

Ordinance No. 170941
EXHIBIT A

MEMORANDUM OF UNDERSTANDING
BETWEEN CITY OF KANSAS CITY, MISSOURI AND
EDGEMOOR INFRASTRUCTURE & REAL ESTATE

KANSAS CITY INTERNATIONAL AIRPORT TERMINAL MODERNIZATION PROJECT

DECEMBER __, 2017

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MEMORANDUM OF UNDERSTANDING
BETWEEN CITY OF KANSAS CITY, MISSOURI AND
EDGEMOOR INFRASTRUCTURE & REAL ESTATE

RE: TERMINAL MODERNIZATION PROJECT

This Memorandum of Understanding (“MOU”) is entered as of this ____ day of December, 2017 (the “Effective Date”) between the City of Kansas City, Missouri (“City”) and Edgemoor Infrastructure & Real Estate LLC (“Developer”), a Maryland limited liability company registered to do business in Missouri, for a terminal modernization project at the Kansas City International Airport (the “Airport”). This MOU outlines certain terms and conditions under which Developer would finance and develop such a project.

RECITALS

A. City issued a “Request for Qualifications/Proposals for Design, Construct and Private Financing of KCI/ Request #062017” (as amended, the “RFQ/P”) on May 30th, 2017 to identify a potential developer for development of a single terminal Airport improvement project (the “Project”).

B. Culminating City’s selection process, City determined to advance discussions with Developer related to the Project.

C. City and Developer desire to enter into this MOU to further establish a framework for future negotiations of the Transaction Documents and the contemplated Project, including Developer’s responsibility to finance and develop the Project.

D. Understanding that only Airport Revenue, not taxpayer dollars, will be used to pay for the Project, the parties nonetheless acknowledge that the Project was approved by a majority of City voters at an election conducted on November 7, 2017, as required by Section 6-50 of City’s Code of Ordinances.

E. The City Council authorized the City Manager’s execution of this MOU with its passage of Ordinance No. 170__.

AGREEMENT

I. Defined Terms

1. "Airlines" means those airlines that are signatories to use and lease agreements with City related to the Airport.

2. "Airline Airport Affairs Committee" or "AAAC" means a committee of Airline representatives who represent their respective Airlines and who serve as liaisons between the Airport and the Airlines.

3. "Airline Technical Representative" or "ATR" means an Airline-procured consultant who serves as a single point of contact to coordinate with and represent the Airlines on specific Project-related matters.

4. "Airport" refers to Kansas City International Airport, located in the City of Kansas City, Missouri.

5. "Airport Revenue" means the revenues generated by or in connection with the operation of the Airport System, as more specifically defined in the Master Bond Ordinance.

6. "Airport System" means the Airport and the Downtown Airport.

7. "Aviation Director" means the then current director of the Aviation Department of the City of Kansas City.

8. "City" means the City of Kansas City, Missouri.

9. "City Funding Conditions" has the meaning set forth in Section IV(D)(2).

10. "Community Benefit Agreement" has the meaning set forth in Section IX(H).

11. "Developer" means Edgemoor Infrastructure & Real Estate LLC.

12. "Developer Financing Agreements" means agreements Developer may enter into with lenders or equity providers to obtain all or a portion of the financing for the Project.

13. "Developer's Proposal" means Developer's proposal submitted in response to the RFQ/P.

14. "Development Agreement" means the agreement to be entered into between City and Developer for the design, construction and financing of the Project.

15. "Downtown Airport" refers to the Kansas City Charles B. Wheeler Downtown Airport.

16. "Exclusive Period" means the period of exclusive negotiations between City and Developer as described in Section V.

17. "FAA" means the Federal Aviation Administration.

18. "Federal Funding Sources" has the meaning set forth in Section IV(D)(2).

19. "Finance Agreement" means an agreement to be entered into by and between Developer and City and any other necessary third parties governing all or a portion of the financing of the Project, as more particularly set forth in the Transaction Documents.

20. "Financial Model" means the financial model submitted by Developer and approved by City in accordance with the Transaction Documents for the Project, which model may be updated as provided herein.

21. "Funding Agreement" means the agreement, to be executed in conjunction with the Interim Development Agreement, between Developer and City outlining Developer's obligation to reimburse City following the Project's financial close for certain costs incurred by City for services performed by City's outside consultants related to the Project.

22. "Funding Sources" means the Federal Funding Sources and the Airport Revenue.

23. "Interim Development Agreement" means an interim agreement between City and Developer that expands upon the terms of this MOU to further establish the terms and conditions that will ultimately form the Development Agreement which shall be effective from November 8, 2017 until execution of the Development Agreement.

24. "KCAD" means the Kansas City Aviation Department.

25. "Key Contract(s)" means those contracts for work related to the Project between Developer and its design-builder and between the Developer's design-builder and its design professional.

26. "Key Project Personnel" shall mean those key Project personnel so identified in the Development Agreement, consistent with Developer's Proposal, whose substitution is restricted in accordance with Section IX(A) herein.

27. "Lease" means a Lease that may be entered into between City, as landlord, and Developer, as tenant, for the Property, as may be more particularly set forth in the Transaction Documents.

28. "Master Bond Ordinance" means City's Committee Substitute for Ordinance No. 130081, as the same may be amended and supplemented by Supplemental Ordinance, as defined in the Bond Ordinance.

29. "New Use Agreement" means either a new Use and Lease Agreement or an Amended and Restated Use and Lease Agreement to be entered into between City and at least 50% of the Airlines, which Airlines collectively account for at least 50% of rates, fees and charges paid by Airlines during the twelve months ending December 31, 2017.

30. "Passenger Facility Charge" or "PFC" means the fees authorized by 49 U.S.C. 40117 and regulated by 14 CFR Part 158, as collected pursuant to the FAA's Passenger Facility Charge Program.

31. "PFC Revenues" means PFCs collected pursuant to the FAA's PFC program and potentially available to KCAD as Airport Sponsor (as defined under federal law).

32. "Project" means the proposed improvements to the Airport, as more fully described in Section II, as expressly approved by City.

33. "Project Site" means the area more particularly depicted on Exhibit A.

34. "Property" means the portion of the Airport lands and facilities upon which the Project will be constructed and operated.

35. "Qualified Out-of-Pocket Costs" means those costs incurred by Developer which are direct expenses incurred by Developer that are not increased by any dollar or percentage amount representing added profit, fee, or administrative or other charge and which have been documented by the Developer and approved by the Aviation Director. For purposes hereof, Qualified Out-of-Pocket Costs shall be limited to and include only those costs related to the Project and incurred by Developer for contractors (and their subcontractors), design professionals, consultants (and their subconsultants), attorneys, other architectural and engineering design professionals (including costs of preconstruction services of third party project contractor(s)), Loan principal, interest, and fees pursuant to the terms of the Reimbursement Agreement attached hereto as Exhibit F, and other approved costs related to the Project. As used herein, "Loan" shall have the meaning given in the Reimbursement Agreement.

36. "Respondent(s)" means a person or entity that submitted a proposal to City to provide Project development services pursuant to "Request for Qualifications/Proposals for Design, Construct and Private Financing of KCI/ Request #062017".

37. "RFQ/P" has the meaning given in Recital A above.

38. "Sublease" means a sublease agreement that may be entered into between Developer, as sublandlord, and City, as subtenant, whereby City leases back from Developer the Property and the completed Project, with City's unrestrained authority to operate and maintain the same, as may be more particularly set forth in the Transaction Documents.

39. "Substantial Completion" means the date the Project is certified to be substantially complete as to permit use and occupancy sufficient for its intended use.

40. "Transaction Documents" refers to those documents to be executed by the parties necessary to set forth the agreements of such parties to develop, finance and construct the Project, including, without limitation, the Funding Agreement, the Interim Development Agreement, the Development Agreement, the Finance Agreement, the Lease, the Sublease, and the Community Benefit Agreement.

41. "TSA" means the Transportation Security Administration.

II. The Project

A. Project Description. The Project includes the design, construction and financing of a new single terminal, parking garage, and other improvements at the Airport, as more generally set forth on Exhibit B.

B. Project Scope. Except as otherwise agreed by the parties, subject to City's obtaining all necessary consents and executing all required agreements with the Airlines, and further subject to such changes as shall be agreed to by the parties pursuant to the processes and procedures outlined in the Interim Development Agreement, Development Agreement and the New Use Agreement, the Project will: (i) be designed to LEED Gold standards; (ii) rely as a general starting point on the project scope set forth in Exhibit B; (iii) include a consolidated tenant improvement program.

C. Initial Conceptual Design. City acknowledges that Developer has delivered to City an initial conceptual design of the Project, including both exterior elevations and representative interior schemes. The parties expressly understand and agree that such design is intended as an illustrative example for discussion purposes only, and that all Project design remains subject to the design development and review process and approved Project budget, as set forth in the Transaction Documents.

