.2 Assignment. The following shall be permitted without City's consent: (a) any sale, assignment, disposition or other transfer of this Agreement and the interest of Lessee in this Agreement (or any portion thereof) whether by operation of law or otherwise, in each case, to a "Qualified Buyer" (as hereinafter defined) pursuant to an instrument under which the assignee assumes all of the obligations of Lessee arising under this Agreement from and after such assignment and agrees to be subject to all of the terms and conditions of this Agreement; (b) any sale, assignment, disposition, pledge or other transfer of any direct or indirect interest in Lessee, and (c) any merger with Lessee or any entity that owns any direct or indirect interest in Lessee, reorganization of Lessee or any entity that owns any direct or indirect interest in Lessee or transfer or consolidation of any or all of the assets of Lessee or any entity that owns any direct or indirect interest in Lessee; provided, with respect to any of the foregoing transactions described in clauses (a), (b), and (c) that is effected prior to substantial completion of the Project Improvements, Lessee shall continue to be Controlled by Scott Resnick; and (d) the giving of any Mortgage and/or a Pledge and the exercise of any rights or remedies of a Recognized Mortgagee under the terms of a Mortgage and/or a Pledge or of a Mezzanine Lender under the terms of a Pledge (as each such capitalized term in the foregoing clause (d) is defined on **Exhibit G**), including, without limitation, the consummation of any foreclosure or transfer in lieu of foreclosure and the transfer of Lessee's leasehold estate and rights and obligations under this Agreement to a Recognized Mortgagee or a Mezzanine Lender or their respective designee pursuant to a foreclosure or an assignment in lieu of foreclosure. As used herein, a "**Qualified Buyer**" shall mean any Person (as defined on **Exhibit G**) (or any Person who is day-to-day Controlled (as defined on **Exhibit G**) by any Person) who has directly or indirectly engaged in the business of

stating such other customary factual information as may reasonably be requested.

35.2 City Estoppel. City shall, within ten (10) business days after notice by Lessee or the Recognized Mortgagee and/or the Mezzanine Lender, as applicable, execute, acknowledge and deliver to Lessee (or a Recognized Mortgagee or Mezzanine Lender, as applicable), a statement in writing (a) certifying (i) that this Agreement is unmodified and in full force and effect (or if there are modifications, stating the date of each such modification), and (ii) the date through which Annual Base Rent has been paid, (b) stating whether, to the knowledge of City, an Event of Default has occurred or any event has occurred that, with the giving of notice or the passage of time, or both, would constitute an Event of Default and, if so, specifying in detail each such Event of Default, and (c) stating such other customary factual information as may reasonably be requested.

36. Fee Mortgages. Notwithstanding anything to the contrary contained in this Agreement, any mortgage or similar instrument placed upon City's fee estate in the Premises shall be subject and subordinate to this Agreement and the lien of any Recognized Mortgage. At the request of Lessee or any Recognized Mortgagee, City shall confirm (and shall cause any holder of a fee mortgage or similar instrument placed upon City's fee estate in the Premises to confirm) the foregoing by written instrument.

37. Economic Development Incentives. City hereby acknowledges that Lessee has applied for certain economic development incentives from City, Bernalillo County, and/or the State of New Mexico, as applicable, including, but not limited to an IRB and City Local Economic Development Act ("**LEDA**") funding of all or a portion of the Annual Rent due under this Agreement (the foregoing, without limitation, the "**Economic Development Incentives**"). City hereby agrees to serve as the financial agent and administrator of any such Economic Development Incentives granted or hereafter granted to Lessee pursuant to applicable law, if applicable.

38. Plat. City hereby acknowledges that Lessee has obtained a title report from a title insurance company relating to the Premises (the "**Title Report**") and hereby agrees that any plat that City and Lessee shall submit for recording in connection with the construction of the Project Improvements or City's Delivery Obligations shall not include any encumbrances or reference any instruments not included in such Title Report or which do not constitute Subdivision Title Documents, or which, in all cases, adversely affect the Premises, Lessee's construction of the Project Improvements, Lessee's use and enjoyment of the Premises or its leasehold estate therein.

