

**REGULAR MEETING  
GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY  
April 12, 2019**

The Greater Asheville Regional Airport Authority ("Authority") met on Friday, April 12, 2019 at 8:30 a.m. in the Conference Room at the Authority's Administrative Offices, Asheville Regional Airport ("Airport"), 61 Terminal Drive, Suite 1, Asheville, NC 28732.

**MEMBERS PRESENT:** Matthew C. Burrell, Chair; K. Ray Bailey, Vice-Chair; William L. Moyer; Stephanie Pace Brown; George H. Erwin, Jr.; and Carl H. Ricker, Jr.

**MEMBERS ABSENT:** Brad Galbraith

**STAFF AND LEGAL COUNSEL PRESENT:** Cindy Rice, Authority Legal Counsel; Michael Reisman, Deputy Executive Director of Development and Operations; Kevan Smith, Chief of Public Safety; Tina Kinsey, Director of Marketing and Public Relations; Janet Burnette, Director of Finance and Accounting; Shane Stockman, IT Director; John Coon, Director of Operations and Maintenance; Frank Wheeler, Director of Administration and Human Resources; Christina Madsen, Airport Properties and Contracts Manager; Samuel Sales, Public Safety Captain; Chris Hudson, Public Safety Lieutenant; and Ellen Heywood, Clerk to the Board

**ALSO PRESENT:** Nick Loder, RS&H; James Moose, Avcon; Jon McCalmont, Parrish & Partners; Patrick Pettit, Haskell; Vijay Kapoor, Asheville City Council

**CALL TO ORDER:** The Chair called the meeting to order at 8:30 a.m.

The Chair stated that in the absence of the Executive Director, Michael Reisman would be the Acting Executive Director for the meeting.

**SERVICE AWARD PRESENTATION:** The Chair recognized Chris Hudson with a service award and gift for his 20 years of service with the Authority.

**EMPLOYEE RECOGNITION:** Mr. Reisman took a moment to present a plaque to Chief Kevan Smith in recognition of his recent Accredited Airport Executive (AAE) certification. The Board congratulated Chief Smith for this impressive achievement.

**PRESENTATIONS:** None

**FINANCIAL REPORT:** Mr. Reisman reported on the airport activity for the month of February which included enplanements, aircraft operations, and general aviation activity. Janet Burnette reported on the financial activity for the month of February.

**CONSENT ITEMS:** The Chair stated that Consent Item C, Approval of the Greater Asheville Regional Airport Authority March 8, 2019 Closed Session Minutes, would be pulled for review in Closed Session.

**A. Approval of the Greater Asheville Regional Airport Authority February 20, 2019 Special Meeting Minutes:** Mr. Erwin moved to approve the February 20, 2019 Special Meeting Minutes. Ms. Brown seconded the motion and it carried unanimously.

**B. Approval of the Greater Asheville Regional Airport Authority March 8, 2019 Regular Meeting Minutes:** Mr. Erwin moved to approve the March 8, 2019 Regular Meeting Minutes. Mr. Ricker seconded the motion and it carried unanimously.

**D. Approval of Audit Contract with Gould Killian CPA Group, P.A. for Fiscal Year Ending June 30, 2019:** Mr. Bailey moved to approve the Audit Contract with Gould Killian CPA Group, P.A. for Fiscal Year Ending June 30, 2019. Mr. Ricker seconded the motion and it carried unanimously.

**E. Approval of Insurance Renewals:** Mr. Reisman stated that staff did not have firm quotes for the business lines of insurance and requested that the business lines of insurance be pulled from the board item. Staff will bring the new quotes back to the Board for approval at the next meeting. Mr. Reisman stated that the medical and benefit insurance quotes totaled \$856,535.18. Mr. Moyer moved to approve the renewal of the Authority's medical and benefit insurance coverages in an amount not to exceed premiums presented by staff, and authorize the Executive Director to execute the necessary documents. Mr. Erwin seconded the motion and it carried unanimously.

The Board wished Mr. Wheeler well in his new position.

**OLD BUSINESS:**

**A. Public Hearing and Final Adoption of the Authority's Amended Ordinance 201601-5 for Airline Rates, Fees and Charges for the Asheville Regional Airport:** Mrs. Burnette reported that the proposed Preliminary Amended Schedule of Airline Rates, Fees and Charges for FY2019-2020 was approved by the Board on March 8, 2019 and has remained available for public inspection since that time. Staff met with the airlines on March 14<sup>th</sup>. At the request of the airlines, the ordinance has been updated with clarifying language and operating estimates for Spirit Airlines have been included in the rates, fees and charges model resulting in lower fees overall.

The Chair opened the floor to public comments at 8:48 a.m. There being no public comments, the Chair closed the floor at 8:48 a.m.

Mr. Bailey moved to adopt the Amended Ordinance 201601-5 to implement the Schedule of Airline Rates, Fees and Charges for the Asheville Regional Airport for FY2019/2020. Mr. Erwin seconded the motion and it carried unanimously:

GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY  
AMENDED ORDINANCE NO. 201601-5  
AN ORDINANCE TO IMPLEMENT A SCHEDULE OF AIRLINE RATES, FEES AND CHARGES  
FOR THE ASHEVILLE REGIONAL AIRPORT

IT IS HEREBY ENACTED AND ORDAINED BY THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY AS FOLLOWS:

**Section 1. CITATION.**

1.1 This Ordinance may be cited as the "Airline Rates, Fees & Charges Ordinance".

**Section 2: FINDINGS.**

2.1 The Greater Asheville Regional Airport Authority was created by Session Law 2012-121, which was ratified by the General Assembly of North Carolina on June 28, 2012.

2.2 Section 1.6(a)(7) of Session Law 2012-121 gives the Greater Asheville Regional Airport Authority the ability to, among other things: *"[m]ake all reasonable rules, regulations, and policies as it may from time to time deem to be necessary, beneficial or helpful for the proper maintenance, use, occupancy, operation, and/or control of any airport or airport facility owned, leased, subleased, or controlled by the Authority . . . "*

2.3 Section 1.6(a)(6) of Session Law 2012-121 gives the Greater Asheville Regional Airport Authority the authority to: *"[c]harge and collect fees, royalties, rents, and/or other charges, including fuel flowage fees for the use and/or occupancy of property owned, leased, subleased, or otherwise controlled and operated by the Authority or for services rendered in operation thereof."*

2.4 Section 1.6(a)(21) of Session Law 2012-121 gives the Greater Asheville Regional Airport Authority the ability to: *"[e]xercise all powers conferred by Chapter 63 of the General Statutes [of the State of North Carolina] or any successor Chapter or law."*

2.5 North Carolina General Statute Section 63-53(5) further gives the Greater Asheville Regional Airport Authority the authority: *"[t]o determine the charge or rental for the use of any properties under its control and the charges for any services or accommodations and the terms and conditions under which such properties may be used,*

*provided that in all cases the public is not deprived of its rightful, equal, and uniform use of such property."*

2.6 The Greater Asheville Regional Airport Authority is obligated under federal law to maintain an airport user fee and rental structure that, given the conditions of the Airport makes the Airport as financially self-sustaining as possible.

2.7 The Greater Asheville Regional Airport Authority is further obligated under federal law to establish an airport user fee structure that is fair and reasonable to all users, and not unjustly discriminatory.

2.8 In or around Fall 2014, the Greater Asheville Regional Airport Authority contracted with an airport consulting firm, who conducted a comprehensive airline rate and charge study at the Airport, in accordance with the methodology stated in the Rates and Charges Policy promulgated by the Office of the Secretary of the Department of Transportation and by the FAA.

2.9 Since approximately February 2015, the Greater Asheville Regional Airport Authority has consulted with and made repeated, good faith efforts to reach an agreement regarding rates, fees and charges with the Airlines, and to resolve all disputes asserted by the Airlines, and after adequate and timely consultation with the Airlines and with the airport consulting firm, Greater Asheville Regional Airport Authority now desires to implement, by ordinance, the fair, reasonable and not unjustly discriminatory rates and charges structure as proposed by the airport consulting firm.

### **Section 3. PURPOSE AND SCOPE**

3.1 The Greater Asheville Regional Airport Authority finds and determines that it is in the public interest to establish a schedule of Airline rates, fees and charges by ordinance.

3.2 This Airline Rates, Fees & Charges Ordinance shall be applicable to all Airlines utilizing the Asheville Regional Airport.

### **Section 4. EFFECTIVE DATE**

4.1 The Airline Rates, Fees & Charges Ordinance shall take effect as of the 9th day of December, 2016.

### **Section 5. DEFINITIONS**

5.1 "Affiliate" shall mean any airline or other entity designated in writing by Airline as an Affiliate that is operating under the same flight code designator and is: (1) a parent or subsidiary of Airline or is under the common ownership and control with Airline or (2) operates under essentially the same trade name as Airline at the Airport and uses essentially the same livery as Airline or (3) is a contracting ground handling company on behalf of Airline at the Airport.



5.2 "Airline(s)" shall mean each airline providing commercial passenger service to and from the Airport and using the Airport Terminal Building to enplane and deplane passengers or cargo service to and from the Airport.

5.3 [RESERVED]

5.4 "Airlines' Revenue Landed Weight" is for the applicable Fiscal Year the sum of the products determined by multiplying each Revenue Aircraft Arrival by each of the Airlines by the applicable Certified Maximum Gross Landed Weight of the aircraft making the Revenue Aircraft Arrival.

5.6 "Airport" is the Asheville Regional Airport as it presently exists and as it is hereafter modified or expanded.

5.7 "Airport Operating Requirement" for any Fiscal Year, consists of all of the following: (1) Operation and Maintenance Expenses; (2) O&M Reserve Requirement; (3) Depreciation; (4) Amortization; (5) Debt Service; (6) coverage required on any Bonds; (7) fund deposits required under any Bond Ordinance; (8) the net amount of any judgment or settlement arising out of or as a result of the ownership, operation or maintenance of the Airport payable by Authority during any Fiscal Year. This amount would include, but not be limited to, the amount of any such judgment or settlement arising out of or as a result of any claim, action, proceeding or suit alleging a taking of property or an interest in property without just or adequate compensation, trespass, nuisance, property damage, personal injury or any other claim, action, proceeding or suit based upon or relative to the environmental impact resulting from the use of the Airport for the landing and taking off of aircraft; and (9) any and all other sums, amounts, charges or requirements of the Airport to be recovered, charged, set aside, expensed or accounted for during any Fiscal Year, or the Authority's accounting system.

5.8 "Amortization" is the amount determined by dividing the net cost of each Airport non-depreciating asset by an imputed estimated life for the asset as determined by the Authority.