D. Transaction Structure. As shall be more fully set forth in the Transaction Documents to be agreed between the parties, City currently contemplates that it shall lease the Property to Developer and, upon Developer's completion of the Project in accordance with the Transaction Documents, City shall sublease the Property from Developer, all for a term to be mutually agreed upon by the parties in the Lease and Sublease. Notwithstanding the above, other transaction structures may be considered by the parties, provided that City shall maintain ownership of the Property at all times. The respective roles and obligations of the parties, as envisioned under the transaction, are described in Section IV below.

E. Project Ownership.

1. City shall own the fee simple interest in the Property and all improvements thereon, including the Project, at all times, free and clear, subject to no encumbrances or other obligations except as expressly agreed by City in the Transaction Documents, and KCAD shall be responsible for operation and maintenance of the Project following successful turnover of the Project from Developer to KCAD after Substantial Completion.

2. Inasmuch as City shall at all times own the Property and all improvements thereon, including the Project, it is not anticipated that the Project will be subject to ad valorem taxes. Nonetheless, for the avoidance of all doubt, in the event an assertion is made that ad valorem taxes should be assessed on the Project, subject to City's receipt from Developer of a legal opinion in form and content satisfactory to City that ad valorem taxes do not apply to the Project, City will reasonably cooperate in Developer's pursuit of exemption from ad valorem taxes on the Project.

3. City shall grant Developer a non-exclusive right of access, ingress and egress to and from all real property comprising Project-related rights of way, to the extent City owns the real property or has acquired right of access in the same.

4. City shall provide a usual and customary legal opinion that City has legal authority to enter into the Transaction Documents and that obligations set forth therein are legally binding on City.

III. **Project Cost**

A. Cost. The total cost to design, build and finance the Project shall be as set forth in the Transaction Documents; the parties acknowledge that preliminary estimates, as initially scoped

in 2015, would cost approximately \$1 Billion. The final budget, and any updates thereto made during the course of Project design and construction, shall be subject to any approvals City is required to obtain including, but not limited to, approval from the Airlines pursuant to the New Use Agreement. Developer shall be required to enter into a lump sum agreement, consistent with the Development Agreement and Financial Model, for design and construction of the Project.

B. Cost Savings. As shall be more fully set forth in the Development Agreement, City and Developer shall share in any cost savings generated through value engineering initiatives, significant scope changes or other cost reduction strategies, and Developer acknowledges that City's portion of such cost savings shall be retained by KCAD, provided that KCAD may elect to allocate all or a portion of its share of such cost savings to the Airlines, pursuant to the New Use Agreement.

C. Contingency. As shall be more fully set forth in the Development Agreement, City and Developer shall establish a contingency fund to be used by City, with counsel from the Developer, to cover additional scope added by City. Following completion of the Project, any unspent contingency amounts shall be shared by the Developer and City as set forth in the Development Agreement, and Developer acknowledges that City's portion of such unspent contingency amounts shall be retained by KCAD, provided that KCAD may elect to allocate all or a portion of its share of such amounts to the Airlines, pursuant to the New Use Agreement.

IV. Roles & Obligations

A. Project Management Committee. The parties intend to work cooperatively in scoping and designing the Project and overseeing the Project's development. To further such ends, upon the Effective Date, a Project management committee (the "Project Management Committee") will be formed comprising Developer, City and Airlines. The Project Management Committee's responsibilities will include establishing processes for soliciting and addressing feedback from various stakeholder groups; guiding the project design process, including refining the scope, developing and approving project design, reviewing and recommending construction drawings, developing the Project budget; and, following financial close, overseeing execution and administration of the Project, including managing and recommending changes.

1. The Project Management Committee will provide direction and guidance to day-to-day project managers for each respective represented party, in accordance with the committee's recommendations.

2. Each of Developer, City and Airlines will designate one respective representative who will participate in the decision-making and recommendations process, provided that the Project Management Committee may, in its discretion, invite the participation of additional representatives from each entity as it deems necessary to obtain appropriate input on specific matters considered by the committee. Each designated representative of the Project Management Committee must have the authority to provide binding guidance and consents on behalf of the entity such representative has been appointed to represent, subject to Section IV(A)(4) below.

3. Initial members of the Project Management Committee will be as designated by Developer, City and Airlines, respectively, upon the Effective Date.

4. All Project Management Committee recommendations must be approved by Developer before submission to the Steering Oversight Committee.

5. The Project Management Committee shall have three (3) City business days once all relevant information has been presented, unless otherwise consented to by Developer, in which to make decisions and provide guidance and direction on issues raised by the Project team.

B. Steering Oversight Committee. For any decisions that would materially affect Airline operations, Project schedule, or Project scope, or that would affect the payments required of the Airlines under the New Use Agreement, as affirmed by the Airlines ("Threshold Issues"), additional consent and approval is required from the Aviation Director and the Airlines (the "Steering Oversight Committee"). Although the Airlines' approval is not required for matters that are not Threshold Issues, the Airlines shall have the opportunity to provide input on such matters.

1. Aviation Director and the Airlines shall have an additional two (2) City business days to review and approve or disapprove Threshold Issues.

2. The parties agree and acknowledge that the Project Management Committee's and the Steering Oversight Committee's scope, responsibilities and processes and Threshold

Matters shall be more fully set forth in the Interim Development Agreement and the Development Agreement.

C. Developer Role. Developer shall be at risk and responsible for delivery of the Project in accordance with the Transaction Documents, including:

1. Designing, developing and constructing the Project, substantially in accordance with Developer's Proposal, to be delivered no later than a date as mutually agreed by City and Developer:

- i. Developer shall perform or cause to be performed all design work, including technical studies, geotechnical, seismic, flooding and biological investigations, right-of-way mapping, surveying, hazardous materials investigations, environmental and historical assessments and design and construction surveys.
- ii. Developer shall work collaboratively with City, Airlines and key stakeholders, through the Project Management Committee, to finalize a Project design that showcases the unique culture of Kansas City and that reflects iconic elements of Kansas City architecture while meeting City's and Airlines' respective operational requirements.
- iii. As between City and Developer, Developer bears the risk of an incorrect or incomplete review, examination or investigation of the Project Site or existing improvements, provided City provides adequate access to Developer to conduct its investigations.
- iv. As between City and Developer, Developer bears the risk of all conditions occurring on, under, or at the Project Site and the existing improvements, except for such risks specifically retained by City.
- v. Developer shall obtain all governmental and environmental approvals and, all third party approvals and agreements required in connection with the Project, except as expressly provided in the Transaction Documents. City shall have the right to approve any application for governmental approval before Developer submission.

2. Assuming responsibility for costs and delays associated with obtaining necessary permits and closing transaction costs;
3. Contributing all equity funding and obtaining all debt financing required for the Project, as applicable, pursuant to the Financial Model and Finance Agreement and other applicable Transaction Documents approved by City;
4. Entering into and managing all design and construction contracts for the Project, consistent with the Development Agreement. Developer shall have the right to select and contract for the required Project work, subject to City's approval of the form and substance of Key Contracts;
5. Developing a Minority and Women's Business Enterprises program consistent with City's Minority/Women Business Enterprise Program ordinances, as set out in Sections 3-421 through 3-469, Code of Ordinances, and substantially in accordance with those goals most rigorous and reflective of the highest inclusion and participation available, as established in coordination with City's Human Relations Department, among the following expressed standards: (i) in accordance with the goals set forth in Developer's Proposal; (ii) as set forth in the Interim Development Agreement or Development Agreement; (iii) as set forth in accordance with the goals as established pursuant to the Minority and Women's Business Enterprises ordinances; or (iv) as described in Section IX(G);
6. Complying with City's Small Local Business Enterprise policy, as codified in Section 3-601 et seq. of the Kansas City Code of Ordinances, as applicable;
7. Complying with City's One Percent for Art program;
8. Diligently negotiating the Transaction Documents;
9. Supporting City's PFC application to the FAA to maximize PFC eligibility and funding and documenting PFC-eligible costs at the end of Project construction;
10. Complying with all applicable laws, including, without limitation, all requirements pursuant to the Americans with Disabilities Act; and
11. Collaborating with City and Airlines, including the ATR, throughout the Project development process.