39. Memorandum of Lease. City and Lessee hereby agree to execute a Memorandum of Lease (or similar instrument), in proper form for recordation ("**Memorandum**"), to be recorded in the land records where the Premises is located, to be recorded against the entire 130 Acres, which Memorandum shall provide, without limitation, record notice of (i) Lessee's right, at its election and subject to any then-applicable Extension Period Prohibition, to an Extension Period with respect to this Agreement, (ii) in connection with Lessee's election to an Extension Period, Lessee's right to either an amendment to this Agreement providing for the Extension Period or a new lease identical in all material respects to this Agreement with a term equal to the applicable Extension Period, (iii) Lessee's right to receive the fair-market-value of the Improvements from any subsequent purchaser or lessee of the Premises in accordance with **Section 4.11** of the Agreement, (iv) Lessee's right of first refusal with respect to the ROFR Property, and (v) Lessee's

Exhibit G Mortgagee Provisions

1. Definitions. The following words and phrases, wherever used in the Agreement and this **Exhibit G**, shall have the following meanings:

1.1 "Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, Controls, is Controlled by or is under common ownership or Control with such Person or is a director, officer, general partner, member or manager of such Person or, with respect to an individual, has a relationship with such individual by blood, adoption or marriage not more remote than first cousin.

1.2 "Bankruptcy Law" means Title 11, United States Code, and any other successor state or federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.

1.3 "Bankruptcy Proceeding" means any proceeding, whether voluntary or involuntary, under any Bankruptcy Law.

1.4 "Control" and **"Controlled"** and terms similar thereto means the power, exercisable jointly or severally, to manage and direct the day-to-day business and affairs of a Person through the direct, indirect, or beneficial ownership of partnership interests, membership interests, stock, trust powers, or other beneficial interests and/or management or voting rights; provided that (x) the right to approve so-called major decision rights or similar protective provisions shall not constitute "Control", and (y) a Person shall not be deemed to lack Control over a Person solely because a third Person has the right, directly or indirectly, to approve major decisions or exercise similar protective rights in respect thereof.

1.5 "Eligibility Requirements" means, with respect to any Person, that such Person, (a) is subject to the jurisdiction of the courts of the State of New Mexico in any actions pertaining to or arising in connection with the lease of the Premises or portion thereof and (b) has net assets (inclusive of uncalled capital commitments) of not less than One Hundred Million Dollars (\$100,000,000), or such lower amount as is deemed acceptable in City's sole reasonable discretion.

1.6 "Foreclosure Event" means any transfer of title to any estate through any (a) judicial or non-judicial foreclosure; (b) trustee's sale; (c) deed, transfer, assignment or other conveyance in lieu of foreclosure; (d) other similar exercise of rights or remedies under any Recognized Mortgage; or (e) transfer by operation of or through any Bankruptcy Proceeding (including an auction or plan of reorganization in any Bankruptcy Proceeding), in each case whether the transferee is a Recognized Mortgagee, a party claiming through a Recognized Mortgagee, or a third party. For any Mezzanine Lender, a **"Foreclosure Event"** means any exercise of rights and remedies upon an event of default under such Mezzanine Lender's documents, including any that effectuates a change of Control of Lessee.

1.7 "Lending Institution" means (A) any savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary

1.10 "Mortgage" means any mortgage, deed of trust, leasehold deed of trust, or collateral assignment of lease which grants a security interest in real property (including leasehold) for any obligations (including a purchase money or other promissory note), as entered into, renewed, modified, consolidated, increased, decreased, amended, extended, restated, assigned (wholly or partially), collaterally assigned, or supplemented from time to time, unless and until paid, satisfied, and discharged of record that constitutes a lien on Lessee's interest in this Agreement and the leasehold estate created hereby, and all permitted amendments and modifications thereto. If two or more such mortgages are consolidated or restated as a single lien or held by the same Person, then all such mortgages so consolidated or restated shall constitute a single Mortgage. A participation interest in a Mortgage (or partial assignment of the secured loan) does not itself constitute a Mortgage.

1.11 "New Lease" means a new lease of the Premises, effective as of (or retroactively to) the termination date of this Agreement, for the remainder of the term of this Agreement, through and including the last date of the Term, considered as if the Agreement had not been terminated, on all the same terms and provisions of this Agreement, and in the same form as this Agreement, except as the New Lease otherwise expressly states.

1.12 "Person" means (a) an individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association or other entity, (b) any governmental authority, and (c) any fiduciary acting in such capacity on behalf of any of the foregoing.

