

**ORDINANCE NO. 1309  
SERIES 2022**

**AN ORDINANCE AUTHORIZING AND APPROVING A GROUND LEASE WITH JARED  
AND KAREN HANSEN FOR CONSTRUCTION OF AN AIRCRAFT HANGAR  
AT THE CORTEZ MUNICIPAL AIRPORT**

WHEREAS, Jared and Karen Hansen (Hansen) wish to lease ground from the City in order to build a hangar to store aircraft used for personal air activity; and

WHEREAS, the City of Cortez Charter and State Statutes require that these leases be approved by ordinance; and

WHEREAS, the Cortez City Council did not approve Ordinance NO. 1307 Series 2022 on Second Reading because some substantive changes had been made to the Hansen Lease that required City staff and Hansen to review the changes; and

WHEREAS, the City staff and Hansen have reviewed the substantive changes and now agree on the terms of the draft hangar lease attached hereto and incorporated herein as Exhibit 1.

**NOW THEREFORE, BE IT ORDAINED BY THE CORTEZ CITY COUNCIL THAT** the hangar lease attached hereto and incorporated herein as Exhibit 1 is approved and the Mayor is authorized to sign same.

**REPEALER.** All orders, bylaws, ordinances, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

**SEVERABILITY.** If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

**RECORDING AND AUTHENTICATION.** Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the City Clerk.

**EFFECTIVE DATE.** This ordinance shall be effective upon publication after final passage.

**FIRST READING.** This ordinance shall be considered on first reading on the 26th day of July 2022, at the hour of 7:30 p.m. in the City Council Chambers in City Hall, Cortez, Colorado, at which time and place all persons may appear and be heard concerning the same.

**PUBLIC HEARING.** This ordinance shall be considered for second or final reading on the 9th day of August 2022, at the hour of 7:30 p.m. in the City Council Chambers in City Hall, Cortez, Colorado, at which time and place all persons may appear and be heard concerning the same.

PASSED, ADOPTED AND APPROVED ON FIRST READING THIS 26<sup>TH</sup> DAY OF JULY, 2022.

CITY OF CORTEZ

ATTEST:

  
LINDA L. SMITH, CITY CLERK

  
RACHEL B. MEDINA, MAYOR

PASSED, ADOPTED, AND APPROVED ON SECOND READING THIS 9<sup>TH</sup> DAY OF AUGUST, 2022.

CITY OF CORTEZ

ATTEST:

  
LINDA L. SMITH, CITY CLERK

  
RACHEL B. MEDINA, MAYOR

APPROVED AS TO FORM:

  
J. Patrick Coleman, City Attorney

**AIRPORT LAND  
AGREEMENT AND  
HANGAR DEVELOPMENT AGREEMENT**

This Airport Land Agreement and Hangar Development Agreement (“Agreement”) is made and entered into this 26<sup>th</sup> day of July, 2022, by and between the City of Cortez, Colorado, as lessor, hereafter referred to as “City,” and Jared and Karen Hansen, as lessee, hereafter referred to as “Hansen.” City and Hansen may be collectively referred to herein as “Parties,” and individually as a “Party.” The purpose of this Agreement is a land Agreement for aircraft hangar construction and aeronautical use by Hansen.

For and in consideration of the rent to be paid to the City by Hansen at the times, in the amounts, and under the conditions expressed below, and in further consideration of the mutual covenants contained herein, City hereby Agreements, lets and rents to Hansen the following described tract of land, located at the Cortez Municipal Airport (the "Airport") in Montezuma County, Colorado, more particularly described below:

A tract of land in the East half of Section 8, T.35 N., R. 16 W., of New Mexico Principal Meridian, Montezuma County, Colorado, being more particularly described as follows:

North Hangar Lot #8

Measuring 75 feet wide by 80 feet deep

**Totaling 6,000 square feet of land leased.**

**Together with access on, over, and across City's property for access to the leased land (collectively known as the "Premises")**

Hansen is authorized by the City of Cortez to construct a structure, the hangar, measuring 50 feet wide by 60 feet deep, on the Premises. This Agreement does not convey any ownership of the Premises to Hansen but is a ground Agreement only.