D. City Role. City's responsibilities, pursuant to the Development Agreement, shall include:

1. Acting as Airport Sponsor (as defined under federal law);

2. Using best efforts to obtain funding from federal sources, including, where applicable, FAA AIP grants-in-aid and TSA grants (collectively, “Federal Funding Sources”), and to comply in all material respects with federal funding requirements, and to make such Federal Funding Sources available for the Project, subject to City’s prior obligations, including without limitation all existing and presently contemplated funded debt and funding sources (including Federal Funding Sources); City’s authority to direct such funds; reservation of sufficient funding to support the ongoing operations and maintenance of the Airport; and City’s express approval of any specified funds and payments to be made or applied to the Project (collectively, “City Funding Conditions”); all obligations of City in this Section IV shall be subject in all instances to each and all of City Funding Conditions;

3. Making available the PFC Revenues, subject to FAA regulations and approvals, it being acknowledged that the Transaction Documents may include a cap on the amount of PFC Revenues to be applied to the Project;

4. Making available other funding derived from Airport Revenue, as appropriate;

5. Diligently negotiating the Transaction Documents and pursuing all necessary approvals of the same;

6. Reasonably cooperating with Developer in obtaining all approvals from FAA, TSA, U.S. Customs and Border Protection, and all other state or federal governmental authorities, consistent with City’s role as Airport Sponsor, as deemed necessary by and acceptable to City;

7. Reasonably cooperating with Developer to arrange financing for the Project. Without limitation of the foregoing, in no event shall such financing be or constitute a general indebtedness of City. Neither the full faith nor taxing power of City will be pledged to the payment of such financing;

8. Seeking authorization to impose and use PFC Revenues at a level to be determined by City during the financing of the Project, consistent with City’s intent to work cooperatively with Developer. City will work with Developer to optimize PFC pay-as-you-go and leveraging for the financing of the Project;

9. Cooperating with Developer to establish, and adhering to, a defined process for reviewing, commenting on, and approving, as appropriate, all permit applications for

construction of the Project, in accordance with the terms and conditions set forth in the Transaction Documents;

10. Inasmuch as City shall at all times own the Property and all improvements thereon, including the Project, it is not anticipated that the Project will be subject to sales and use taxes for the acquisition of construction materials and all tangible personal property and equipment related to the Project. Nonetheless, for the avoidance of all doubt, in the event an assertion is made that such sales and use taxes should be assessed on the Project, City's responsibilities shall include cooperating with Developer's efforts to seek exemption from sales and use taxes for the acquisition of construction materials and all tangible personal property and equipment related to the Project, to the extent permitted by state law and City ordinances, and subject to City's receipt from Developer of a legal opinion in form and content satisfactory to City that such exemptions apply to Developer and the Project, provided, that City will under no circumstances be liable to Developer if the State of Missouri denies such sales and use tax exemption;

11. Diligently negotiating and pursuing all required approvals for a New Use Agreement with the Airlines, which will establish the amount of funds the Airlines will pay to City for use of the Airport. These amounts are expected to reflect any cost savings generated through value engineering or other cost reduction initiatives. Developer acknowledges that City's entering into a New Use Agreement with the Airlines will be a condition precedent to financial close of the Project;

12. Remitting payments pursuant to the Development Agreement, consistent with the Finance Agreement, the other Transaction Documents and the Master Bond Ordinance; and

13. Providing Developer with all studies and other documents in City's possession, including site environmental studies, without waiving privilege or confidentiality related thereto, as necessary for Developer to perform its due diligence investigations of the Property, provided that City makes no representations or warranties regarding the completeness or accuracy of such information and subject to Developer's own analysis.

V. Exclusivity

A. Exclusive Dealings and Consideration. City and Developer agree that City will negotiate exclusively with Developer in good faith to develop the Transaction Documents and

will not engage, negotiate with, solicit or accept proposals from any party other than Developer for any terminal modernization program at the Airport, until and unless the parties, in good faith, fail to successfully negotiate the Transaction Documents, subject to Section XII. The term of the Exclusive Period shall commence as of the Effective Date of this Memorandum of Understanding and continue, unless extended by written agreement of the parties or earlier terminated, until September 30, 2018. In addition to other rights and considerations contained herein, in exchange for being granted the exclusive right to negotiate with City for the development of the Project, Developer agrees to enter into the Funding Agreement upon mutually agreeable terms.

B. Timeline for Development of Transaction Documents. City and Developer shall establish a mutually agreeable timeline for development of the Transaction Documents. Contemporaneously with execution of this MOU, the parties will begin negotiation of the Interim Development Agreement which shall form the basis for negotiation of each of the other Transaction Documents and which shall govern the relationship of the parties. Upon execution of the Interim Development Agreement, this MOU shall terminate.

C. Process for Negotiating Transaction Documents. The parties agree to use best efforts to follow a protocol for negotiating the Transaction Documents, substantially in accordance with a process to be set forth in the Interim Development Agreement.

D. Process for Development of Financial Model. The parties will set forth in the Interim Development Agreement the process, inputs, participants and review and approval milestones that the parties will follow to develop the Project Financial Model.

VI. Project Finance

A. Finance Agreement. Terms and conditions of Project finance provided herein are intended only to outline the contemplated financial structure of the Project. Specific Project finance terms and conditions shall be governed by and subject to the Finance Agreement and other applicable Transaction Documents.

B. Limitations of City Liability. City shall cooperate with Developer in Developer's efforts to obtain financing for the Project, as mutually agreed by the parties. No financing obtained by Developer for the Project shall be or constitute a general indebtedness of City. Neither the full

faith nor taxing power (including ad valorem taxes) of City will be pledged to the payment of such financing.

C. Developer Obligations.

1. Developer will be responsible for developing the financing structure for the Project in accordance with the Financial Model and with the Transaction Documents, all subject to City approval.

2. Developer will select and pay for all financing providers for the Project, and to select all consultants (including financial advisors, underwriters and legal counsel) participating in Project financing on behalf of Developer. Further, Developer acknowledges that City's consultants (including financial advisors and legal counsel) will be reimbursed pursuant to the Funding Agreement.

3. Developer agrees that the Transaction Documents will require that, in connection with Project financial close, Developer will deliver to City such usual and customary legal and tax opinions desired by City in connection with matters covered by the Transaction Documents from law firms approved by City, including, but not limited to, an opinion from nationally recognized bond counsel acceptable to City that the proposed financing does not adversely affect the tax exempt status of City's existing tax exempt bonds issued with respect to the Airport System, nor City's ability, under then-current law, to issue future tax exempt bonds with respect to the Airport System. Likewise, City will provide usual and customary legal and tax opinions required under the financing documentation to enable the issuance of debt financing.

4. Developer is solely responsible for satisfying its obligations under any Developer Financing Agreements and for all payment obligations with respect thereto.

5. Developer may (i) grant security interests in or assign the Developer's interest in the Transaction Documents to lenders for purposes of securing the financing for the Project or (ii) sell, pledge or assign all of its rights, title and interest in and to payments due under the Transaction Documents. Developer is prohibited from pledging or encumbering its interest, or any portion thereof, to secure any indebtedness of any person other than (a) Developer, (b) any special purpose entity that owns Developer but no other assets and has powers limited to

Developer, the Project and the work, (c) a special purpose entity subsidiary owned by Developer or by an entity described in clause (b) above or (d) the bond issuer.

6. Developer shall comply with all financing requirements and limitations as expressly set forth in the Transaction Documents.

D. Airline Contribution. City anticipates entering into a New Use Agreement with the Airlines during the Exclusive Period or a mutually agreed timeframe. The New Use Agreement will establish the amount of Airline funds the Airlines will pay to City for use of the Airport, as may be adjusted by mutual agreement of the parties, which funding source is expected to comprise a portion of Airport Revenue. Developer acknowledges that City's entering into a New Use Agreement with the Airlines will be a condition precedent to financial close of the Project, and further acknowledges that the Airlines must affirm and approve the Airline payments as reflected in the New Use Agreement prior to financial close.

E. Financial Model. The Financial Model shall be updated whenever a relevant event occurs to reflect changes in the Development Agreement, including schedule and budget changes. City must approve all updates to the Financial Model and is responsible for ensuring consistency of the Financial Model with the New Use Agreement at financial close. If Developer reaches financial close under a financial approach different than that reflected in the Financial Model, City is entitled to share the benefit of any reduced financing costs and shall share the risk of any increased financing costs, as set forth in the Transaction Documents.

F. Refinancing. City approval is required for refinancing, provided City shall have no obligations or liability with respect to refinancing and Developer shall reimburse City for fees incurred in connection therewith; and City shall share in any gains from a decrease in debt service/financing costs or from an increase in Developer financing, with Project payments lowered or increased accordingly. Developer acknowledges that City may share with the Airlines any gains or costs City shares with Developer, via the New Use Agreement.

G. Financial Close.

1. Conditions to financial close shall be as set forth in the Transaction Documents, and are expected to include, at a minimum, requirements similar to the following:

- i. Developer has delivered initial drafts of Developer Financing Agreements 60 days prior to proposed financial close with subsequent drafts delivered no later than 45 days prior to proposed financial close;
 - ii. Developer will deliver all debt and equity financing, as appropriate;
 - iii. All necessary parties have executed the Transaction Documents;
 - iv. Developer and City have delivered bringdown of legal opinions; and
 - v. Developer and City have provided notice of satisfaction of all conditions precedent as set forth in the Transaction Documents.
2. Financial close will occur on a date mutually agreed by the parties, as set forth in the Transaction Documents.