5.9 "Assigned Space" means for each Airline, those areas and facilities in the Terminal Building and those areas adjacent to and outside the Terminal Building which are assigned to such Airline for its Preferential use.

5.10 "Authority" means the Greater Asheville Regional Airport Authority.

5.11 "Bond Ordinance" is any ordinance, resolution or indenture authorizing the issuance of Bonds for or on behalf of the Airport or Authority, including all amendments and supplements to such ordinances, resolutions and indentures.

5.12 "Bonds" are all debt obligations issued for or on behalf of the Airport or the Authority subsequent to July 1, 2009, except obligations issued by or on behalf of the Authority for a Special Facility.

5.13 "Capital Charge or Capital Charges" charges that include Amortization, Depreciation and Debt Service.

5.14 "Capital Outlay" is the sum of one hundred thousand dollars (\$100,000) or as otherwise determined by the Authority.

5.15 "Certified Maximum Gross Landed Weight" or "CMGLW" is, for any aircraft operated by any of the Airlines, the certified maximum gross landing weight in one thousand pound units of such aircraft as certified by the FAA and as listed in the airline's FAA approved "Flight Operations Manual".

5.16 "Debt Service" for any Fiscal Year is the principal, interest and other payments required for or on account of Bonds issued under any Bond Ordinance.

5.17 "Depreciation" is the amount which is the net cost of any Airport asset, except a non-depreciating asset, divided by its estimated useful life as determined by the Authority.

5.18 "Enplaned Passengers" are the originating and on-line or off-line transfer passengers of each of the Airlines serving the Airport enplaning at the Airport.

5.19 "Fiscal Year" is July 1st of any calendar year through June 30th of the next succeeding calendar year, or such other fiscal year as Authority may subsequently adopt for the Airport.

5.20 "Holdrooms" means the gate seating areas currently situated in the Airport Terminal Building, as they now exist or as they may hereafter be modified or expanded or constructed by Authority within or as part of the Terminal Building for use by Airline and the other Airlines for their Joint Use.

5.21 "Joint Use Formula" is, for any Fiscal Year, the formula used for prorating Terminal Building Rentals for Joint Use Space.

5.22 "Joint Use Space" means that common use space not assigned, which Airline uses on a joint use basis with other airline tenants.

5.23 "Landing Fees" are the airfield related charges calculated by multiplying the landing fee rate established in the Schedule of Rates, Fees and Charges for the applicable Fiscal Year by the applicable Certified Maximum Gross Landed Weight ("CMGLW") of Revenue Aircraft Arrivals.

5.24 "Operation and Maintenance Expenses" or "O&M Expenses" are, for any Fiscal Year, the total costs and expenses, incurred or accrued by the Authority for that Fiscal Year, in providing for the administration, operation, maintenance and management of the

Airport, including, without limitation, the performance by Authority of any of its obligations related to the Airport.

5.25 "O&M Reserve Requirement" is the requirement adopted by the Authority that defines the amount of operating cash reserves to be available within the O&M Reserve Fund. The O&M Reserve Requirement may be revised from time to time and is currently set to equal at least six (6) months of the annual O&M Expenses budgeted for the current Fiscal Year.

5.26 "Passenger Facility Charge (PFC)" is the charge imposed by the Authority pursuant to 49 U.S.C. App. 513, as amended or supplemented from time to time, and 14 CFR Part 158, as amended or supplemented from time to time, or any other substantially similar charge lawfully levied by or on behalf of the Authority pursuant to or permitted by federal law.

5.27 "Preferential Use Space" means that Assigned Space for which Airline holds a preference as to use, and which may be used on a non-preferential basis by another airline or tenant.

5.28 "Rentable Space" is that space within the Airport Terminal Building which has been constructed or designated as rentable space by Authority, including such deletions therefrom and additions thereto as may occur from time-to-time.

5.29 "Revenue Aircraft Arrival" is an airline aircraft landing at Airport, excluding those returning to the Airport due to an emergency, and for which Landing Fees are charged by Authority.

5.30 "Special Facility" is any Airport facility acquired or constructed for the benefit or use of any person or persons, the costs of construction and acquisition of which are paid for (a) by the obligor under a Special Facility agreement, (b) from the proceeds of Special Facility bonds, or (c) both; provided, however, that Airport facilities built by an Airport tenant under a ground lease or any other agreement which by its terms is not indicated to be a Special Facility agreement shall not be considered a Special Facility under this definition.

5.31 "Schedule of Rates, Fees and Charges" is the schedule the rates, fees and charges due by Airline to the Authority and is reestablished each Fiscal Year.

5.32 "Terminal Building Rentals" are the Terminal Building rents calculated by multiplying the Terminal Building Rental Rate times the then-applicable square footage of the Assigned Space in question.

5.33 "Loading Bridge Fees" are the fees calculated by dividing the total Loading Bridge requirement, which currently includes Operating Expenses, Capital Outlay, Debt Service and Debt Service Coverage, by the total departures.

5.34 "Market Share Exempt Carrier" is any New Airline operating with less than 7% market share of total enplanements per month. The only fees applicable to a Market Share Exempt Carrier are Landing Fees and Per Turn Fees, unless the New Airline is leasing preferential space which would be included in separate rent. An Airline will cease to qualify as Market Share Exempt Carrier at the time that the Airline meets or exceeds 7% of market share of total enplanements per month for any six (6) of the immediately preceding twelve (12) months. Once Airline is no longer Market Share Exempt, the Airline will be responsible for all Terminal and Airfield related rates, fees and charges.

5.35 "New Airline(s)" shall mean any new airline providing new commercial passenger or cargo service to and from the Airport, using the Airport Terminal Building or cargo building to enplane and deplane passengers or cargo service to and from the Airport.

## **Section 6. RATE MAKING METHODOLOGY**

6.1 Rates and charges shall be established annually based on the methodology set by the Authority below and in the Schedule of Rates and Charges referenced in Section 8 below.

6.2 Rates and charges shall be developed under a commercial compensatory rate making methodology.

6.3 Rates and charges shall be calculated and set at the beginning of each Fiscal Year.

### **6.4 Terminal Building Operating Requirement.**

6.4.1 For purposes of this Ordinance, the Terminal Building Cost Center shall consist of the current Terminal Building, including the ticketing wing, the Holdrooms, baggage claim facilities, baggage make-up facilities, and passenger loading bridges/regional boarding ramps, as well as the areas immediately adjacent to the west side of the terminal building utilized for baggage tug drives and baggage tug storage, and all public areas, concession areas, and other leasable areas.

6.4.2 The Terminal Building Operating Requirement shall be calculated as specified in Sections 6.4.2.1 through 6.4.2.4 below:

6.4.2.1 By summing the elements of the Airport Operating Requirement allocated to the Terminal Building Cost Center. Currently,

this includes O&M Expenses, O&M Reserve Requirement, net Depreciation, Amortization, Capital Outlay, and Debt Service.

6.4.2.2 By then reducing the total from Section 6.4.2.1 by non-airline revenue credits applied by the Director. These revenue credits are reimbursements and offsets to base costs. This results in the Net Terminal Building Operating Requirement.

6.4.2.3 The Net Terminal Building Operating Requirement calculated in Section 6.4.2.2 is then divided by Rentable Space to obtain the Terminal Building Rental Rate.

6.4.2.4 Finally, each Airlines' share of cost is then derived by multiplying the Terminal Building Rental Rate by the Terminal Building Airlines' rented space (preferential use) and Airlines' share of Joint Use Space as determined by the Joint Use Formula.

6.4.3. Joint Use Space. Joint Use Space shall be classified as Baggage Make-Up, Baggage Claim and Gate Area. Airline's share of the Terminal Building Rentals for Baggage Make-Up and Baggage Claim Joint Use Space will be determined as follows: (1) eighty-five percent (85%) of the total rentals due shall be prorated among Airlines using Joint Use Space based upon Airline's share of Checked Bags, (2) fifteen percent (15%) of the total rentals due shall be prorated equally among the Airlines using Joint Use Space. Airline's share of the Terminal Building Rentals for Gate Area Joint Use Space will be determined as follows: (1) eighty-five percent (85%) of the total rentals due shall be prorated among Airlines using Joint Use Space based upon Airline's share of Enplaned Passengers, (2) fifteen percent (15%) of the total rentals due shall be prorated equally among the Airlines using Joint Use Space.

6.4.4 Per Turn Fee for Market Share Exempt Carriers. The Per Turn Fee for Market Share Exempt Carriers is calculated by dividing the Per Turn requirement by the total estimated departures.

## 6.5 Airfield Area Operating Requirement.

6.5.1 For purposes of this Ordinance, the Airfield Area Cost Center consists of those areas of land and Airport facilities which provide for the general support of air navigation, flight activity and other aviation requirements of the Airport. The airfield includes runways, taxiways, the terminal apron, aircraft service areas and those ramp areas not included in any other cost center, approach and clear zones, safety areas and infield areas, together with all associated landing navigational aids and Airport facilities, aviation controls, and other systems related to the airfield. It also includes areas of land acquired for buffer requirements for the landing areas of the Airport, all land acquired for Airport expansion until the land is used or dedicated to another cost center, and all Airport noise mitigation facilities

or costs. The Airport's triturator facility, storage areas for airline glycol equipment and tanks, and any fueling facilities and equipment provided to serve the airlines on the terminal apron are also included in the airfield cost center.

6.5.2 The Airfield Area Operating Requirement shall be calculated as specified in Sections 6.5.2.1 through 6.5.2.4 below:

6.5.2.1 By summing the elements of the Airport Operating Requirement allocated to the Airfield Area Cost Center. Currently, this includes the O&M Expenses, O&M Reserve Requirement, net Depreciation, Amortization, Capital Outlay, and Debt Service.

6.5.2.2 By then reducing the total calculated in Section 6.5.2.1 above by non-airline revenue credits applied by the Director. These revenue credits are reimbursements and offsets to base costs. This results in the Net Airfield Area Operating Requirement.

6.5.2.3 The Net Airfield Area Operating Requirement calculated in Section 6.5.2.2 is then divided by the estimated Certified Maximum Gross Landed Weight (CMGLW) of all Airlines' Revenue Aircraft Arrivals to determine the Airlines' Landing Fee rate.

6.5.2.4 The Airlines' Landing Fee rate is then multiplied by the estimated CMGLW of the Airlines.

6.5.3 All costs incurred by the Authority for mitigation or damages resulting from noise, environmental incidents or conditions, aircraft fueling, or other Airport aircraft-related conditions or activities will also be charged and allocated to the Airfield Area Operating Requirement.

6.5.4 [RESERVED]

6.5.5 Affiliate. Each Affiliate's operations shall be counted and recorded jointly with Airline's and shall be at the same rate.