**TERM**

The term of this Agreement (“Initial Term”) shall be for a period of forty (40) years, beginning on 1 August 2022 and ending 30 August 2062 unless terminated as provided elsewhere in this Agreement. At the expiration or termination of this Agreement, all improvements shall be removed by Hansen, unless this Agreement is extended by mutual agreement of the Parties, or City and Hansen mutually agree that any

improvement constructed by Hansen remain on the Premises with ownership of any and all improvements on the Premises transferring to City at the final termination of this Agreement.

### **RENT**

A. The land rent shall be based on \$0.39 per square foot (\$2,340.00 per year) in year one, to be paid to City by Hansen. The land rent for the initial year and the year of termination will be prorated.

B. Subsequent years' land rent rate shall be adjusted annually by City according to the published Consumer Price Index for the Denver-Aurora-Lakewood, Colorado area ("CPI"), or its equivalent, should the CPI no longer be published by the Federal government in its present form, in future years. Should the CPI be negative in any year or years, the land rent rate will remain unchanged for the next annual period.

C. If Hansen fails to pay when due any amount required to be paid to the City by Hansen, such unpaid amount will accrue interest at the rate of ten percent (10%) per annum commencing from the due date until fully paid. In addition, City may charge a late fee of fifty dollars (\$50) per late payment.

D. In the event City is required to initiate collection of unpaid rent or other charges, then Hansen agrees to pay all costs of collection, including attorney's fees.

### **USE OF LEASED PREMISES**

The Premises may be used only for storage of aircraft owned or leased by Hansen, items related to the stored Aircraft, and personal or business vehicles parked by Hansen employees while flying or performing maintenance on the Aircraft. The Premises shall not be used for warehousing of Hansen's or anyone else's personal property. No residential use shall be permitted on the Premises. Hansen shall not perform any aircraft repairs or maintenance on the Premises to other than the stored Aircraft. Hansen shall not use the Premises for other commercial purposes except as directly related to the Aircraft which are used in its business. In addition, the storage and accumulation of flammable or hazardous materials in or near any improvements located on the Premises is prohibited except for storage of such types of materials and in such amounts as are required for the normal operation and maintenance of the Aircraft. Hansen shall not enter into other uses not specifically authorized by this Agreement.

### **COMPLIANCE WITH LAWS AND REGULATIONS**

Hansen agrees to comply strictly with all Federal, State, and Local laws, rules, regulations etc. related to the Premises, use of the Premises or the Aircraft. Hansen shall pay all Federal, State, and local taxes assessed on any improvement located on the Premises and Aircraft stored within.

## **CONSTRUCTION**

Prior to the construction of any structure, modifications, or additions to any existing structures, all plans shall be submitted to, reviewed and approved by the City of Cortez Building Department. All buildings shall be constructed according to the State, County and City of Cortez building codes in force or effect at the time of construction. Hansen shall obtain any necessary building permits or other required permits (electrical, plumbing etc.) required by Federal, State or Local Law prior to construction. The City of Cortez Building Inspector shall conduct inspections of any improvements Hansen constructs on the Premises during construction. Notwithstanding the foregoing City agrees to cooperate with Hansen in order for Hansen to obtain any and all necessary permits, consents from agencies with jurisdiction over the Premises and/or the construction of any improvements on the Premises, or operation of Hansen's business, so long as City incurs no liability or cost. In the event that Hansen is unable to obtain any approval herein within a reasonable time, except when due solely to Hansen's own fault, Hansen shall be released from its obligation to construct the hangar and shall be entitled to terminate this Agreement upon sixty (60) days written notice to City.