VII. Project Security.

Developer shall be required to furnish security for development and completion of the Project, which is anticipated to include all or some of the following, as set forth in the Transaction Documents, commensurate with airport projects of similar value and complexity: payment and performance bonds, bid bonds, guaranties, and letters of credit. Developer and its owners will provide financial information satisfactory to City to evidence Developer's ability to perform and deliver the Project. Developer acknowledges that City may use a third party to verify Developer's financial information; to the extent City, rather than a third party, receives any Developer financial information, City agrees to keep, and shall cause its vendors to keep, such information confidential to the extent permitted by law.

VIII. Development Agreement/Project Management.

The Development Agreement will outline the design, construction, and finance of the Project including, without limitation, provisions addressing: responsibilities and processes of the Project Management Committee to guide Project development and construction; a Project management plan; design and materials standards and guidelines; sizing requirements; sustainability standards; a permit review and approval process with respect to City-issued permits; Key Project Personnel; contracting requirements, including promulgation of a MBE/WBE plan and Community Benefit Agreement; submittal, review and approval processes and requirements; Project management software requirements; Project Site security; obligations of City and Developer with respect to Project Site access and integration with existing facilities; OSHA-compliant HASP; environmental compliance and standards and hazardous material handling, including risk of pre-existing hazardous materials; payment processes and procedures; changes to the work by both City and Developer, including directives issued by City and shared cost

savings; defective work and remedies; relief events and force majeure; substantial and final completion of the Project; “Operational Readiness and Transition” plans; defaults and remedies; termination; liquidated damages; dispute resolution; insurance requirements; indemnification; audit rights; and intellectual property.

IX. Contracting

A. Key Project Personnel. Developer shall be required to retain Key Project Personnel for the duration of the Project, as defined and set forth in the Development Agreement, and may not substitute Key Project Personnel except due to termination of employment, retirement, death, injury or other similar circumstances without City’s express written prior approval, which may be withheld for any reason.

B. Compliance with Laws. Pursuant to the Development Agreement, Developer must comply with all applicable federal, state and local laws, regulations, ordinances, rules, orders and other requirements; all individuals performing the work on the Project must have required licenses or certifications.

C. Prevailing Wage. Developer agrees to comply with, and cause all contractors and subcontractors to comply with, all applicable provisions of the Missouri Prevailing Wage Act, Employee Classification Act, and other applicable labor laws for construction of the Project, and to grant City’s prevailing wage monitors (i) access to those documents relating to prevailing wage, and (ii) access to Project workers for interview purposes. The parties intend that the Project will be subject to the Missouri Prevailing Wage Act or any other prevailing wage laws and regulations.

D. Davis Bacon. Developer agrees to comply with the Davis Bacon Act for those portions of the Project that are funded in whole or in part with federal funds, or whenever federal funds are used on the Project. Developer agrees to work with City to determine in advance, to the extent feasible, which components of the Project work will be subject to Davis Bacon requirements.

E. Affirmative Action. Pursuant to the Development Agreement, Developer shall adopt an affirmative action program consistent with City’s Affirmative Action ordinance set out in Sections 3-401 through 3-409, Code of Ordinances, and shall cause all contractors and

subcontractors to similarly comply with the requirements of City's Affirmative Action ordinance.

F. Construction Employment Program. Pursuant to the Development Agreement, Developer agrees to establish and maintain a construction employment program for the Project, consistent with City's Construction Workforce Program ordinances (the "Construction Employment Ordinances"), as set out in Sections 3-501 through 3-527, Code of Ordinances, and consistent with Sections IX(G)(1)-(3) below. Developer's Construction Employment Program shall include the following:

1. Developer shall cooperate with City to monitor compliance with hiring goals for the Project;

2. Developer shall submit to City a workforce preparedness plan to actively seek participation of minorities and women and provide them with the resources necessary to enter a program for training and employment to learn a skilled construction trade. Such plan shall include, as appropriate, (i) partnering with community-based organizations and post-secondary educational institutions to create programs that facilitate entry into the construction industry by providing job readiness training, construction trades awareness and training, skills assessment testing to increase the ability to pass construction trades entrance examinations, (ii) conducting recruitment efforts targeting City residents, minority and women community-based organizations, schools with significant minority student populations, and training organizations serving the recruitment area, (iii) supporting the efforts of the Joint Apprenticeship Training Program (joint effort of labor unions and contractors), Heart of America Associated Builders and Contractors Apprenticeship Training Trust program, or some other apprenticeship program whose purpose is to recruit, train and employ new workers for careers in the construction industry, and (iv) utilization of Clark Construction Company's Strategic Partnership Program.

G. Minority and Women's Business Enterprises Participation. Pursuant to the Development Agreement, Developer shall use good faith efforts to meet or exceed the Minority Business Enterprise ("MBE") and Women's Business Enterprise ("WBE") participation goals for the Project, as established in coordination with City's Human Relations Department upon Developer's validation of Project scope and estimated budget, or as set forth in this Section IX,

consistent with the participation goals established in Sections 3-421 through 3-469, Code of Ordinances:

1. Developer shall make good faith efforts to achieve a goal of 35% MBE/WBE construction participation cumulatively for all tiers based on subcontract cost;
2. Developer shall make good faith efforts to achieve a goal of 35% MBE/WBE design professional services participation cumulatively for all tiers based on the cost of design professional services;
3. Developer and City agree to work cooperatively to gather and analyze workforce data that will be used as the foundation for establishing the Project workforce participation goals, to be set forth in the Interim Development Agreement;
4. Developer shall incorporate flowdown provisions in all subcontracts to make good faith efforts to achieve Developer's participation goals as listed herein; and
5. Developer will implement a compliance monitoring program to ensure compliance with the Project's MBE/WBE and prevailing wage requirements, which may include using City's electronic reporting tools or other comparable monitoring and reporting platforms.

H. Community Benefit Agreement. Developer shall propose a community benefit agreement that sets forth provisions through which it will provide specific opportunities, amenities and/or mitigation to designated affected City communities (the "Community Benefit Agreement"), in coordination with the FAA and City to determine funding eligibility. The Community Benefit Agreement, proposed terms and implementation structure for which are more fully set forth in Exhibit D, is expected to include:

1. Free or subsidized transportation options to Project workers;
2. Availability of licensed childcare during Project development;
3. An on-site health clinic for Project workers;
4. Low-interest working capital loan program to provide working capital to disadvantaged businesses that seek to perform Airport- or Project-related work and /or provide services in Airport facilities;

5. Accelerated payment program to enable Kansas City MBE/WBE certified firms to be paid within fourteen (14) business days after submitting a properly documented request for payment;
6. Financial guidance for Small Local Business Enterprises and M/WBE businesses to facilitate access to independent bonding lines;
7. Making available up to 5,000 SF of business incubator space at the Project site for M/WBE construction- or airport-related businesses during Project construction; and
8. Workforce training for disadvantaged individuals residing in, or disadvantaged businesses having a principal place of business in, Kansas City, Missouri.

In addition, Developer will support programs that benefit the broader City community by investing in the Love Thy Neighbor Fund and Shared Success Fund, as well as in programs or organizations whose purpose is to preserve culturally significant historical properties, as set forth in Exhibit D. Exhibit E reflects the current status of efforts to undertake the proposed Community Benefit Agreement program areas.

I. Local Hiring Preference. Developer shall agree to institute a local hiring preference.

X. Insurance

A. General. Developer shall provide and maintain throughout the Project such insurance coverage as is required pursuant to the Transaction Documents. City reserves the right to approve all Project-specific insurance policies and any Developer-supplied insurance program. If Developer Financing Agreements require higher limits or broader coverage than required by City pursuant to the Development Agreement, Developer's provision of such insurance pursuant to the Financing Agreements shall satisfy the applicable requirements of the Development Agreement.

B. Provisions. Insurance requirements will be set forth in the Interim Development Agreement and are expected to provide, in part:

1. Developer's insurance provider must be qualified, licensed in Missouri, category rating of A or better, and otherwise approved in writing by City;
2. City will have no liability for insurance deductibles except as otherwise provided in the Transaction Documents;

3. Each policy will provide that coverage is primary and non-contributory coverage;
4. Where customary for projects similar to the Project, and for the type of coverage obtained, policies will identify City as an additional insured;
5. Developer's delivery of certificates of insurance and written evidence of insurance for each insurance policy to City, as well as complete certified copy within 120 days of issuance or renewal. Failure to deliver notice will trigger City's right to obtain such policy at Developer's cost and to suspend work until proofs of coverage are received;
6. Except as expressly provided in the Development Agreement, all insurance policies shall be purchased specifically and exclusively for the Project;
7. All policies required to insure additional persons shall comply with the following:
 - i. General Liability and Builders Risk shall be written so no acts of an insured shall vitiate coverage of other insureds;
 - ii. Insurance shall apply separately to each named insured and additional insured against whom a claim is made or suit is brought, except with respect to limits of insurer's liability;
 - iii. Each policy, except for professional liability insurance, shall provide coverage on occurrence basis and not "claims made" basis;
8. Insurance policies shall support but are not intended to limit Developer's indemnification obligations under the Transaction Documents.