6.5.6 [RESERVED]

6.5.7 Other Cost Centers. All other cost centers are not included as part of the Airlines' rates, charges and fees. Authority may apply revenues from the other cost centers to offset expenses at a time, and in an amount, based on the sole discretion of the Director.

6.5.8 Unless otherwise provided herein, all rates, fees and charges are calculated as described in Schedule of Rates, Fees and Charges referenced in Section 8 below.

## **Section 7. RENTALS, FEES AND CHARGES**

7.1 The Authority shall establish the Schedule of Rates, Fees and Charges at the beginning of each Fiscal Year.

7.2 Prior to the establishment of the Schedule of Rates, Fees and Charges each Fiscal Year, the Authority shall formally notify Airline in writing of the anticipated Schedule of Rates, Fees and Charges to be in effect for the upcoming Fiscal Year. Authority's notification to Airline shall include notice of the time and place of a meeting to present the Schedule of Rates, Fees and Charges, expenses and capital charges used in the calculation, and to answer questions of Airline. The anticipated Schedule of Rates, Fees and Charges shall be set forth and supported by a document prepared by the Authority.

7.3 So long as Airline has been notified per above, the implementation of the upcoming Schedule of Rentals and Charges will be effective on the first day of the Fiscal Year.

7.4 Each Airline operating at the Airport shall be responsible for paying those rates and charges itemized below in the amounts specified in the Schedule of Rates, Fees and Charges in Section 8 below:

7.4.1 Preferential Use Space - Each Airline shall pay the Authority for its use of the assigned, Preferential Use Space in the Terminal.

7.4.2 Joint Use Space – Each Airline shall pay the Authority its share of rentals on Joint Use Space used by Airline in common with other airline tenants.

7.4.3 Landing Fees –For its use of the airfield, apron and appurtenant facilities, Airline shall pay a landing fee for each and every aircraft landed by the Airline at the Airport except as otherwise noted herein.

7.4.4 Passenger Facility Charge. Airline shall comply with all of the applicable requirements contained in 14 CFR Part 158 and any amendments thereto. Airline shall pay the Authority the Passenger Facility Charge applicable to all of Airline's revenue passengers enplaning at the Airport imposed by the Authority from time to time pursuant to applicable Federal law and regulations.

7.4.5 Other Fees and Charges. Airline shall also pay all miscellaneous charges assessed to and owed by Airline to the Authority including, but not limited to, the cost of utilities and services, employee parking fees, telecommunications charges, paging system fees, triturator fees, skycap services, preconditioned air and fixed ground power fees, security measures, such as key cards and identification badges and the like, common use fees and common equipment charges, and law enforcement fees (net of TSA reimbursement).

7.4.5.1 Such other fees and charges shall be detailed by the



Authority in the Schedule of Rates, Fees and Charges.

## **Section 8. SCHEDULE OF RATES, FEES AND CHARGES**

8.1 The Authority's 2019-2020 Schedule of Rates, Fees and Charges effective July 1, 2019 is attached hereto and incorporated herein by reference as Exhibit A.

## **Section 9. PAYMENT OF RENTALS, FEES AND CHARGES**

9.1 Airlines shall pay for space rentals for Preferential Use Space and Joint Use Space, monthly, without invoice, demand, set-off, or deduction on or before the first (1<sup>st</sup>) day of each calendar month.

9.2 On or before the fifteenth (15<sup>th</sup>) day of each month, Airlines shall pay for their Landing Fees for the immediately preceding month.

9.3 Airlines shall report to the Authority on or before the fifteenth (15<sup>th</sup>) day of each month the Airlines actual operating activity for the prior month by submitting a written report. All such monthly reports shall be submitted on a standardized form provided by the Authority, such form shall act as the actual invoice.

9.4 Payment for all other fees and charges shall be invoiced by the Authority and shall be due upon receipt of the Authority's invoice. Such payments shall be deemed delinquent if not received within thirty (30) calendar days of the date of such invoice.

9.5 Except as provided above, or if such payments or reporting is under dispute by Airline, Airline shall be in violation of this Ordinance if its payments and reporting information required above are not received by the Authority on or before the fifteenth (15<sup>th</sup>) day of the month in which they are due.

9.6 Security Deposit. If in the reasonable business discretion of the Authority, it is determined that the financial condition of Airline, at the beginning of air service at the Airport, or an incumbent Airline that has displayed an irregular payment history, then Airline may be required to submit a cash security deposit in an amount not to exceed the equivalent of six (6) months estimated rentals, fees and charges.

9.6.1 In the event that the Authority determines a security deposit is required, the Airline shall deposit such sum with the Authority within thirty (30) days of being so notified by the Authority, and such sum shall be retained by Authority as security for the faithful performance of Airline's obligation hereunder.

9.6.2 The Authority shall have the right, but not the obligation, to apply said security deposit to the payment of any sum due to Authority which has not been paid in accordance with this Ordinance, including, but not limited to, reimbursement of any expenses incurred by Authority in curing any default of Airline, or to the cost of restoring the Assigned Space or its furnishings, fixtures or

equipment to their original condition, reasonable wear and tear excepted.

9.6.3 In the event that all or any portion of the security deposit is so applied, the Airline shall promptly, upon demand by Authority, remit to Authority the amount of cash required to restore the security deposit to its original sum.

9.6.4 An Airline's failure to remit the amount of cash required to restore the security deposit in accordance with Section 9.6.3 above within ten (10) calendar days after its receipt of such demand shall constitute a breach of this Ordinance.

9.6.5 If said deposit shall not have been applied for any of the foregoing purposes, it shall be returned to Airline, without interest, within sixty (60) days of the Airline ceasing operation at the Airport. The Authority will not pay interest on any security deposit.

9.7 Airlines shall pay all rates, fees and charges established herein to the Authority monthly, without set-off, and except as specifically provided above, without invoice or demand therefore, in lawful money of the United States of America, by check payable to Authority delivered or mailed to the Authority or by wire transfer to the Authority.

## **Section 10. PENALTIES AND ENFORCEMENT**

10.1 Unless otherwise specified herein, violation of any provision of this Airline Rates, Fees & Charges Ordinance shall be enforced in accordance with, and subject to the penalties specified in, this Section 10.

10.2 In addition to any civil or criminal penalties set out in this Section 10. or in any other Section or Subsection herein, this Airline Rates, Fees & Charges Ordinance may be enforced by an injunction, order of abatement, or other appropriate equitable remedy issuing from a court of competent jurisdiction.

10.3 This Airline Rates, Fees & Charges Ordinance may be enforced by one, all or a combination of the penalties and remedies authorized and prescribed in this Section 10, or elsewhere herein, except that any provision, the violation of which incurs a civil penalty, shall not be enforced by criminal penalties.

10.4 Except as otherwise specified herein, each day's continuing violation of any provision of the Airline Rates, Fees & Charges Ordinance is a separate and distinct offense.

10.5 A violation this Airline Rates, Fees & Charges Ordinance shall not be a misdemeanor or infraction under N.C. Gen. Stat. §14-4; however, civil penalties shall be assessed and civil citations issued for the administrative violation of any provision in accordance with Section 10.6 through 10.7 below.

10.6 The Executive Director shall authorize specific Authority personnel to enforce all administrative violations of this Airlines Rates, Fees & Charges Ordinance.

10.7 Upon any administrative violation of this Airline Rates, Fees & Charges Ordinance, personnel designated in accordance with Section 10.6 shall cause a civil citation to be issued to the violator.

10.7.1 All civil citations shall be hand-delivered to the violator or shall be mailed by first class mail addressed to the last known address of the violator. The violator shall be deemed to have been served upon hand-delivery or the mailing of the civil citation.

10.7.2 Unless otherwise expressly specified herein the civil penalty associated with each civil citation issued for an administrative violation of this Airline Rates, Fees & Charges Ordinance shall be as follows: By a fine of up to \$500.00.

10.8 Any person may submit, within ten (10) days of receipt of a civil violation, a written request that the Executive Director review the civil citation, in accordance with Sections 10.8.1.1 through 10.8.3 below.

10.8.1 A request to the Executive Director shall be in writing and shall be hand delivered to the Office of the Executive Director and must be signed for by and employee of the Authority, or shall be mailed to the Executive Director by certified mail, return receipt requested.

10.8.2 A request to the Executive Director must specify in detail all of the reasons why the civil citation should be modified or withdrawn and must provide a mailing address for the Executive Director to submit a response to the request.

10.8.3 Within ten (10) days of receipt of a request in accordance with Section 10.8.1, the Executive Director shall mail a written decision to the requesting party at the address provided.

10.8.4 Unless a written request for review in accordance with Section 10.8.1 above, civil penalties issued via civil citation for an administrative violation of any Section of this Airport Rates, Fees and Charges Ordinance shall be due and payable to the Authority within 30 days of receipt.

10.8.5 If a written request for review is appealed and the civil citation is not withdrawn, payment of the civil penalty shall be due and payable to the Authority within 30 days of issuance of the Executive Director's written decision to the violator.

10.8.6 Unless other provided, if the violator fails to respond to a citation within 30 days of issuance and pay the fine prescribed therein, the Authority may

institute a civil action in the nature of a debt in the appropriate division of the state general court of justice to collect the fine owed.

**Section 11. SEVERABILITY**

11.1 If any provision, clause, section, or provision of this the Airline Rates, Fees & Charges Ordinance shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable provision shall be severed from the remainder of the Airline Rates, Fees & Charges Ordinance, and the remainder of shall be enforced and not be affected thereby.

**Section 12. AMENDMENT.**

12.1 The Authority reserves the right to amend the Airline Rates, Fees & Charges Ordinance, as well as the attached Schedule of Rates, Fees and Charges, at any time, by ordinance, after due notice and public hearing, in accordance with the Authority's Resolution No. \_\_ establishing The Greater Asheville Regional Airport Authority's Policy and Procedure for the Adoption of Ordinances.

ADOPTED THIS the \_\_\_ day of \_\_\_\_\_, 2019, after due notice and a public hearing, by the Greater Asheville Regional Airport Authority.