1.13 "Pledge" means a pledge of the equity interests (a) that is made in favor of a Lending Institution and (b) that complies with the provisions of the Agreement.

1.14 "Qualified Trustee" means (i) a corporation, national bank, national banking association or a trust company, organized and doing business under the laws of any state or the United States of America, authorized under such laws to exercise corporate trust powers and to accept the trust conferred, and subject to supervision or examination by federal or state regulatory authority, (ii) an institution insured by Federal Deposit Insurance Corporation or (iii) an institution whose long-term senior unsecured debt is a rated in either of the then in effect top two rating categories of S&P, Moody's, Fitch, Inc., or any other nationally recognized statistical rating agency; and, in both of cases (i) and (ii), having a combined capital and surplus of at least Two Hundred Fifty Million Dollars (\$250,000,000).

1.15 "Recognized Mortgage" means a Mortgage (a) that is held by a Lending Institution, (b) that complies with the provisions of the Agreement, and (c) a true, correct and complete copy of which has been delivered to City.

1.16 "Recognized Mortgagee" means the holder of a Recognized Mortgage.

1.17 "Successor Leasehold Owner" means any successor owner of Lessee's leasehold estate following a Foreclosure Event.

2. Recognized Mortgage and Pledges.

2.1 Right of Lessee. Subject to compliance with the terms of this Exhibit G, Lessee, from time to time during the Term and any Extension Period may grant one or more Mortgages

3.2 Subject to **Section 9** below, to the extent any Recognized Mortgagee and/or Mezzanine Lender reasonably requires possession of the Premises in order to effectuate the cure of any Event of Default, the time period for the Recognized Mortgagee and/or Mezzanine Lender to cure such default shall be extended for a reasonable period after such Recognized Mortgagee and/or Mezzanine Lender is granted such access, subject to further extension due to Force Majeure Occurrences.

4. City Agreements. City hereby further agrees that (a) neither a Recognized Mortgagee, Mezzanine Lender nor a Successor Leasehold Owner shall be required to cure any Event of Default by Lessee, and (b) subject to Sections 9 and 11 below, and subject to an express agreement by such Recognized Mortgagee, Mezzanine Lender and/or Successor Leasehold Owner that it or they will assume all obligations to perform, and will perform, the construction to be performed under the Agreement, City will enter into a new lease on the same terms and conditions as are set forth in the Agreement, with a Recognized Mortgagee and/or Mezzanine Lender if the Agreement is terminated as a result of an Event of Default by Lessee. Notwithstanding anything to the contrary contained in the Agreement, from and after the date that a Recognized Mortgagee shall have commenced foreclosure proceedings on a Mortgage or a Mezzanine Lender shall have commenced foreclosure proceedings on a Pledge, City shall permit such Recognized Mortgagee and/or Mezzanine Lender (and any permitted successors and assignees of such Recognized Mortgagee and/or Mezzanine Lender, as applicable) to commence and continue construction in accordance with the provisions of the Agreement; provided, that such Recognized Mortgagee and/or Mezzanine Lender comply, in all material respects, with all insurance and other requirements of Lessee contained in this Agreement.

5. No Termination. City agrees that no termination of the Agreement shall be effective against a Recognized Mortgagee and/or Mezzanine Lender unless City shall have sent such Recognized Mortgagee and/or Mezzanine Lender a notice of Event of Default and Termination Notice as provided in Section 2.4 hereof and such Recognized Mortgagee and/or Mezzanine Lender has failed to cure the Event of Default giving rise to such right of termination within the time periods set forth in Sections 3.1 and 3.2 and any written agreement between City and such Recognized Mortgagee and/or Mezzanine Lender. The parties agree that there shall be no consensual surrender or consensual termination of the Agreement without the consent of the Recognized Mortgagee and/or Mezzanine Lender who is designated pursuant to the Lender Priority Notice as the most senior in lien or right.

6. No Amendment Binding. Provided that a Recognized Mortgagee and/or Mezzanine Lender shall have delivered to City the Mortgage/Pledge Notice, no amendment or modification of the Agreement shall be binding upon such Recognized Mortgagee and/or Mezzanine Lender unless such Recognized Mortgagee and/or Mezzanine Lender has consented in writing to such amendment or modification.