XI. Indemnification

A. Developer Indemnity. Developer shall indemnify, hold harmless and defend City, its affiliates, officers, trustees, elected or appointed officials, agents, volunteers and employees, from and against any and all claims, liability (including judgments and settlements), damages and expenses (including reasonable attorneys' fees) involving a third party claim, arising out of or resulting from: all acts or omissions in connection with the Project, this MOU, or any Transaction Document but only to the extent caused by Developer or Developer's agents, contractors, officers, affiliates, subcontractors, and employees. Developer is not obligated under this section to indemnify City for the sole negligence of City; or a breach of any of the representations, covenants, provisions, terms, obligations or duties contained in this MOU.

XII. Termination

A. Termination of MOU by City. City shall have the right to terminate this MOU no sooner than ten (10) days after giving Developer written notice of such termination, with no further rights or obligations owing to Developer, if: (i) the Project is the subject of a legal challenge or citizen referendum; (ii) the Project is determined to adversely impact City's existing bond obligations or City's bonding capacity; (iii) Developer has failed to engage in good faith efforts to negotiate the Interim Development Agreement and Development Agreement during the Exclusive Period; (iv) any aspect of Developer's Proposal is determined to have been intentionally false, fraudulent or misleading; or (v) for City's convenience. In the event of such termination, Developer will have no right, and will expressly waive the right, to seek monetary damages of any kind, including but not limited to: actual damages, economic damages, consequential damages, lost profits or any other damages from City under the MOU or any action related to the MOU, except as otherwise stated herein. The Developer will have no other right or remedy against City, including any action for specific performance, the filing of a *lis pendens* or otherwise.

B. Termination of MOU by Developer. Developer may not terminate this MOU except (i) if City has failed to engage in good faith efforts to negotiate the Transaction Documents during the Exclusive Period, or (ii) if City has materially breached any of the terms and conditions of this MOU. In the event of (i) or (ii) above, the Developer may, at its option, terminate this MOU upon ten (10) days' written notice to City and City shall pay to Developer its Qualified Out-of-Pocket Costs incurred beginning September 22, 2017 through the date of termination, pursuant to the terms of the Reimbursement Agreement. Upon such termination, neither City nor Developer shall have any further rights or obligations hereunder except as otherwise provided in this Section XII and the Transaction Documents.

C. Termination of MOU by Execution of the Interim Development Agreement. Upon execution of the Interim Development Agreement, this MOU shall automatically terminate, shall be of no further force or effect, and the parties shall have no further obligation under this MOU except as specifically set forth in the Interim Development Agreement.

D. Termination of Development Agreement. City's and Developer's respective rights to terminate the Development Agreement shall be as set forth in the Development Agreement. The

parties will endeavor in good faith to reach financial close by September 30, 2018, or such other date as mutually agreed by the parties.

E. Reimbursement of Developer Costs Upon Termination. Notwithstanding anything in this MOU to the contrary, if the parties fail to achieve financial close for any reason, including termination of this MOU or, once executed, the Interim Development Agreement or Development Agreement, other than as a result of Developer's fraudulent act or willful misconduct, City shall pay Developer's Qualified Out-of-Pocket Costs incurred beginning September 22, 2017 through the date of termination, pursuant to the terms of the Reimbursement Agreement, attached hereto as Exhibit F. In such event, neither City nor Developer shall have any further rights or obligations under this MOU or any other Transaction Document except as otherwise expressly set forth herein or therein, or as provided in the Reimbursement Agreement.

XIII. Assignment/Change in Control

A. Developer Assignment and Transfer. Developer shall not assign or transfer any of Developer's interest in this MOU or any Transaction Documents except to an affiliate entity of the Developer or as provided in the Transaction Documents. Developer's right of assignment is anticipated to be limited to Developer-controlled entities until after Substantial Completion is achieved and thereafter, only with City's express prior written approval.

B. Assignment by City. City may assign all or any portion of its rights in the MOU or Transaction Documents, without Developer's consent, to any other entity that succeeds to governmental powers of City and has the sources of funding for Project payments, and to any other party with the prior written consent of Developer.

XIV. Miscellaneous

A. Open Records. Developer acknowledges that all Project-related records and documents in City possession are subject to the Missouri Sunshine Law, subject only to certain exceptions for proprietary information protected from public disclosure by law. Each page of each document containing such proprietary information shall be marked prominently in at least 16 point font with the words "Proprietary Information". Developer also acknowledges that all Project-related records and documents in its possession are subject to audit and may also be subject to the Missouri Sunshine Law.

B. Authorities. City's City Manager shall be City's signatory solely for purposes of providing all consents and approvals provided for herein, subject to City Manager's receipt of all

necessary authorizations and subject to City Council approval of all Transaction Documents and any other documents City deems necessary, and, further provided, City Manager may delegate certain authorities related to implementation of the Transaction Documents. Notwithstanding anything to the contrary in this MOU, nothing herein shall be construed in a way that would limit, usurp or otherwise impair the governmental authority and police power of City or otherwise waive or modify any provision of law.

C. Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

D. Approval and Consents. Wherever one of the parties has the ability under this MOU to grant some right, make a determination, or approve or consent to an action, document, undertaking or other request, such grant, determination, or approval or consent shall not be unreasonably withheld, conditioned, or delayed.

E. Dispute Resolution. The parties acknowledge that the Interim Development Agreement will provide for a dispute resolution process the parties will agree to implement if a dispute cannot be solved through good faith discussions. Such dispute resolution process is expected to include multiple levels, including elevation of matters within each party's leadership structure, mediation, and arbitration.

F. Mutual Waiver. In no event shall either party be liable to the other for any economic damages, consequential damages, lost profits, or other special, indirect, or punitive damages arising or resulting from this MOU.

G. Applicable Law. The applicable laws of the State of Missouri shall govern the validity, construction and effect of this MOU. All disputes arising under or relating to this MOU shall be filed, maintained, and resolved in accordance with the laws of the State of Missouri without regard to its conflict of law rules.

H. Notices. A notice or communication under this MOU by either Party to the other shall be sufficiently given or delivered if dispatched by hand, national courier services, or by registered or certified mail, postage prepaid, addressed as follows:

a. If to City:

City Attorney's Office
City Hall, 28th Floor
414 E 12th St.

Kansas City, MO 64106
Attn: Galen Beaufort
Telephone: (816) 513-3122

Director of Aviation Department
601 Brasilia Avenue
Kansas City, MO 64153
Attn: Pat Klein
Telephone: (816) 243-3107

With a copy to:

Husch Blackwell LLP
4801 Main Street, Ste. 1000
Kansas City, MO 64112
Attn: Charles Renner
Telephone: (816) 329-4702

b. If to Developer:

Edgemoor Infrastructure & Real Estate LLC
7500 Old Georgetown Rd.
Bethesda, MD 20814
Attn: Geoffrey Stricker
Telephone: (301) 272-2990

With a copy to:

Edgemoor Infrastructure & Real Estate LLC
7500 Old Georgetown Rd., 3rd Floor
Bethesda, MD 20814
Attn: Frank J. Baltz
Facsimile: (301) 272-1916
Telephone: (301) 272-8181

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed as of the Effective Date.

DEVELOPER:

EDGEMOOR INFRASTRUCTURE & REAL ESTATE
LLC

By: _____

Name: _____

Title: _____

CITY:

CITY OF KANSAS CITY, MISSOURI

By: _____

Name: Troy M. Schulte

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Galen P. Beaufort

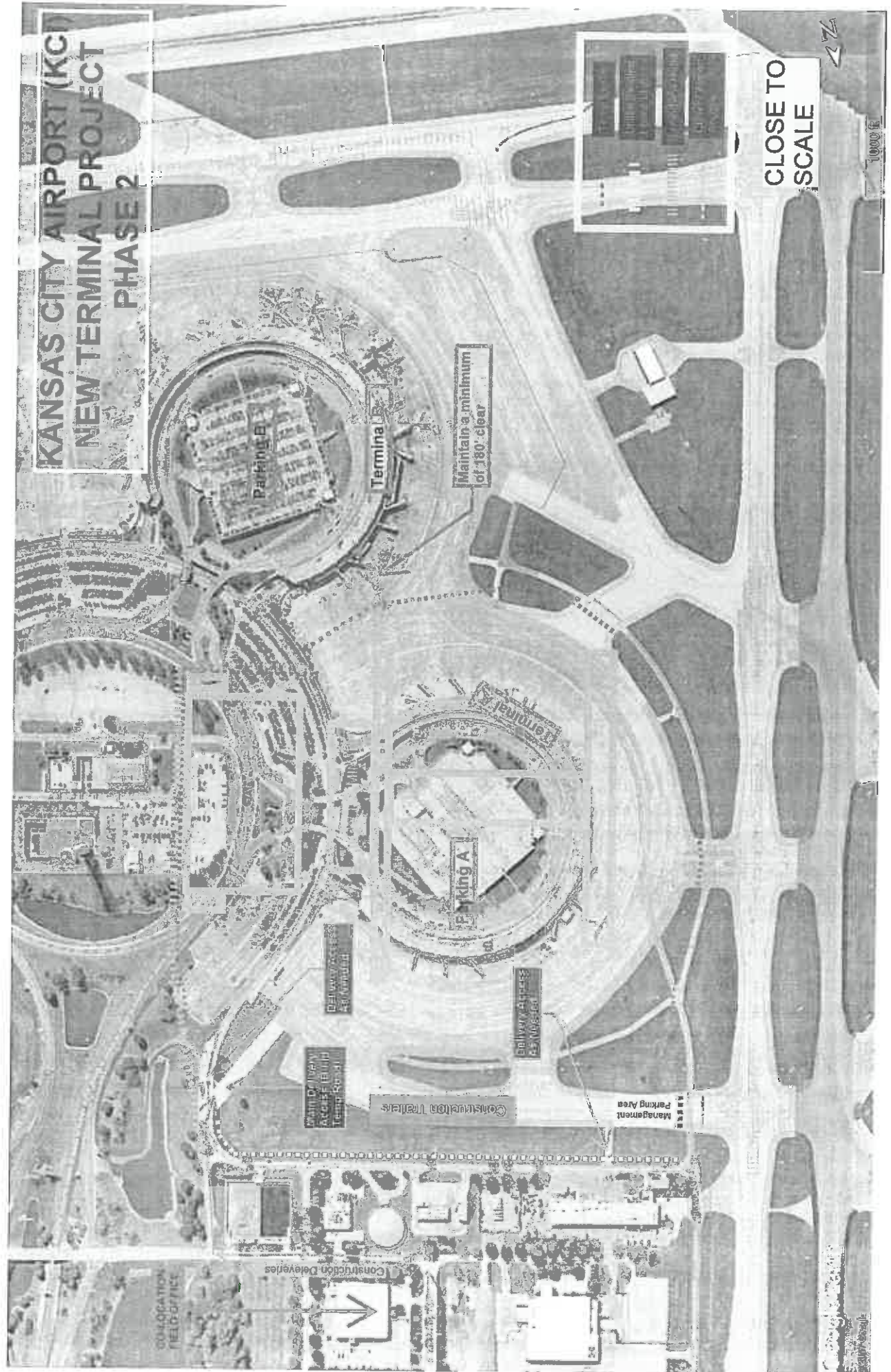
Title: Senior Associate City Attorney

EXHIBIT A:

Project Site

[Attached]

KANSAS CITY AIRPORT (KC) NEW TERMINAL PROJECT PHASE 2

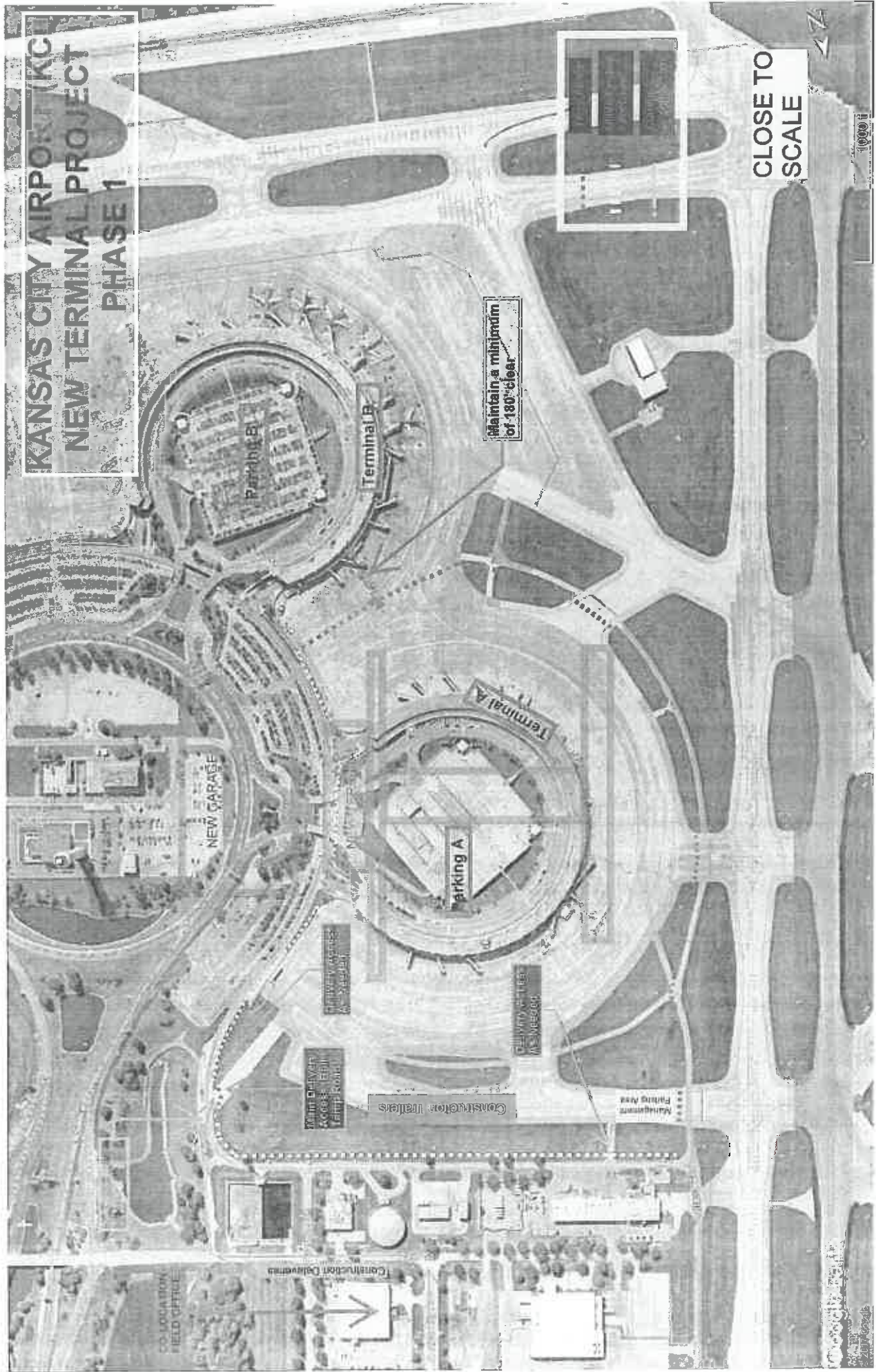


CLOSE TO
SCALE

1000 ft



KANSAS CITY AIRPORT (KC) NEW TERMINAL PROJECT PHASE 1



Terminal B

Maintain a minimum
of 180' clear

Terminal A

Parking A

NEW GARAGE

DELIVERY AREAS
(AS SHOWN)

DELIVERY AREAS
(AS SHOWN)

CONSTRUCTION TRAILERS
(AS SHOWN)

Construction Trailers

Management Area

CO-LOCATION
FIELD OFFICE

Construction Deliveries

CLOSE TO
SCALE

1000 ft

North Arrow

EXHIBIT B:

Project Scope

The initial Project scope outlined below is as provided in a referendum approved by a majority of Kansas City, Missouri voters on November 7, 2017. The final Project Scope will be mutually agreed upon prior to financial close by the Developer, City, and Airlines after Program validation and schematic design is completed, and will become the design basis for the Project.

1. Terminal access will be provided from the existing airport roadway system.
2. A two-level terminal roadway serving arriving and departing passengers achieving required curb length. Separate commercial curbs will be provided to serve courtesy shuttle services, rental car buses, public buses and other commercial ground transportation requirements.
3. Approximate 750,000 square foot terminal facility, including curbside, ticketing lobby, TSA compliant security screening checkpoint, TSA compliant in-line Checked Baggage Inspection System and associated support areas, baggage claim areas, and associated support functions. Facility to include secure concourses providing concessions and customer amenities, capable of providing 35 ADG III aircraft (including 4 City-controlled, internationally capable gates and associated Federal Inspection Services) with expansion option to 42 gates and Airline operational support facilities incorporated to successfully operate and maintain terminal-related functions.
4. Airline equipment to address air carrier operations in the terminal, including passenger boarding bridges, aircraft support systems (e.g., pre-conditioned air, ground power, potable water, etc.), communications infrastructure, common use communications system for City-controlled gates, information display systems (e.g., flight information display systems, baggage information display systems, etc.), inbound and outbound baggage handling systems, and applicable tenant finishes.
5. Terminal aircraft apron and non-movement areas sized to accommodate aircraft fleet, dual taxi lanes as appropriate to accommodate B757 aircraft, connections to taxiways, adequate remaining overnight aircraft parking positions, and approximately eight (8) common use deicing pads and associated collection system.
6. Aircraft in-ground hydrant fueling system to service the 35 gates with a connection to the existing aviation fuel farm system. New system will include piping, isolation valves, fuel pits, emergency shut-offs and meet current environmental requirements.
7. Multi-level public parking structure with approximately 6,500 parking spaces adjacent to the terminal, and connected to the landside terminal via pedestrian walkways and a pedestrian tunnel. Covered pedestrian walkway from Terminal B garage to terminal.
8. Close-in public surface parking with approximately 2,000 parking spaces within walking distance of the terminal.