**GREATER ASHEVILLE REGIONAL  
AIRPORT AUTHORITY**

By: \_\_\_\_\_  
Matthew C. Burrell, Chair

**ATTEST:**

\_\_\_\_\_  
Ellen M. Heywood, Clerk to the Board

# **Exhibit A**

Asheville Regional Airport

2019-2020 Fiscal Year

Schedule of Rates, Fees and Charges

**SUMMARY TABLE**

RESULTS (Fiscal Years Ending June 30)	GARAA	
	Budget	Budget
	2019	2020
<u>Signatory Airline Rates &amp; Charges:</u>		
Terminal Building Rental Rate (per s.f.)	\$46.35	\$53.88
Passenger-Related Security Fee (per EP)	\$0.67	\$0.66
Landing Fee (per 1,000-lbs)	\$1.60	\$1.51
Ticket Counter & Queue Fee (per EP-unassigned)	\$0.48	\$0.41
Baggage Make-Up & Claim Fee (per bag)	\$0.93	\$0.95
Baggage Make-Up & Claim Fee (per airline)	\$10,172	\$11,825
Gate Area Charge per (enplaned pax)	\$1.43	\$1.34
Gate Area Fee (per airline)	\$25,985	\$30,208
Loading Bridge Fee (per depart.)	\$10.02	\$9.20
Turn Fees <sup>1</sup>		
Per Turn Fee for Exempt Carriers (0-70 seats)	\$272.00	\$279.00
Per Turn Fee for Exempt Carriers (71-135 seats)	\$324.00	\$333.00
Per Turn Fee for Exempt Carriers (136+ seats)	\$363.00	\$373.00
Average AVL CPE	\$6.07	\$5.64

<sup>1</sup> Includes use of holdroom, bag claim, bag make-up, passenger loading bridge, apron, tug drives,

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 1****AVIATION ACTIVITY**  
(Fiscal Years Ending June 30)**GARAA**

	Budget	
	2019	2020
<u>Enplaned Passengers:</u>		
Allegiant	180,000	240,000
American <sup>1</sup>	103,000	150,000
Delta	138,000	137,000
Spirit	0	48,000
United	95,000	65,000
<b>Total</b>	<b>516,000</b>	<b>640,000</b>
<u>Estimated Checked Bags:</u>		
Allegiant	93,600	98,600
American <sup>1</sup>	55,600	81,300
Delta	109,400	113,900
Spirit	0	20,940
United	52,100	36,300
<b>Total</b>	<b>310,700</b>	<b>351,040</b>
<u>Departures:</u>		
Allegiant	1,200	1,605
American <sup>1</sup>	2,262	2,757
Delta	2,389	2,298
Spirit	0	453
United	1,631	1,287
<b>Total</b>	<b>7,482</b>	<b>8,400</b>
<u>Landed Weight (1,000-lb units):</u>		
Allegiant	170,000	229,200
American <sup>1</sup>	125,600	175,627
Delta	161,050	152,236
Spirit	0	66,000
United	108,373	77,924
<b>Total</b>	<b>565,023</b>	<b>700,987</b>

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)



**Table 2**

<b>TERMINAL SPACE (s.f.)</b> (Fiscal Years Ending June 30)		<b>GARAA</b>	
		Budget	Budget
		2019	2020
<u>Preferential Space:</u> <sup>1</sup>			
Allegiant		1,704	1,331
American		2,102	2,297
Delta		2,609	2,609
Spirit			905
United		1,593	1,593
Worldwide			161
Total Preferential Space	[A]	8,008	8,896
<u>Joint Use Space:</u>			
Baggage Make-Up		3,192	3,192
Baggage Claim		4,124	4,124
Gates 1-3 Holdroom		8,517	8,517
Gates 4-7 Holdroom		6,751	6,751
Gates 4-7 Secure Enplanement Corridor		3,421	3,421
Total Joint Use Space	[B]	26,005	26,005
Total Airline Rented	[C=A+B]	34,013	34,901
<u>Other Rentable:</u>			
Ticket Counter (unassigned)		103	285
Queue (unassigned)		193	456
Vacant Airline Preferential Space		2,792	1,210
Concession Space		13,553	13,775
FAA Tower & Related Office Space		4,374	4,374
TSA Offices & Breakroom		2,418	1,933
TSA Passenger Security Screening		2,210	4,891
TSA Offices Adjacent to Passenger Screening		396	396
Total	[D]	26,039	27,320
Total Rentable Space	[E=C+D]	60,052	62,221
Public and Other Areas	[F]	47,797	45,628
Total Terminal Space	[G=E+F]	107,849	107,849

Note: Amounts may not add due to rounding.

<sup>1</sup> Includes ticket counter, queue, and office space.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 3**

<b>DEPRECIATION, AMORTIZATION, &amp; CAPITAL OUTLAY</b>		<b>GARAA</b>	
(Fiscal Years Ending June 30)			
		Budget	Budget
		2019	2020
<u>Depreciation:</u> <sup>1</sup>			
Gross Depreciation		\$4,700,000	\$4,700,000
Less: Grant & PFC Amortization		(3,200,000)	(3,200,000)
Net Depreciation	[A]	\$1,500,000	\$1,500,000
<u>By Cost Center (%):</u>			
Airfield Area	[B]	14.0%	14.0%
Terminal Building	[C]	30.0%	30.0%
Parking, Roadway, and Ground Trans.	[D]	33.0%	33.0%
General Aviation Area	[E]	16.0%	16.0%
Other Area	[F]	7.0%	7.0%
Total		100.0%	100.0%
<u>By Cost Center:</u>			
Airfield Area	[A*B]	\$210,000	\$210,000
Terminal Building	[A*C]	450,000	450,000
Parking, Roadway, and Ground Trans.	[A*D]	495,000	495,000
General Aviation Area	[A*E]	240,000	240,000
Other Area	[A*F]	105,000	105,000
Net Depreciation	[A]	\$1,500,000	\$1,500,000
<u>Amortization:</u>			
Gross Amortization		\$242,056	\$242,056
Less: Grant & PFC Amortization		(162,475)	(162,475)
Net Amortization	[G]	\$79,581	\$79,581

**Table 3**

<b>DEPRECIATION, AMORTIZATION, &amp; CAPITAL OUTLAY</b>		<b>GARAA</b>	
(Fiscal Years Ending June 30)			
		Budget	Budget
		2019	2020
<u>By Cost Center (%):</u>			
Airfield Area	[H]	100.0%	100.0%
Terminal Building	[I]	0.0%	0.0%
Parking, Roadway, and Ground Trans.	[J]	0.0%	0.0%
General Aviation Area	[K]	0.0%	0.0%
Other Area	[L]	0.0%	0.0%
Total		100.0%	100.0%
<u>By Cost Center:</u>			
Airfield Area	[G*H]	\$79,581	\$79,581
Terminal Building	[G*I]	0	0
Parking, Roadway, and Ground Trans.	[G*J]	0	0
General Aviation Area	[G*K]	0	0
Other Area	[G*L]	0	0
Net Amortization	[G]	\$79,581	\$79,581
<u>Capital Outlay:</u>			
Capital Outlay	[M]	\$100,000	\$100,000
<u>By Cost Center (%):</u>			
Airfield Area	[N]	50.0%	50.0%
Terminal Building	[O]	50.0%	50.0%
<u>By Cost Center:</u>			
Airfield Area	[M*N]	\$50,000	\$50,000
Terminal Building	[M*O]	50,000	50,000
Capital Outlay	[M]	\$100,000	\$100,000

Note: Amounts may not add due to rounding.

<sup>1</sup> Depreciation is based on the prior year's actual depreciation

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 4**

<b>OPERATION AND MAINTENANCE EXPENSES</b>		<b>GARAA</b>	<b>GARAA</b>
(Fiscal Years Ending June 30)			
		Budget	Budget
		2019	2020
<u>By Category:</u>			
Personnel Services		\$5,572,510	\$6,527,568
Professional Services		387,450	384,950
Utilities		525,467	539,867
Promotional Activities		317,390	303,800
Maintenance and Repairs		262,200	255,200
Contracted Services		826,723	978,646
Insurance Expense		234,000	260,600
Materials and Supplies		467,425	464,610
Other Expenses		393,905	506,740
Total O&M Expenses	[A]	<u>\$8,987,070</u>	<u>\$10,221,981</u>
<u>By Cost Center (%):</u>			
Airfield Area	[B]	26.3%	26.3%
Terminal Building	[C]	48.0%	47.8%
Parking, Roadway, and Ground Trans.	[D]	12.0%	12.2%
General Aviation Area	[E]	9.7%	9.8%
Other Area	[F]	4.0%	4.0%
Total		<u>100.0%</u>	<u>100.0%</u>
<u>By Cost Center:</u>			
Airfield Area	[A*B]	\$2,366,072	\$2,684,342
Terminal Building	[A*C]	4,313,970	4,883,676
Parking, Roadway, and Ground Trans.	[A*D]	1,074,732	1,245,820
General Aviation Area	[A*E]	872,685	997,713
Other Area	[A*F]	359,611	410,430
Total O&M Expenses	[A]	<u>\$8,987,070</u>	<u>\$10,221,981</u>

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 5**

LANDING FEE AND REVENUE (Fiscal Years Ending June 30)		GARAA	
		Budget	Budget
		2019	2020
<u>Airfield Requirement:</u>			
O&M Expenses		\$2,366,072	\$2,684,342
Less: Deicing Chemicals		(70,040)	(72,141)
O&M Reserve Requirement		18,336	159,135
Net Depreciation		210,000	210,000
Net Amortization		79,581	79,581
Capital Outlay		50,000	50,000
Debt Service		0	0
Debt Service Coverage (25%)		0	0
Total Requirement	[A]	\$2,653,949	\$3,110,917
<u>Landing Fee Credits:</u>			
Non-Airline Revenue	[B]	\$90,000	\$90,000
Other	[C]	0	0
Total Credits	[D=B+C]	\$90,000	\$90,000
Net Landing Fee Requirement	[E=A-D]	\$2,563,949	\$3,020,917
Airline Landed Weight	[F]	565,023	700,987
Airline Landing Fee (pre-Revenue Share)	[G=E/F]	\$4.54	\$4.31
Revenue Share Credit	[H]	\$1,660,376	\$1,961,407
Adjusted Airline Net Requirement	[I=E-H]	\$903,573	\$1,059,511
Airline Landing Fee	[J=I/F]	\$1.60	\$1.51
Airline Landing Fee Revenue	[K=F*J]	\$903,573	\$1,059,511

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 6**

TERMINAL RENTAL RATE AND REVENUE (Fiscal Years Ending June 30)		GARAA	
		Budget	Budget
		2019	2020
<u>Terminal Requirement:</u>			
O&M Expenses		\$4,313,970	\$4,883,676
O&M Reserve Requirement		40,136	284,853
Net Depreciation		450,000	450,000
Net Amortization		0	0
Capital Outlay		50,000	50,000
Debt Service		0	0
Debt Service Coverage (25%)		0	0
Total Requirement	[A]	\$4,854,106	\$5,668,529
<u>Terminal Credits:</u>			
Passenger-Related Security Charges		\$344,750	\$421,080
AirIT Landside Expenses		16,463	16,463
Loading Bridge Fees		75,000	77,250
Total Terminal Credits	[B]	\$436,213	\$514,793
Net Requirement	[C=A-B]	\$4,417,893	\$5,153,736
Rentable Space (s.f.)	[D]	60,052	62,221
Terminal Rental Rate	[E=C/D]	\$73.57	\$82.83
Airline Rented Space (s.f.)	[F]	34,013	34,901
Airline Requirement	[G=E*F]	\$2,502,261	\$2,890,833
Revenue Share Credit	[H]	\$925,880	\$1,010,422
Adjusted Airline Requirement	[I=G-H]	\$1,576,382	\$1,880,411
Airline Rented Space (s.f.)	[F]	34,013	34,901
Adjusted Airline Terminal Rate	[J=I/F]	\$46.35	\$53.88
Airline Terminal Rentals	[K=F*J]	\$1,576,382	\$1,880,411