### **Hansen agrees to, and is responsible for, the following:**

1. All hangar design construction utilities, maintenance and billing.
2. To construct and pave connecting apron according to the specifications of the City.
3. To construct an eight (8) foot fence between the new hangar and the existing hangar .
4. To design the hangar in such a manner to blend in with architectural and general appearance of the adjoining airport facilities.
5. If a propane tank is installed, it shall conform to Federal, State and Local codes for its location and method of installation.
6. Parking area shall be an all-weather surface, i.e. gravel, concrete, asphalt, and approved by City Building Inspector.
7. Hansen or its contractor shall meet security requirements of the Airport during construction, as defined by the Airport manager.
8. Any septic systems requested by Hansen shall be addressed by the City allowing for a variety of possible

solutions. A separate document, as a modification to this Agreement will be entered into, details of which will be outlined as determined by the applicable State, Federal or Local regulations for a particular septic system installation.

9. Any material interior additions or modifications to the hangar or other improvements on the Premises must be approved in advance by City.

Hansen agrees that at its own expense, it shall move, re-locate or change any structure built upon the Premises which may, in any way, violate any of the rules, codes, and regulations of Federal, State, or Local governments. If there are any structures existing on the Premises at the time of execution of this Agreement, City will cause said structures to be demolished, moved, relocated, or remodeled at City's expense, if any are not in compliance with existing Federal, State or Local laws.

#### **TITLE OF DESIGNATED IMPROVEMENTS TO REVERT**

Upon the termination or expiration of this Agreement, title to all improvements constructed by Hansen shall be transferred to the City. Any improvements deemed unusable or undesirable shall be removed at City's direction and Hansen's expense within ninety (90) days after the expiration or termination of this Agreement, however, if Hansen wishes to abandon said improvements and City deems them acceptable, upon written Agreement the improvements may remain and ownership shall vest with City at the final termination or expiration of this Agreement.

#### **INSURANCE**

Hansen shall obtain and keep in force throughout the term of this Agreement, public liability and property insurance with limits not less than \$600,000 for any one injury, and not less than \$250,000 one incident, and not less than \$1,000,000 for property damage.

City may at any time, with thirty (30) days' notice to Hansen, adjust the insurance amounts as deemed necessary by City. Hansen shall furnish current certificates of insurance to City at the time this Agreement is executed, once construction of a hanger or other improvements on the Premises are completed, and annually, before February 1 of each calendar year thereafter. Hansen agrees to indemnify, to defend, save, and keep City harmless from any and all loss, damages, expense or liability, including, without limitation, attorney's fees and costs, resulting from the actions of Hansen or any of its employees, contractors or agents, in their use and occupancy of the Premises. Hansen agrees to name the "City of Cortez" as an additional insured on all required insurance policies.

## **RIGHT OF ACCESS**

City shall have the right to enter the Premises at reasonable times after twenty-four (24) hours advance written notice (except in the event of an emergency in which event only such notice as may be reasonable under the circumstances will be required), for the purposes of inspection to determine if the conditions and requirements of the Agreement are being complied with by Hansen. Hansen agrees to provide access for any inspections required by any Federal, State or Local law or regulation. Should the Premises or any improvements constructed thereon prove to be deficient in maintenance or in need of repair, Hansen agrees to take whatever action is necessary to bring the same back into compliance with the maintenance and repair standards as set forth herein within thirty (30) days of written notice by the City. If necessary repairs require more than thirty (30) days to complete the work, additional time may be granted by City in writing, and such additional grant of time shall not be unreasonably withheld. Hansen shall proceed in good faith to complete such work as soon as possible. Failure to make necessary repairs or maintenance so shall be considered a breach of this contract. Should Hansen fail to bring the facility back into compliance within thirty (30) days of written notice or as otherwise set out in this Agreement, City may make the necessary repairs or maintenance and bill Hansen for the actual cost to the City of same. If it is necessary for City to institute legal action to collect unpaid maintenance or repair charges, Hansen agrees to pay all cost of collection including, but not limited to, reasonable attorney's fees, court costs and other related costs of collection.