9. Associated site development, including relocation of pipelines, natural gas lines, communications facilities, and electronic transmission lines; demolish existing terminals as necessary; environmental mitigation (if any); site grading and drainage; fencing; construction access roads and staging areas, among other things.

10. Plan will incorporate maintenance of operations and phasing plan to ensure operations in Terminals B & C are maintained during construction.

EXHIBIT C:

Key Terms: Interim Development Agreement

1. Funding Agreement
2. Financing approach, including a financing structure that best facilitates the Project, which may include, but not be limited to, one or more of the following financial structures and components: private debt financing, equity financing, conduit bond financing, and general airport revenue bond financing.
3. Timing for locking interest rate
4. Timing for commitment to final pricing
5. Project security
6. Windfall provisions and appropriate reward for Developer's assumption of risk
7. Risk allocation for pre-existing conditions and HazMat, relative to timing for financial close
8. Flowdown provisions
9. Process for negotiating Transaction Documents (including timing/ turnaround/escalation/ dispute resolution)
10. Process for development of Financial Model (including tasks, timeline, milestones, input/ reviews/approvals required, etc.)
11. Provisions addressing specific lender requirements
12. Provisions addressing the concept of seamless turnover of the Project from Developer to KCAD as the Project transitions from a conceptual design into a construction site and ultimately a fully operational facility in which the stakeholders are appropriately engaged.
13. Any other provisions provided for in this MOU or mutually agreed to by the parties.

EXHIBIT D:

Proposed Community Benefit Agreement Terms and Implementation Structure

I. Introduction	This term sheet sets forth a range of community benefits that will be provided via a Community Benefit Agreement that Edgemoor Infrastructure and Real Estate LLC (the "Developer") will implement, or will cause to be implemented, as part of the KCI Terminal Modernization Program for the duration of the Project's construction, through Final Completion, or for such term as otherwise specified herein.
II. Definitions	<p>As used in the Agreement, the following capitalized terms shall have the following meanings. All definitions include both the singular and plural form.</p> <p>"Agreement" shall mean a Community Benefit Agreement to be entered into concurrently with the Transaction Documents.</p> <p>"Airport Contract" shall mean a contract awarded by the Developer and pertaining to KCI and subcontracts of any level under such a contract.</p> <p>"Airport Job" shall mean a job for which the employer is the Kansas City Aviation Department, an airport contractor, an airport lessee, or an airport licensee, and either (1) the job is performed on-site, or (2) the job is related to an airport-related contract, lease, licensing arrangement, or permitting arrangement.</p> <p>"Aviation-Related Job" shall mean a job other than an Airport Job that is on-airport or off-airport and that the FAA approves pursuant to the provisions of the Agreement.</p> <p>"City" shall mean the City of Kansas City, Missouri.</p> <p>"Development Agreement" shall mean the Development Agreement entered into between the Developer and City, to which the Agreement is attached.</p> <p>"FAA" shall mean the Federal Aviation Administration.</p> <p>"FAA Determination" shall mean an advisory opinion from the FAA indicating that the use of airport revenues for any particular program would constitute revenue diversion or other impropriety contrary to FAA program requirements and regulations.</p> <p>"KCI" shall mean the Kansas City International Airport.</p> <p>"Low Income Individual" shall mean an individual whose household income is no greater than 80% of the median income, adjusted for household size, for the primary Metropolitan Statistical Area.</p> <p>"M/WBE" shall mean Minority or Women-owned Business Enterprise.</p> <p>"Nonprofit" shall mean an existing 501(c)(3) or 501(c)(4) organization or a 501(c)(3) or 501(c)(4) organization established by Developer to facilitate the purposes of the Agreement.</p>

	<p>“Project” shall mean the proposed improvements to KCI, as more fully described in the Development Agreement.</p>
III. Agreement Focus Areas	<p>The Agreement will set forth policy objectives, processes, and responsibilities for the program areas listed below.</p>
1. Transportation to and From Project Site	<p>Developer will partner with the Kansas City Area Transit Authority (KCATA) and other area organizations to provide, or cause to be provided, free or subsidized transportation options to Project workers, which may include offering bus service with multiple routes and stops, van pooling, car sharing, and/or a guaranteed-ride-home program.</p>
2. Licensed Child Care	<p>Developer will make available, or cause to be made available, to Project workers at least one strategically located child care facility, through a licensed child care provider, which will be offered under mutually agreeable terms.</p>
3. On-site Health Care	<p>Developer will make available, or cause to be made available, a local healthcare provider to operate an on-site health clinic for workers to treat any on-the-job injuries sustained on the Project until Project final completion. Developer will cause to be provided a full-time Emergency Medical Technician/Paramedic (EMT) to operate out of a dedicated medical trailer on-site.</p>
4. Low-Interest Loan Program	<p>Developer will, in coordination with City and other local small business and finance organizations, identify and develop a low-interest working capital loan program, preferably with a local minority- or woman-owned financial institution, to assist disadvantaged businesses in the City seeking to perform KCI- or Project-related work and /or provide services in KCI facilities.</p>
5. Pay Without Delay	<p>Developer will establish, or cause to be established, the Pay Without Delay Program, an accelerated payment program ensuring that all Kansas City M/WBE certified are paid within fourteen (14) business days after submitting a properly documented request for payment, including verification of the work. Developer will establish an account at a local minority- or woman-owned financial institution from which Pay Without Delay payments will be withdrawn.</p>
6. Financial Guidance for Small and M/WBE Businesses	<p>Developer will facilitate access to independent bonding lines by offering, or causing to be offered, a program that includes overviews of insurance, bonding, selected banks, and the Small Business Administration, which will allow qualified subcontractors to take the next step towards becoming prime contractors.</p>
7. Small Business Incubator Space	<p>Developer will cause to be made available up to a total of 5,000 SF of trailer and or/co-located office space at the Project site to be used as business incubator space by M/WBE construction- or airport-related businesses.</p>
8. Worker Job Training	<p>Developer will cause to be made available the following job training opportunities:</p> <ol style="list-style-type: none"> a) Training Eligibility: Enrollment in job training programs shall be predominantly offered to Low Income Individuals living in communities within Kansas City, Missouri.

b) Training Program Details.

i. Developer will cause to be implemented a Small Business Strategic Partnership Program (the "Program"), a 5-to-10 month intensive training program, to support the MBE and WBE subcontracting plan for the KCI Airport project and to support the MBE and WBE selected to participate on this project. The Program supplements the capabilities of local, small and/or disadvantaged businesses by providing core construction management and business skills to Program participants. Courses will be taught by industry experts and include classroom learning, team projects, and participant presentations. In addition, several project management-related courses will be available to subcontractors, including CPM Scheduling, Estimating and Planning the Job. Training workshop topics to be provided include:

- Construction Contracting and Requirements
- Professional Services Contract Award Process and Requirements
- Bonding and Insurance Requirements
- Prequalification, Bidding and Invoicing
- Financing/Access to Capital

ii. Developer will cause to be offered a General Contractor Training Course, a comprehensive initiative to offer technical assistance in general contracting principles to small businesses in the greater KC-metropolitan area. The six month program will meet bi-weekly to explore different facets of the construction industry, including such topics as: *Know Your Contract, Learning The Basics Of Contract Law, Managing Change Orders, Understand The Estimate, Cash Management, Develop A Site Utilization Plan, CPM Scheduling, Monitor And Manage The Schedule, Keep Up With The Documentation, Developing A Project Safety Plan, Subcontractors Purchasing Process, and Quality Control on a Project Site.*

iii. To the extent funds may be available, as determined through FAA Determinations and in consultation with City, Developer will consider supporting additional job training and pre-apprenticeship programs for FAA-approved Airport Jobs and Aviation-Related Jobs.

If an FAA Determination or any other regulatory authority prohibits the Developer from allocating Project funds or resources for any of the programs identified in the Agreement, or threatens to withhold federal funding if the Developer takes actions required the Agreement, then Developer shall work cooperatively with City to identify eligible and available funding sources for any program for which the FAA has prohibited expenditures. Funds secured from alternative sources under this provision shall not reduce any Developer funding commitments otherwise made under the Agreement.

In addition to supporting the programs identified above, Developer will support programs that benefit the broader Kansas City community, including the following:

1. Love Thy Neighbor. City needs both funding and available volunteers to

IV. FAA Prohibited Expenditures and Alternative Funding Sources

V. Contributions to Edgemoor Neighborhood



perform the program’s work, which typically includes light carpentry, painting, trash removal and landscaping. Developer will provide organized teams of volunteers to perform program work at least semi-annually for the duration of the Project, in coordination with City. In addition, Developer will facilitate donation of \$125,000 per year for eight (8) years, or a total of \$1 million, to the Nonprofit to supplement its volunteer efforts for Love Thy Neighbor.