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 6A****LOADING BRIDGE FEE AND REVENUE**

(Fiscal Years Ending June 30)

		GARAA	
		Budget	Budget
		2019	2020
<u>Loading Bridge Requirement:</u>			
Operating Expenses		\$75,000	\$77,250
Capital Outlay		0	0
Debt Service		0	0
Debt Service Coverage (25%)		0	0
Total Requirement	[A]	\$75,000	\$77,250
Total Departures	[B]	7,482	8,400
Loading Bridge Fee (per Departure)	[C=A/B]	\$10.02	\$9.20
Total Loading Bridge Revenue	[D=B*C]	\$75,000	\$77,250

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)



**Table 6B**

<b>JOINT USE CHARGES</b>		<b>GARAA</b>	
(Fiscal Years Ending June 30)			
		Budget	Budget
		2019	2020
Adjusted Signatory Airline Terminal Rate	[A]	\$46.35	\$53.88
<u>Joint Use Space (s.f.):</u>			
Baggage Make-Up	[B1]	3,192	3,192
Baggage Claim	[B2]	4,124	4,124
Gates 1-3 Holdroom	[C1]	8,517	8,517
Gates 4-7 Holdroom	[C2]	6,751	6,751
Gates 4-7 Secure Enplanement Corridor	[C23]	3,421	3,421
Joint Use Space		26,005	26,005
Baggage Make-Up & Claim Requirement	[D=A*(B1+B2)]	\$339,071	\$394,175
Gate Areas Requirement	[E=A*(C1+C2+C3)]	866,169	1,006,934
Total Joint Use Requirement	[G=D+E+F]	\$1,205,239	\$1,401,109
<u>Baggage Make-Up &amp; Claim:</u>			
Baggage Make-Up & Claim Requirement (85%)	[H=D*0.85]	\$288,210	\$335,048
Checked Bags	[I]	310,700	351,040
Baggage Make-Up & Claim Fee (per bag)	[J=H/I]	\$0.93	\$0.95
Baggage Make-Up & Claim Requirement (15%)	[K=D*0.15]	\$50,861	\$59,126
Number of Airlines	[L]	5	5
Baggage Make-Up & Claim Fee (per airline)	[M=K/L]	\$10,172	\$11,825
<u>Gate Area:</u>			
Gate Area Requirement (85%)	[N=E*85%]	\$736,243	\$855,894
Enplaned Passengers	[O]	516,000	640,000
Gate Area Charge per (enplaned pax)	[P=N/O]	\$1.43	\$1.34
Gate Area Requirement (15%)	[Q=E*15%]	\$129,925	\$151,040
Number of Airlines	[L]	5	5
Gate Area Fee (per airline)	[R=Q/L]	\$25,985	\$30,208
Total Joint Use Revenue	[G]	\$1,205,239	\$1,401,109

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 6C**

TICKET COUNTER & QUEUE FEES (UNASSIGNED) (Fiscal Years Ending June 30)		GARAA	
		Budget 2019	Budget 2020
Adjusted Signatory Airline Terminal Rate	[A]	\$46.35	\$53.88
<u>Ticket Counter and Queue Space (s.f.):</u>			
Ticket Counter		1,755	1,731
Queue Space		3,181	2,865
Ticket Counter and Queue Space	[B]	4,936	4,596
Ticket Counter and Queue Space Requirement	[C=A*B]	\$228,766	\$247,625
AirIT Landside Expenses	[D]	16,463	16,463
Ticket Counter and Queue Requirement	[E=C+D]	\$245,229	\$264,088
Enplaned Passengers	[F]	516,000	640,000
Ticket Counter & Queue Fee (unassigned)	[G=E/F]	\$0.48	\$0.41
Enplaned Passenger Use	[H]	180,000	240,000
Ticket Counter & Queue Fees (unassigned)	[I=G*H]	\$85,545	\$99,033

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 7**

**PASSENGER-RELATED SECURITY CHARGE**

(Fiscal Years Ending June 30)

		GARAA	
		Budget	Budget
		2019	2020
Personnel-Related Security Cost	[A]	\$1,230,700	\$1,593,131
<u>Officer Deployment Hours:</u>			
Total Hours (16 Officers at 42 hrs/week; 2 officers at 40 hrs/week)		2,169	2,172
Holiday (11 Holidays)		(132)	(176)
Vacation (12 Days)		(144)	(192)
Training (8 hrs per month per officer)		(96)	(128)
Sick Leave (12 Days Allowed; 9 Days Average Used)		(108)	(144)
Available Hours/Officer	[B]	1,689	1,532
Number of Officers	[C]	14	18
Total Available Hours	[D=B*C]	23,648	27,584
Less: Admin Hours Total	[E]	(2,016)	(2,592)
Total Officer Deployment Hours	[F=D-E]	21,632	24,992
Personnel-Related Security Cost per Hour	[G=A/F]	\$56.89	\$63.75
<u>Passenger-Related Security Charge:</u>			
Terminal Airlines (18 hrs/day Security Checkpoint)		\$373,784	\$418,809
Less: TSA Reimbursement		(131,459)	(116,800)
Net Personnel-Related Costs	[H]	\$242,325	\$302,009
TSA Passenger Security Screening Space (s.f.)	[I]	2,210	2,210
Terminal Rental Rate	[J]	\$46.35	\$53.88
Security Checkpoint Space Costs	[K=I*J]	\$102,426	\$119,071
Passenger-Related Security Charges	[L=H+K]	\$344,750	\$421,080
Enplaned Passengers	[M]	516,000	640,000
Passenger-Related Security Charges per Enplaned Passenger	[N=L/M]	\$0.67	\$0.66
Passenger-Related Security Charges	[O=M*N]	\$344,750	\$421,080

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 8****COST PER ENPLANED PASSENGER**

(Fiscal Years Ending June 30)

**GARAA**

		Budget	
		2019	2020
<u>Airline Revenue:</u>			
Terminal Rentals		\$1,576,382	\$1,880,411
Loading Bridge Fees		75,000	77,250
Landing Fees		903,573	1,059,511
Unassigned Ticket Counter Charges		85,545	99,033
Passenger Related Security Charges		344,750	421,080
<b>Checkpoint Lane Fee</b>		<b>77,400</b>	<b>0</b>
Deicing Chemicals		70,040	72,141
Total	[A]	\$3,132,690	\$3,609,427
Enplaned Passengers	[B]	516,000	640,000
Cost Per Enplaned Passenger	[C=A/B]	<b>\$6.07</b>	<b>\$5.64</b>

Note: Amounts may not add due to rounding.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**Table 9**

PER TURN FEE FOR MARKET SHARE EXEMPT CARRIERS (Fiscal Years Ending June 30)		GARAA	
		Budget	Budget
		2019	2020
<u>Per Turn Requirement:</u>			
Joint Use Cost <sup>1</sup>		\$1,205,239	\$1,401,109
Loading Bridge Cost		75,000	77,250
Unassigned Ticket Counter Cost		245,229	264,088
Passenger Related Security Charge Cost		344,750	421,080
Deicing Chemicals Cost		70,040	72,141
Total	[A]	\$1,940,259	\$2,235,669
Total Departures	[B]	7,482	8,400
Average Per Turn Cost	[C=A/B]	\$259.32	\$266.15
Per Turn Fee for Exempt Carriers (0-70 seats)	[D=C*105%]	\$272.00	\$279.00
Per Turn Fee for Exempt Carriers (71-135 seats)	[E=C*125%]	\$324.00	\$333.00
Per Turn Fee for Exempt Carriers (136+ seats)	[F=C*140%]	\$363.00	\$373.00

Note: Amounts may not add due to rounding.

<sup>1</sup> Includes the cost of baggage areas and gate areas.

Source: Airport management records

Compiled by Trillion Aviation, February 2018 (Updated June 2018, February 2019)

**B. Public Hearing and Final Adoption of the Authority's Fiscal Year 2019/2020 Budget:** Mrs. Burnette stated that the proposed preliminary Fiscal Year 2019/2020 Budget was presented to and approved by the Authority Board on March 8, 2019. The budget has remained available for public inspection since that date with no comments being received to date.

The Chair opened the floor to public comments at 8:49 a.m. There being no public comments, the Chair closed the floor at 8:49 a.m.

Mr. Moyer moved to adopt the following Fiscal Year 2019/2020 Budget Ordinance. Ms. Brown seconded the motion and it carried unanimously:

**GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY**

**2019-2020**

**BUDGET ORDINANCE**

**BE IT ORDAINED** by the Greater Asheville Regional Airport Authority that, pursuant to Section 159-13 of the General Statutes of North Carolina, the 2019-2020 Budget Ordinance of the Airport Authority is hereby set forth as follows:

**Section 1.** The following amounts are hereby appropriated for the operation of the Greater Asheville Regional Airport Authority for the fiscal year beginning July 1, 2019 and ending June 30, 2020 in accordance with the following schedules:

**EXPENDITURES**

Administration Department	\$ 961,521
Development Department	468,894
Executive Department	696,354
Finance Department	445,574
Guest Services Department	241,545
Information Technology Department	986,458
Marketing Department	736,913
Operations Department	3,778,746
Properties & Contracts	198,921
Public Safety Department	1,837,258

Emergency Repair Costs	50,000
Carry-over Capital Expenditures from Prior Year	17,103,096
Capital Improvement	35,664,537
Equipment and Small Capital Outlay	-
Renewal and Replacement	346,308
Business Development	300,000
Debt Service	1,685,074
Contingency	100,000
<b>Total Expenditures</b>	<u>\$65,601,199</u>

**Section 2.** It is estimated that the following revenues will be available for the fiscal year beginning July 1, 2019 and ending June 30, 2020.