7. No Liability. Notwithstanding anything in the Agreement to the contrary, no holder of a Mortgage or Pledge shall become liable under the provisions of the Agreement unless and until such time (if any) as it becomes, and then, without limiting this Exhibit G, only for so long as it remains, the tenant under the Agreement or under a New Lease.

8. Other Defaults. While a Recognized Mortgagee and/or Mezzanine Lender is exercising any right to cure Lessee's Events of Default pursuant to this Exhibit G, City shall not be precluded

Notice). Upon entering into a New Lease with City, such Recognized Mortgagee (or Mezzanine Lender) (or nominee or designee, as applicable) shall thereafter be referred to as the "**New Tenant**".

11.2 The provisions of the foregoing **Section 11.1** notwithstanding, City is not obligated to enter into a New Lease with a New Tenant: (i) unless, concurrently with the execution and delivery of such New Lease, all Annual Base Rent (other than as otherwise limited in any written agreement between City and a Recognized Mortgagee or Mezzanine Lender) due under the Agreement up to and including the date of the commencement of such New Lease and all expenses, including all reasonable legal costs, incurred by City in connection with (A) the enforcement of City's rights and remedies with respect to all Events of Default in existence at the time of the termination of the Lease, (B) the termination of the Agreement and (C) the preparation of such New Lease have, in each case, been paid in full; and (ii) until City receives a written assumption by such New Tenant, or a nominee or designee, of all of Lessee's obligations under the Agreement (other than the obligation to cure Incurable Defaults and other than as limited in any written agreement between City and a Recognized Mortgagee or Mezzanine Lender). To the extent not set forth in the notice given to the Recognized Mortgagee or Mezzanine Lender pursuant to the Agreement and this **Exhibit G**, City agrees to notify the Recognized Mortgagee or Mezzanine Lender, upon request and/or concurrently with the execution of such New Lease, of any unperformed obligations of, and/or Events of Default by, Lessee which, to City's knowledge, then exist.

11.3 No Waiver of Default. The execution of a New Lease shall not constitute a waiver of any Event of Default existing immediately before the termination of the Lease, except for any Incurable Defaults and any Events of Default with respect to matters addressed in any written agreement and/or estoppel between City and a Recognized Mortgagee or Mezzanine Lender, and the New Tenant shall cure, within the longer of (i) the period of cure remaining to the Recognized Mortgagee or Mezzanine Lender pursuant to this **Exhibit G** or (ii) the applicable periods set forth in the provision of such New Lease relating to events of default thereunder (which applicable periods shall commence with the execution and delivery of the New Lease or, if notice of such defaults had not previously been given, upon the giving of such notice under the New Lease; provided that with respect to any default of which notice is first given under the New Lease, the cure periods applicable thereto shall be those set forth in the New Lease), all other Events of Default (except Incurable Defaults) existing under the Agreement immediately before its termination of which such tenant has been or, to the extent any such Events of Default were not then known by City, is thereafter given notice.

11.4 Conduct Prior to Execution of New Lease. Between the date of the termination or rejection of the Agreement and either (i) the last day of the New Lease Option Period, or (ii) if any Recognized Mortgagee or Mezzanine Lender has requested a New Lease, the earlier of the following: (A) the date of the execution and delivery of a New Lease or (B) the last day of the New Lease Option Period, where the failure to execute and deliver the New Lease results from the failure of such Recognized Mortgagee or Mezzanine Lender to satisfy the conditions precedent to such execution and delivery, City shall not (I) enter into any lease, license or other occupancy agreement with respect to all or any portion of the Premises, modify any such lease, license or occupancy agreement then-existing or accept any cancellation, termination or surrender thereof, or (II) execute any Easement Agreement with respect to all or any portion of the Premises. The rest of this **Section 11.4** notwithstanding, City may execute or modify any agreement concerning

estate created herein, or the direct or indirect interests in Lessee, in each case, resulting from or in connection with a Foreclosure Event shall not require the consent of City. Notwithstanding the foregoing, following the consummation of a Foreclosure Event, any subsequent sale, assignment, disposition or other transfer of this Agreement and the interest of Lessee in this Agreement (or any portion thereof), shall be to a Qualified Buyer satisfying the requirements of **Section 34.2(a)** of the Agreement.