## **ASSIGNABILITY**

Except as specifically noted in this paragraph, this Agreement shall not be conveyed or assigned to a third Party without the express written consent of City, which consent shall not be unreasonably withheld. City specifically agrees to the Assignment of all this Agreement and all of Hansen's rights and obligations herein by Hansen to The Dolores State Bank, and in the event of such an assignment, The Dolores State Bank will take the place of Hansen as lessee pursuant to this Agreement, as it may be amended from time to time prior. In the event of any request for assignment of this Agreement other than an assignment to The Dolores State Bank, City reserves the right to renegotiate any and all portions of this Agreement with said third Party who shall not rely upon this Agreement as a reason or basis for sub-leasing or assignments. No partial or total sublease of any improvements constructed on the Premises, or other shared use Agreement of any improvements constructed on the Premises, shall occur without prior written request made by Hansen to the City and prior written consent by City which consent shall not be unreasonably withheld. Notwithstanding anything in this to the contrary, City's consent shall not be required for any Hansen transfer to: (i) any affiliate which controls, is controlled by or is under common control with Hansen, (ii) any

business entity in which or with which Hansen, an affiliate of Hansen, or their respective corporate successors or assigned, is merged or consolidated, (iii) any business entity that acquires all or substantially all of Hansen's assets or Hansen's ownership interest necessary to control Hansen, or an assignment to The Dolores State Bank, as specified herein.

#### **ABANDONMENT**

Should Hansen abandon the Premises, cease paying rent, and fail to use or occupy the same for a period of ninety (90) consecutive days, then, this Agreement may be terminated by City, and title to all improvements on the Premises shall then pass to and vest in City.

#### **TERMINATION OF AGREEMENT**

Should Hansen fail to comply with the provisions of this Agreement in any respect, City retains the right to terminate this Agreement in accordance with the provisions of this Agreement. Both Parties retain the right to voluntarily terminate this Agreement upon mutual written consent. Upon termination for noncompliance of any portion of this Agreement by Hansen or City in accordance with this section, Hansen shall have thirty (30) days to remove all personal property including structures from the Premises unless an extension is agreed to in writing by Hansen and City. All improvements and other property of Hansen not removed after thirty (30) days shall then become property of City.

#### **MAINTENANCE**

Hansen agrees to keep the Premises and improvements thereon in a clean, neat and orderly condition at all times. Vegetation shall be kept trimmed to a height not exceeding six (6) inches. If repeated violations are noted by Airport staff and after a thirty (30) day written notice to Hansen, City shall take measures to correct the violation and Hansen agrees to pay all actual costs of the City to correct the violation. Hansen agrees to make repairs within thirty (30) days of notice written notice of violations by City to Hansen or, if the necessary repairs require more than thirty (30) to complete such work, Hansen shall proceed in good faith to complete such work as soon as possible. Damaged panels, broken windows, peeling paint and heaved or broken pavement, are examples of conditions that will not be tolerated.

#### **AIRPORT RESPONSIBILITIES**

Hansen shall have use of the Cortez Municipal Airport facilities including runways and taxiways, excepting commercial aprons and other leased areas. City will provide snow removal to Hansen's adjoining ramp within a reasonable time following snowfall, noting that commercial operations take precedence and that Hansen's operations are considered commercial operations.

### **ENFORCEMENT**

A delay by either Party in enforcing provisions of this Agreement does not constitute a waiver of enforcement. If either Party is dead or prevented from the performance of any required act by reason of a strike, labor trouble, pandemic, act of terror, acts of nature and the elements, or any other cause beyond the reasonable control of the delayed Party (financial inability excepted), i.e. "force majeure," and the delayed Party is otherwise without fault, then performance of the applicable act is excused for the period of the delay, provided the delayed Party will take all commercially reasonable efforts to mitigate the force majeure.

### **INDEMNIFICATION OF CITY**

Hansen agrees to indemnify, hold harmless, and defend City and its Council Members, officers, agents, and employees from and against losses and damages of every kind and character (including, but not limited to, liabilities, causes of action, losses, claims, costs, fees, attorney fees, expert fees, court or dispute resolution costs, investigation costs, environmental claims, mitigation costs, judgments, settlements, fines, demands, damages, charges, and expenses) that arise out of or relate to: (i) any use, occupancy, or operations on the Premises, the Airport, or other property owned by the City of Cortez, by Hansen or Hansen's employees, contractors or agents; or (ii) any wrongful, reckless, or negligent act or omission of Hansen or Hansen's employees, contractors or agents, provided, however, Hansen will not be liable for any loss of any kind or character whatsoever that results from the negligence or willful misconduct of City or City's employees, contractors or agents. In the event Hansen uses attorneys, experts or other professionals to investigate, litigate, or otherwise comply with its obligations under this paragraph, Hansen shall use attorneys, experts, and professionals that are reasonably acceptable to City. The obligation stated in this section shall survive the expiration or other termination of this Agreement.