### REVENUES

Administration (Interest Income)	\$ 250,000
Terminal	5,632,571
Airfield	1,177,046
General Aviation	1,056,304
Parking Lot	4,688,500
Other	180,319
Passenger Facility Charges	2,250,000
Customer Facility Charges	1,600,000
Federal Grants – AIP Entitlements	1,825,000
Federal Grants – AIP Discretionary Funds	200,000
NC Department of Transportation Grants	-
Transfer from GARAA Cash/Investments	46,741,459
<b>Total Revenues</b>	<u>\$65,601,199</u>



**Section 3.** The Budget Officer is hereby authorized to transfer appropriations as contained herein under the following conditions:

- a. He may transfer amounts between line item expenditures within a budget ordinance line item without limitation and without a report being required. These changes should not result in increased recurring obligations such as salaries.
- b. He may transfer amounts up to \$60,000 from contingency appropriations to other budget ordinance line items within the same fund. He must make an official report on such transfers at the next regular meeting of the board.

**Section 4.** This Budget Ordinance shall be entered in the minutes of the Greater Asheville Regional Airport Authority and within five (5) days after its adoption copies shall be filed with the Finance Officer, the Budget Officer and the Clerk to the Board of the Greater Asheville Regional Airport Authority as described in G.S. 159-13.

**Section 5.** This ordinance shall become effective on July 1, 2019.

Adopted this 12th day of April, 2019

---

Matthew C. Burrell, Chair

Attested by:

---

Ellen Heywood, Clerk to the Board

**NEW BUSINESS:**

**A. Approve Agreement with Kimley-Horn for Engineering Services Associated with Pipe Repair:** Mr. Reisman reminded the Board that an agreement was approved in October of 2018 with Kimley-Horn for consulting services for the inspection of a failing 60" reinforced concrete pipe in the north general aviation area. It was determined that the pipe required repairs in a number of areas to ensure its longevity and compliance with NCDEQ requirements. The repairs require engineering design and limited oversight while the work is being done. A follow-up report by Kimley-Horn after the repairs are complete will document the current condition of the pipe and will establish a new baseline from which future inspections will be compared. Mr. Reisman stated that

the work for these services will not exceed \$170,840.40. Additional cost for construction/repair services will be incurred once the project is designed and bid. Mr. Reisman further stated that the following budget amendment will be necessary:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2019:

Section 1. To amend the appropriations as follows:

**EXPENDITURES:**

	<u>Decrease</u>	<u>Increase</u>
Capital Improvements	_____	\$170,840.40
Totals	=====	\$170,840.40

This will result in a net increase of \$170,840.40 in the appropriations. Revenues will be revised as follows:

**REVENUES:**

	<u>Decrease</u>	<u>Increase</u>
Transfer from GARAA Cash	_____	\$170,840.40
Totals	_____	\$170,840.40

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Greater Asheville Regional Airport Authority, and to the Budget Officer and to the Finance Officer for their direction.

Adopted this 12<sup>th</sup> day of April, 2019.

\_\_\_\_\_  
Matthew Burrell, Chair

Attested by:

\_\_\_\_\_  
Ellen Heywood, Clerk to the Board

There was a brief discussion on the condition of the pipe and Mr. Reisman provided an overview of the repairs and explained that with the type of repairs that are necessary, legitimate engineering services are required due to the size, depth and location of the pipe. The agreement is for engineering services only and a separate contract for construction services will be brought to the Board at a future date.

Mr. Moyer moved to approve the agreement with Kimley-Horn in an amount not to exceed \$170,840.40 for engineering services associated with the pipe repair; authorize the Executive Director to execute the necessary documents; and amend the FY2018/2019 budget by adopting the budget ordinance presented by staff. Mr. Ricker seconded the motion and it carried unanimously.

**B. Award of Contract for Physical Security and Identity Management**

**Project:** Shane Stockman informed the Board that the airport’s physical security systems were last updated in 2008. The five-year CIP that was approved by the Board in November of 2018 included replacement of this system. The scope of work includes the replacement of the physical access control system, security cameras, network video recorders and the addition of an identity management component to help streamline the credentialing processes for badge holders. The project was bid and two bids were received. The bid received from Convergent Technologies was deemed nonresponsive due to the absence of a bid bond and failure to make an attempt to meet the 12.2% DBE requirement for the project. The responsive low bid by Johnson Controls was submitted in the amount of \$2,605,672.28. Mr. Stockman stated that \$1,538,581 was approved by the Board for this project in FY2018 and carried over into FY2019. The project will be funded with FAA AIP funds in the amount of \$2,053,992 and the remaining amount of \$551,680 in airport funds. The following budget amendment will be required:

BE IT ORDAINED by the Greater Asheville Regional Airport Authority that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2019:

Section 1. To amend the appropriations as follows:

**EXPENDITURES:**

	<u>Decrease</u>	<u>Increase</u>
Capital Improvements	\$0	\$1,067,091
Total	\$0	\$1,067,091

This will result in a net increase of \$1,067,091 in the appropriations. Revenues will be revised as follows:

**REVENUES:**

	<u>Decrease</u>	<u>Increase</u>
Federal – AIP Entitlement Funds		\$669,269
Transfer from GARAA Cash	<u>\$0</u>	<u>\$397,822</u>
Total	<u><u>\$0</u></u>	<u><u>\$1,067,091</u></u>

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Greater Asheville Regional Airport Authority, and to the Budget Officer and to the Finance Officer for their direction.

Adopted this 12<sup>th</sup> day of April, 2019.

\_\_\_\_\_  
Matthew Burril, Chair

Attested by:

\_\_\_\_\_  
Ellen Heywood, Clerk to the Board

Mr. Stockman also advised the Board that staff was working with Johnson Controls to value engineer some components of the project to help bring the cost of the project down. Staff received a response from Johnson Controls late the day before and the amount submitted was \$2.21 million, however staff has not yet had an opportunity to review the documents.

A brief discussion took place regarding the timing and disruption to operations for the project as well as how the terminal project would affect the new system. Mr. Stockman advised the Board that the bulk of the project is software with a large majority of the equipment going to the Public Safety building. Any cameras and card readers can be moved and will not be lost when the new terminal is built.

Mr. Moyer moved to approve the total project budget of \$2,605,672.28 for the replacement of the Security/IDMS Systems; approve the contract with Johnson Controls for the replacement of the Security/IDMS Systems; authorize the Executive Director to execute the necessary documents; and amend the FY2018/2019 Budget by adopting the budget ordinance amendment as presented by staff. Mr. Ricker seconded the motion and it carried unanimously.

**C. Parking Lot Discussion:** Mr. Reisman advised the Board that with the continued growth of the airport, a short-term solution to address a shortage of parking is necessary. The garage is already at 75% capacity during non-peak times and the lower parking lot has been re-opened and becomes full on peak days. Mr. Reisman spoke about the two areas across NC280, stating that if both areas were paved, an additional 400 parking spaces could be gained. Converting both areas to parking lots is anticipated to cost approximately \$1 million. Shuttle services to and from these areas would require staff to increase the parking from the \$6 a day that was charged in one of the areas while the parking garage was under construction. A brief discussion about the possibility of valet parking took place and Mr. Reisman assured the Board that staff will explore all options.

Mr. Reisman also reminded the Board that with the south apron expansion, almost two thirds of the employee parking lot will be lost. Staff is considering converting the existing cell phone lot to employee parking and relocating the cell phone lot to an existing gravel lot on Wright Brother's Way that is currently used by some general aviation tenants. Some of the trees surrounding the gravel lot would be cleared and the lot would be paved to create over 100 parking spaces. The cost for these projects would be approximately \$142,000.

Mr. Reisman further reviewed the plan to change the ground transportation lot so that all ground transportation operators, including TNC's, would utilize the lot located on the north end of the terminal building. Modifications to the ground transportation lot to accommodate the TNC operators would cost approximately \$70,000.

Mr. Reisman stated that while the numbers for all of the parking changes are very preliminary, staff believes it will be in the \$1.2 to \$1.3 million range without fees for design services. Staff anticipates these changes will provide adequate parking over the next few years while staff considers a more permanent solution. The consensus of the Board was for staff to pursue planning for additional parking and to explore both paved and gravel options as well as valet parking.

**DIRECTOR'S REPORT:** Mr. Reisman advised the Board that he had an additional item to include that was not on the agenda.

**A. Jet Bridge 2 Update:** Mr. Reisman reported that the jet bridge on gate 2 was back in service. A new rotunda was installed and procedures are in place to avoid a similar problem. Card readers will also be installed in each jet bridge so the employee will have to scan to operate the jet bridge. Spot checks are also being performed to ensure the employees using the jet bridge are trained in the proper procedures.

**B. Parking Garage Award:** Mr. Reisman was pleased to announce that at the annual conference for the Southeast Chapter of American Association Airport Executives,

Asheville won the 2019 Commercial Airport Project of the Year – Architectural Project for the parking garage.

**INFORMATION SECTION:** No comments

**PUBLIC AND TENANTS COMMENTS:** None

**CALL FOR NEXT MEETING:** The next regular meeting of the Authority Board will be held on May 10, 2019.

**AUTHORITY MEMBER REPORTS:** None

**CLOSED SESSION:** At 9:53 a.m. Mr. Bailey moved to go into Closed Session Pursuant to Subsection 143-318.11 (a)(3) of the General Statutes of North Carolina to Consult with Legal Counsel Regarding, Among Other Things, That Lawsuit Entitled Kaleb A. Rice vs. Greater Asheville Regional Airport Authority and M. Kevan Smith, Individually, in Order to Preserve the Attorney-Client Privilege. Mr. Moyer seconded the motion and it carried unanimously.

The Chair indicated they would break for five minutes at which time the Board would resume in closed session.

Open Session resumed at 11:40 a.m.

**GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY APRIL 12, 2019**

**CLOSED SESSION MINUTES:** Mr. Bailey moved to seal the minutes for the Closed Session just completed and to withhold such Closed Session minutes from public inspection so long as public inspection would frustrate the purpose or purposes thereof. Mr. Moyer seconded the motion and it carried unanimously.

**GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY MARCH 8, 2019**

**CLOSED SESSION MINUTES:** Mr. Bailey moved to approve the minutes for the March 8, 2019 Closed Session and to seal and withhold the minutes for the March 8, 2019 Closed Session from public inspection so long as public inspection would frustrate the purpose or purposes thereof. Mr. Erwin seconded the motion and it carried unanimously.

**TRICOR AND THALLE SETTLEMENT:** Ms. Rice stated that the lawsuit with Tricor and Thalle was resolved as follows: \$120,000 was paid to Tricor with \$40,000 each from the Authority, RS&H, and Avcon; \$62,707 of Thalle's money was being held and \$49,500 was released and \$13,207 was retained; all mutual releases with no wrong doing; the voluntary dismissal has been circulated for signature and will be filed the following week. The following settlement agreement to become part of the permanent record:

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

**MEDIATED SETTLEMENT AGREEMENT**

This Mediated Settlement Agreement (hereinafter "Agreement"), effective as of the date it is fully executed, is hereby entered into by and among Tricor Construction, Inc. (hereinafter "Tricor"), Thalle Construction Co., Inc. (hereinafter "Thalle"), Liberty Mutual Insurance Company (hereinafter "Liberty Mutual"), RS&H Architects-Engineers-Planners, Inc. (hereinafter "RS&H"), Greater Asheville Regional Airport Authority (hereinafter "the GARAA"), and Avcon, Inc. d/b/a Avcon Engineers & Planners, Inc. (hereinafter "Avcon") (hereinafter occasionally and collectively "the Parties").

**WITNESSETH:**

WHEREAS, the GARAA is the owner and operator of the Asheville Regional Airport (hereinafter "the Airport");

WHEREAS, in or around May of 2014, the GARAA contracted with Thalle for Thalle to serve as the General Contractor for a project known as 17-35 Temporary Runway Construction, Bid Package 1, Site Preparation and Grading (hereinafter "the Project") at the Airport;

WHEREAS, Liberty Mutual provided the payment surety bond for the Project;

WHEREAS, part of the Project was the design and construction of an MSE Retaining Wall (hereinafter "the MSE Wall");

WHEREAS, Thalle hired Tricor as a subcontractor on the Project to build the MSE Wall and Tricor did build the MSE Wall;

WHEREAS, Tricor hired Tensar International Corporation (hereinafter "Tensar") as a subcontractor on the Project to design the MSE Wall and Tensar did design the MSE Wall;

WHEREAS, RS&H provided resident project representative (RPR) and project management services to the GARAA in connection with the Project;

WHEREAS, AVCON served as the GARAA's engineer for the Project;

WHEREAS, in or around December of 2014, during construction of the MSE Wall there was a partial wall failure (hereinafter "the Partial Wall Failure");

WHEREAS, disputes, disagreements and controversies have arisen between the Parties regarding, among other things: the embedment depth of the MSE Wall, payment for the construction of the MSE Wall, expenses associated with the repair of the Partial Wall Failure, and other claims for additional payment;

WHEREAS, in or around March of 2016, Tricor filed a Complaint and initiated a lawsuit in Henderson County, North Carolina against the GARAA, RS&H, Thalle, and Liberty Mutual alleging various claims, which included, but were not limited to, negligence, breach of contract, breach of warranty, and quantum meruit;

WHEREAS, Tricor's lawsuit was subsequently transferred to Superior Court in Buncombe County, North Carolina and is now known as Buncombe County, NC Case No. 16 CVS 2629 (hereinafter "the Case");

WHEREAS, Tricor also filed supplemental claims against Thalle, Liberty Mutual, RS&H and the GARAA in May of 2017;

WHEREAS, various counterclaims and cross-claims were filed by Thalle, Liberty Mutual and the GARAA;

WHEREAS, the GARAA also brought a third-party complaint against Avcon;

WHEREAS, in connection with the Case, a mediated settlement conference was held on April 23, 2018 (hereinafter "Mediation");

WHEREAS, the Mediator did not declare an impasse at Mediation, and has continued to work with the Parties to find a resolution to the disputes, disagreements and controversies at issue; and

WHEREAS, the Parties have now agreed to compromise and settle all of their disputes, disagreements and controversies, and all claims, crossclaims and counterclaims that were raised in the Case or could have been raised in the Case by entering into this Mediated Settlement Agreement.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, promises and releases contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto contract and agree as follows:

1. **Payments to Tricor.** The Parties hereby agree that Tricor shall recover a total of \$120,000.00 in connection with the Case, and such amount shall be paid as follows: a. \$ 40,000.00 from RS&H; b. \$40,000.00 from Avcon; and c. \$ 40,000.00 from the GARAA. Each payment shall be made within fourteen (14) days of the full execution of this Mediated Settlement Agreement. The checks shall be made payable to Tricor Construction, Inc. and shall be delivered to Tricor's attorney. The Parties acknowledge and agree that such payments are in full and final satisfaction of all claims that Tricor asserted, or that Tricor could have asserted, against any of the Parties in the Case, and that no other amounts are due to Tricor in connection with the Case or the Project.

2. **Payment to Thalle.** Thalle and the GARAA hereby agree that the GARAA shall recover a total of \$13,207.17 in connection with its crossclaim filed against Thalle in the Case. Such amount shall be retained by the GARAA from the \$62,707.17 that the GARAA withheld from final payment to Thalle. The balance of \$ 49,500.00 shall be paid by the GARAA to Thalle within fourteen (14) days of the full execution of this Mediated Settlement Agreement. The check shall be made payable to Thalle Construction Co., Inc. and shall be delivered to Thalle's attorney. The Parties acknowledge and agree that such payment is in full and final satisfaction of the claims that Thalle asserted against the GARAA, or that could have been asserted against the GARAA in the Case, and that no other amounts shall be due to Thalle in connection with the Case or the Project.

3. **Other Payments.** The Parties acknowledge and agree that in connection with the Case: Tricor and Thalle are not entitled to recover any funds other than those referenced in Paragraphs 1 and 2 above; The GARAA shall not be entitled to recover any funds (other than those being withheld, as described in Paragraph 2 above); and Liberty Mutual, RS&H, and Avcon shall not be entitled to recover any funds.



4. **No Impact on Warranty Claims.** The Parties hereby agree that nothing contained in this Agreement shall eliminate, reduce, or modify, in any way, any of the Parties' ongoing contractual obligations or other obligations and responsibilities pursuant to any warranties, expressed, implied, or otherwise for labor or materials delivered in connection with the Project or in connection with the Partial Wall Repair.

5. **Attorney's Fees & Costs.** The Parties hereby agree that each party shall be responsible for its own attorney's fees and costs associated with the Project, the Case and with the Mediation. Further, the Parties hereby agree that each party shall each be responsible for its share of the Mediator's fees associated with the Mediation and subsequent negotiations in the amounts invoiced by the Mediator, and that such amounts shall be paid directly to the Mediator.

6. **No Admission of Wrongdoing.** The Parties agree that nothing contained in this Agreement, any document generated by the Parties in connection with this Agreement, or action taken by any party in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of any party, liability being expressly denied by all of the Parties.

7. **Mutual Release by All Parties.**

a. **Release of All Parties by Tricor.** Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 1, and conditional upon compliance with the other obligations contained in this Agreement, Tricor for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Thalle, Liberty Mutual, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

b. **Release of All Parties by Thalle and Liberty Mutual.** Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 2, and conditional upon compliance with the other obligations contained in this Agreement, Thalle and Liberty Mutual for themselves and their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers, and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

c. **Release of Tricor, Thalle & Liberty Mutual by RS&H.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other

obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

d. **Release of Tricor, Thalle & Liberty Mutual by Avcon.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, Avcon for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

e. **Release of Tricor, Thalle & Liberty Mutual by the GARAA.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, the GARAA for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, of any from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

f. **Release of Avcon & the GARAA by RS&H.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Avcon and the GARAA, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case, or

4. No Impact on Warranty Claims. The Parties hereby agree that nothing contained in this Agreement shall eliminate, reduce, or modify, in any way, any of the Parties' ongoing contractual obligations or other obligations and responsibilities pursuant to any warranties, expressed, implied, or otherwise for labor or materials delivered in connection with the Project or in connection with the Partial Wall Repair.

5. Attorney's Fees & Costs. The Parties hereby agree that each party shall be responsible for its own attorney's fees and costs associated with the Project, the Case and with the Mediation. Further, the Parties hereby agree that each party shall each be responsible for its share of the Mediator's fees associated with the Mediation and subsequent negotiations in the amounts invoiced by the Mediator, and that such amounts shall be paid directly to the Mediator.

6. No Admission of Wrongdoing. The Parties agree that nothing contained in this Agreement, any document generated by the Parties in connection with this Agreement, or action taken by any party in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of any party, liability being expressly denied by all of the Parties.

7. Mutual Release by All Parties.

a. Release of All Parties by Tricor. Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 1, and conditional upon compliance with the other obligations contained in this Agreement, Tricor for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Thalle, Liberty Mutual, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

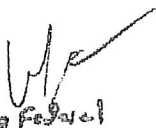
b. Release of All Parties by Thalle and Liberty Mutual. Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 2, and conditional upon compliance with the other obligations contained in this Agreement, Thalle and Liberty Mutual for themselves and their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers, and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

c. Release of Tricor, Thalle & Liberty Mutual by RS&H. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other

obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

d. Release of Tricor, Thalle & Liberty Mutual by Avcon. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, Avcon for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

e. Release of Tricor, Thalle & Liberty Mutual by the GARAA. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, the GARAA for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, of any from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

  
Federal  
Insurance  
Company

f. Release of Avcon & the GARAA by RS&H. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Avcon and the GARAA, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case, or

4. **No Impact on Warranty Claims.** The Parties hereby agree that nothing contained in this Agreement shall eliminate, reduce, or modify, in any way, any of the Parties' ongoing contractual obligations or other obligations and responsibilities pursuant to any warranties, expressed, implied, or otherwise for labor or materials delivered in connection with the Project or in connection with the Partial Wall Repair.

5. **Attorney's Fees & Costs.** The Parties hereby agree that each party shall be responsible for its own attorney's fees and costs associated with the Project, the Case and with the Mediation. Further, the Parties hereby agree that each party shall each be responsible for its share of the Mediator's fees associated with the Mediation and subsequent negotiations in the amounts invoiced by the Mediator, and that such amounts shall be paid directly to the Mediator.

6. **No Admission of Wrongdoing.** The Parties agree that nothing contained in this Agreement, any document generated by the Parties in connection with this Agreement, or action taken by any party in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of any party, liability being expressly denied by all of the Parties.

7. **Mutual Release by All Parties.**

a. **Release of All Parties by Tricor.** Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 1, and conditional upon compliance with the other obligations contained in this Agreement, Tricor for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, Insurers and representatives hereby releases and forever discharges Thalle, Liberty Mutual <sup>Equal</sup> <sub>Insurance</sub> <sup>Company,</sup> the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, Insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

b. **Release of All Parties by Thalle and Liberty Mutual.** Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 2, and conditional upon compliance with the other obligations contained in this Agreement, Thalle and Liberty Mutual for themselves and their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, Insurers and representatives hereby releases and forever discharges Tricor, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, Insurers, and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

c. **Release of Tricor, Thalle & Liberty Mutual by RS&H.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other



obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

d. Release of Tricor, Thalle & Liberty Mutual by Avcon. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, Avcon for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

e. Release of Tricor, Thalle & Liberty Mutual by the GARAA. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, the GARAA for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, of any from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

Federal  
Insurance  
Company

f. Release of Avcon & the GARAA by RS&H. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Avcon and the GARAA, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case, or

4. **No Impact on Warranty Claims.** The Parties hereby agree that nothing contained in this Agreement shall eliminate, reduce, or modify, in any way, any of the Parties' ongoing contractual obligations or other obligations and responsibilities pursuant to any warranties, expressed, implied, or otherwise for labor or materials delivered in connection with the Project or in connection with the Partial Wall Repair.