### **MODIFICATION**

This Agreement may be modified at any time by mutual written consent of the Parties.

**Termination by Hansen.** In the event of a breach by City of any of its obligations, covenants, or Agreements under this Agreement which continues for a period of 60 days after receiving written notice of the breach from Hansen, Hansen has the right to terminate this Agreement, upon written notice to City, without penalty. City shall return to Hansen any prepaid or prorated rent if Hansen terminates this Agreement pursuant to this section.

**Surrender of the Premises.** Hansen shall return the Premises to City upon the expiration or termination of this Agreement in good condition and repair, ordinary wear and tear excepted. Within 60 days following the expiration or termination of this Agreement, Hansen shall remove all equipment, materials, fixtures and other personal property belonging to Hansen from the Premises. Any property left on the Premises after 60 days following the termination of this Agreement will be deemed to have been abandoned by Hansen and may be retained by City.

**Registration or Recording of this Agreement.** The Parties shall, to the extent required by law and practice, properly register or record this Agreement with the relevant government office that may serve as a place for registering or recording leases, within 45 days from the date that this Agreement is executed.

**Subordination.** This Agreement and Hansen's rights hereunder shall be subject and subordinate in all respects to any mortgage, deed of trust, or other lien now or hereinafter incurred by City. Upon request of City, Hansen will enter into a subordination agreement or other customary form as required by any lien holder.

**No Partnership.** Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture or any other fiduciary relationship between the Parties other than that of landlord and tenant. Neither Party is authorized to act as an agent or on behalf of the other Party.

**Condemnation.** In the event that all or a material portion of the Premises necessary for Hansen's Permitted Use of the Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by the right of eminent domain, this Agreement shall terminate on the date of such taking, and all rent under this Agreement shall be prorated and paid to such date. In the event such taking is less than a material portion of the Premises, this Agreement shall remain in full force and effect; provided however, the rent due under this Agreement shall be reduced to such extent as may be fair and reasonable under the circumstances. City and Hansen shall each be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings.

**Limitation of Liability.** City is not responsible or liable for any loss, claim, damage or expense as a result

of any accident, injury or damage to any person or property occurring anywhere on the Premises, unless resulting from the negligence or willful misconduct of City.

**Quiet Enjoyment.** If Hansen pays the rent and performs all other obligations under this Agreement, Hansen may peaceably and quietly hold and enjoy the Premises during the Term.

**Notices.** All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be delivered in person, sent by overnight courier service or sent via certified or registered mail, addressed to City or Hansen at the address stated above, or to another address that either Party may designate upon reasonable notice to the other Party.