5. **Attorney's Fees & Costs.** The Parties hereby agree that each party shall be responsible for its own attorney's fees and costs associated with the Project, the Case and with the Mediation. Further, the Parties hereby agree that each party shall each be responsible for its share of the Mediator's fees associated with the Mediation and subsequent negotiations in the amounts invoiced by the Mediator, and that such amounts shall be paid directly to the Mediator.

6. **No Admission of Wrongdoing.** The Parties agree that nothing contained in this Agreement, any document generated by the Parties in connection with this Agreement, or action taken by any party in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of any party, liability being expressly denied by all of the Parties.

7. **Mutual Release by All Parties.**

a. **Release of All Parties by Tricor.** Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 1, and conditional upon compliance with the other obligations contained in this Agreement, Tricor for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Thalle, Liberty Mutual, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

Fr. Div-1  
Insurance  
Company  
*[Signature]*

b. **Release of All Parties by Thalle and Liberty Mutual.** Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 2, and conditional upon compliance with the other obligations contained in this Agreement, Thalle and Liberty Mutual for themselves and their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers, and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

c. **Release of Tricor, Thalle & Liberty Mutual by RS&H.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other

obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

d. Release of Tricor, Thalle & Liberty Mutual by Avcon. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, Avcon for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

e. Release of Tricor, Thalle & Liberty Mutual by the GARAA. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, the GARAA for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, of any from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

Federal  
Insurance  
Company  
*[Signature]*

f. Release of Avcon & the GARAA by RS&H. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Avcon and the GARAA, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case, or



4. No Impact on Warranty Claims. The Parties hereby agree that nothing contained in this Agreement shall eliminate, reduce, or modify, in any way, any of the Parties' ongoing contractual obligations or other obligations and responsibilities pursuant to any warranties, expressed, implied, or otherwise for labor or materials delivered in connection with the Project or in connection with the Partial Wall Repair.

5. Attorney's Fees & Costs. The Parties hereby agree that each party shall be responsible for its own attorney's fees and costs associated with the Project, the Case and with the Mediation. Further, the Parties hereby agree that each party shall each be responsible for its share of the Mediator's fees associated with the Mediation and subsequent negotiations in the amounts invoiced by the Mediator, and that such amounts shall be paid directly to the Mediator.

6. No Admission of Wrongdoing. The Parties agree that nothing contained in this Agreement, any document generated by the Parties in connection with this Agreement, or action taken by any party in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of any party, liability being expressly denied by all of the Parties.

7. Mutual Release by All Parties.

a. Release of All Parties by Tricor. Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 1, and conditional upon compliance with the other obligations contained in this Agreement, Tricor for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Thalle, Liberty Mutual, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

b. Release of All Parties by Thalle and Liberty Mutual. Except as provided elsewhere herein, upon execution of the Agreement and receipt of the funds described in Paragraph 2, and conditional upon compliance with the other obligations contained in this Agreement, Thalle and Liberty Mutual for themselves and their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, the GARAA, RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

c. Release of Tricor, Thalle & Liberty Mutual by RS&H. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other

RS, HAEP  
DTS  
Federal  
Insurance  
Company

obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, Insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

d. Release of Tricor, Thalle & Liberty Mutual by Avcon. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, Avcon for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

e. Release of Tricor, Thalle & Liberty Mutual by the GARAA. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, the GARAA for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Tricor, Thalle, and Liberty Mutual, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, of any from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case or that could have been asserted in the Case, or that relate in any way to funds owed in connection with the delivery of labor or materials in connection with the Project.

RS&H AEP  
JTS

Federal  
Insurance  
Company

f. Release of Avcon & the GARAA by RS&H. Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, RS&H for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges Avcon and the GARAA, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case, or

that relate to the MSE Retaining Wall and could have been asserted in the Case, including claims for indemnity or contribution related to the Case.

g. **Release of RS&H and the GARAA by Avcon.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, Avcon for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges RS&H and the GARAA, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case, or that relate to the MSE Retaining Wall and could have been asserted in the Case, including claims for indemnity or contribution related to the Case.

h. **Release of Avcon & RS&H by the GARAA.** Except as provided elsewhere herein, upon execution of the Agreement, and conditional upon compliance with the other obligations contained in this Agreement, the GARAA for itself and its respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives hereby releases and forever discharges RS&H and Avcon, and each of their respective members, managers, officers, directors, board, shareholders, partners, employees, subsidiaries, agents, predecessor corporations, affiliated corporations, attorneys, successors, assigns, insurers and representatives, from any and all claims, cross-claims, counterclaims, debts, liabilities, obligations, or other claims for relief, of whatever kind or nature, that were asserted in the Case, or that relate to the MSE Retaining Wall and could have been asserted in the Case, including claims for indemnity or contribution related to the Case.

8. **Dismissal of Civil Action and all Cross-Claims.** It is the intention of the Parties that this Agreement shall resolve all claims related to the Case.

a. **Voluntary Dismissal by Tricor and Thalle & Liberty Mutual.** Upon receipt of the payments itemized in Paragraphs 1 and 2 above, Tricor and Thalle & Liberty Mutual shall dismiss, with prejudice, all claims, supplemental claims, cross-claims and counterclaims filed in the Case and shall deliver a copy of the Notice of Voluntary Dismissal to counsel for the other Parties.

b. **Voluntary Dismissal by the GARAA.** Upon receipt of a copy of each Notice of Voluntary Dismissal filed by Tricor and by Thalle & Liberty Mutual, and the GARAA shall dismiss, with prejudice, all claims, cross-claims and counterclaims filed in the Case and shall deliver a copy of the Notice of Voluntary Dismissal to counsel for the other Parties.

9. **Further Assurances.** The Parties agree that, without any additional consideration, they shall execute such additional documents and take such additional actions as shall be reasonably necessary or appropriate to effect the consummation of the terms of this Agreement. In addition, Thalle agrees to execute such additional documents as are necessary for the GARAA to close out the Project with the Federal Aviation Administration.

10. **Terms of Agreement Negotiated.** This Agreement has been negotiated and drafted by all Parties and their counsel. The Parties to this Agreement represent and warrant that they have read and understand this Agreement and have consulted their respective counsel concerning its legal effect. It is further represented, declared and agreed by the undersigned that the terms of this Agreement are fully understood and that the judgment of the undersigned is relied upon wholly in so doing and that the above referenced consideration is voluntarily accepted by the undersigned for the purposes of making a full and final compromise. No rule of construction shall apply to this Agreement construing its provisions in favor or against any party.

11. **Severability.** Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other of its provisions or of the Agreement as a whole.

12. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties. This Agreement is made without reliance upon any statement or representation of the Parties or their representatives and the terms of this Agreement are contractual and not mere recitals. This Agreement may only be amended or modified by a written instrument signed by all Parties to this Agreement.

13. **Governing Law.** This Agreement shall be governed, interpreted and enforced pursuant to the laws of the State of North Carolina.

14. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15. **Authority.** Each signatory represents and warrants that he or she is the authorized representative of the party on behalf of whom he or she signs and that the execution of this Agreement has been validly authorized.

In Witness Whereof, the Parties by and through their authorized representatives have executed this Agreement as of the day and year written below.

**[SIGNATURES ON THE FOLLOWING PAGES]**

Tricor Construction, Inc.

By: [Signature]

Print Name: Kelly F. Check

Title: President

Date: 1-14-19

Counsel for Tricor

Elmore Goldsmith, P.A.

By: [Signature]

Print Name: Bryan Kelley

**Thalle Construction Co., Inc.**

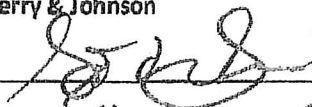
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Liberty Mutual Insurance Co.**

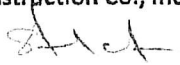
By: Maryrita Mauro  
Print Name: Maryrita Mauro  
Title: Attorney in fact  
Date: 2/19/19

**Counsel for Thalle Construction Co., Inc. & Liberty Mutual Insurance Company**

**Smith Terry & Johnson**

By:   
Print Name: Steven L. Smith

Thalle Construction Co., Inc.

By: 

Print Name: STEPHEN E. KOUTURE

Title: PRESIDENT / COO

Date: JANUARY 14, 2019

Liberty Mutual Insurance Co.

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

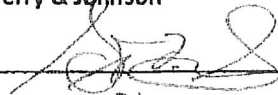
Print Name: \_\_\_\_\_

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

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

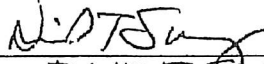
*Counsel for Thalle Construction Co., Inc. & Liberty Mutual Insurance Company*

Smith Terry & Johnson


By: 

Print Name: 3/11/19

RS&H Architects-Engineers-Planners, Inc.

By:   
Print Name: DAVID T. SWEENEY  
Title: CHIEF EXECUTIVE OFFICER  
Date: JANUARY 14, 2019

Counsel for RS&H Architects-Engineers-Planners,  
Inc.

  
By: Rogers Powers, P.A.  
Print Name: E. Carron Lange



Avcon, Inc.  
d/b/a Avcon Engineers & Planners, Inc.

By: Sandeep Singh

Print Name: SANDEEP SINGH

Title: PRESIDENT

Date: 2-5-19

Counsel for Avcon, Inc.  
d/b/a Avcon Engineers & Planners, Inc.


Nelson Mullins Riley & Scarborough

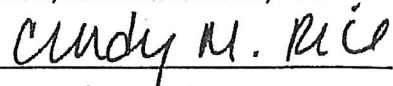
By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Greater Asheville Regional Airport Authority

Counsel for Greater Asheville Regional Airport Authority

By:   
Print Name: Lew Bionisi  
Title: Executive Director  
Date: 1-18-19

Patla, Straus, Robinson & Moore, P.A.  
By:   
Print Name: CINDY M. RICE

**PRE-AUDIT CERTIFICATE**

This instrument has been pre-audited in the manner required by N.C.G.S. 18B-702. This the 18<sup>th</sup> day of January 2019.

  
Finance Officer  
Greater Asheville Regional Airport Authority

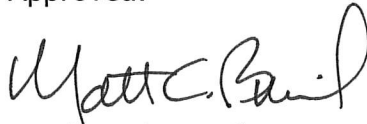
**ADJOURNMENT:** Mr. Bailey moved to adjourn the meeting at 11:42 a.m. Mr. Erwin seconded the motion and it carried unanimously.

Respectfully submitted,



Ellen Heywood  
Clerk to the Board

Approved:



Matthew C. Burril  
Chair