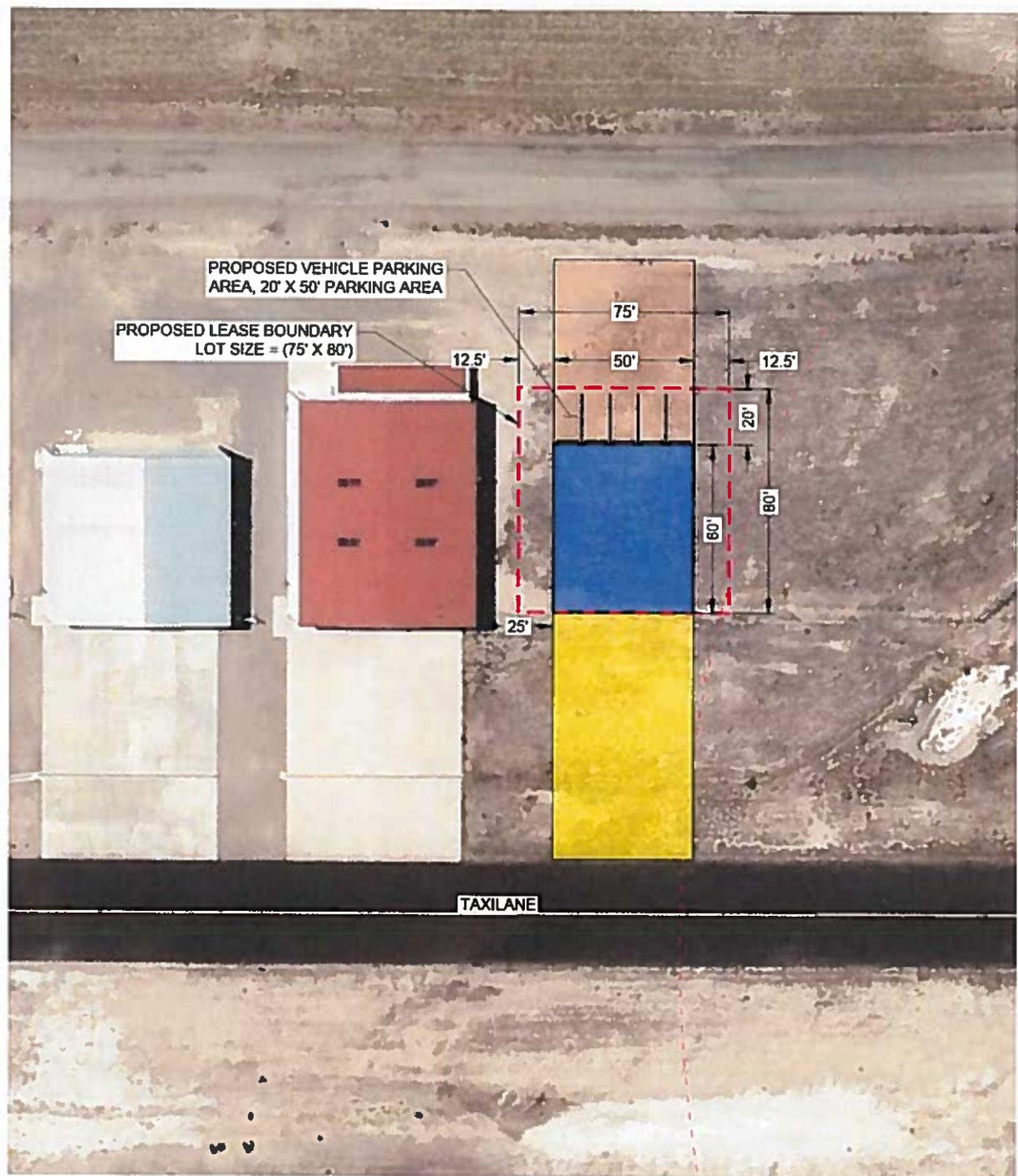
**Further Assurances.** Each Party hereto agrees to execute and deliver any additional documents and to do all such other acts as may be necessary to carry out this Agreement and each Party's rights and interests in this Agreement.

**No Waiver.** No Party shall be deemed to have waived any provision of this Agreement or the exercise of any rights held under this Agreement unless such waiver is made expressly in writing.

**Severability.** If any provision of the Agreement is held to be invalid, illegal, or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid, legal, and enforceable as though the invalid or unenforceable parts had not been included in this Agreement.

**Successors and Assignees.** This Agreement will inure to the benefit of and be binding upon the Parties and their respective permitted successor and assigns.





S:\\_Colorado\Cerley\Misc Requests\Hangar Exhibits\Cortez Hangar 60150.dwg 5/12/2022 1:45:46 PM CKEHLER

- LEGEND**
- FUTURE AIRFIELD PAVEMENT
  - FUTURE STRUCTURES / FACILITIES
  - PROPOSED VEHICLE PARKING AREA
  - PROPOSED LEASE BOUNDARY AREA



CORTEZ MUNICIPAL AIRPORT  
CORTEZ, COLORADO

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HANGAR EXHIBIT - 60' x 50'

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**ARMSTRONG**

PLANNING ENGINEERING SURVEYING