2. **Shared Success Fund.** Developer will contribute a total value of \$1 million toward the Shared Success Fund’s initiatives over six (6) years, comprising: (i) in-kind contributions, (ii) cash, or (iii) some combination thereof, as further determined in consultation with City.
3. **Historic Preservation.** Developer will contribute a total value of \$1 million over six (6) years toward the Historic Preservation Commission’s initiatives, comprising: (i) cash, (ii) in-kind contribution of expertise related to the preservation of culturally significant properties and other artifacts related to the airport, notable aviators, and aviation-related industries and industry leaders, or (iii) some combination thereof, as further determined in consultation with the Historic Preservation Commission.

**VI. Edgemont
Nonprofit Initiatives**

The Nonprofit’s initiatives in support of the Agreement shall include: (i) working with City to identify alternative funding sources, where the FAA prohibits Project funds from being used to support the programs identified above; (ii) contributing funds to support the above programs; and (iii) supporting and assisting in coordinating volunteer efforts and conducting outreach campaigns that further galvanize community support for and contributions to the community-based programs identified above.

CBA Implementation Structure

The proposed structure for implementing the Community Benefit Agreement is provided on the following page.

Proposed CBA Implementation Structure

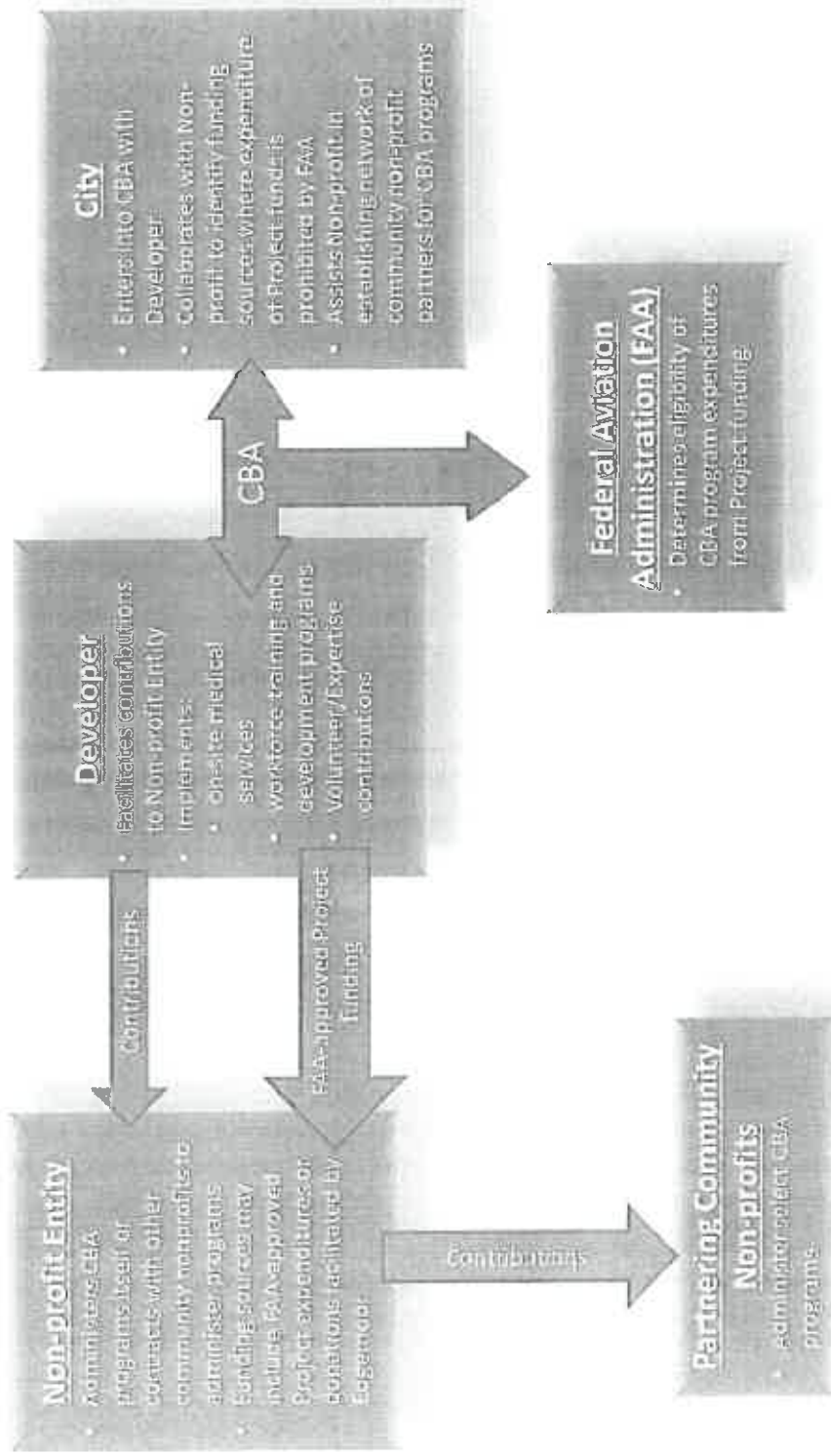


EXHIBIT E:

Community Benefit Agreement Status

CBA Program	Progress to Date	Next Steps
1. Transportation to/from Project Site	<ul style="list-style-type: none"> • Developer has engaged with KCATA, the Mid-America Regional Council (MARC) and the Greater Kansas City American Federation of Labor (AFL-CIO) to discuss transportation needs and resources • Developer has begun an evaluation of the best routes and service options based on where project workers live, existing transportation networks, and opportunities for enhancements 	<ul style="list-style-type: none"> • Finalize routes and service options • Determine the cost of the additional desired transportation services and identify potential funding sources
2. Licensed child care	<ul style="list-style-type: none"> • Developer has met with KCATA, MARC, and AFL-CIO to discuss needs and opportunities • Developer is currently assessing potential locations for childcare facilities 	<ul style="list-style-type: none"> • Select a location and childcare provider • Develop detailed cost estimates • Identify funding sources
3. Onsite health care	<ul style="list-style-type: none"> • Developer has engaged in conversations with several health care providers who could supplement Clark's existing on-site medical services provider 	<ul style="list-style-type: none"> • Select a supplemental health care provider
4. Low-interest loan program to provide working capital	<ul style="list-style-type: none"> • Developer is conducting learning and listening sessions to further determine the needs 	
5. Pay Without Delay	<ul style="list-style-type: none"> • Developer has met with the For Change Initiative to discuss opportunities for integrating with their existing programs and services • Developer has held meetings with Liberty Bank and Lead Bank to discuss additional options for accelerating payments to small business subcontractors 	<ul style="list-style-type: none"> • Select local minority- or woman-owned bank with which to partner for this program • Secure funding
6. Financial guidance to small and WMBE businesses	<ul style="list-style-type: none"> • Developer has met with the For Change Initiative on how to integrate with their existing programs and services • Developer has held meetings with Liberty Bank and Lead Bank 	<ul style="list-style-type: none"> • Identify areas for cooperative initiatives • Identify funding sources and needs
8. Small Business	<ul style="list-style-type: none"> • Developer is seeking further 	

Incubator	clarification from City regarding its objectives for this initiative	
7. Workforce training	<ul style="list-style-type: none"> • Developer has identified several options for providing pre-apprenticeship and workforce development programs, and is fleshing out how to adapt various programs to the needs and interests of City's workforce 	<ul style="list-style-type: none"> • Developer will continue to refine training options
9. Non-profit Contributions	<ul style="list-style-type: none"> • Developer will commit to contributing funding to a non-profit entity established by Edgemoor to support the following programs: <ul style="list-style-type: none"> ○ <i>Love Thy Neighbor</i>: \$125,000 annually for 8 years or a total of \$1 million and Developer will provide volunteers on a semi-annual basis during the duration of the Project ○ <i>Shared Success Fund</i>: \$1 million over 6 years comprising in-kind contributions, cash or a combination ○ <i>Historic Preservation</i>: \$1 million over 6 years 	

EXHIBIT F:

Form Reimbursement Agreement

REIMBURSEMENT AGREEMENT

FOR QUALIFIED OUT-OF-POCKET COSTS

**BETWEEN CITY OF KANSAS CITY, MISSOURI AND
EDGEMOOR INFRASTRUCTURE & REAL ESTATE LLC**

This Reimbursement Agreement for Qualified Out-of-Pocket Costs (“**Agreement**”) is entered as of this ____ day of December, 2017 (the “**Effective Date**”) between the City of Kansas City, Missouri (“**City**”) and Edgemoor Infrastructure & Real Estate LLC (“**Developer**”), a Maryland limited liability company registered to do business in Missouri, for a terminal modernization program at the Kansas City International Airport (the “**Airport**”). This Agreement outlines certain terms and conditions under which Developer would finance and develop such a program.

RECITALS

- A. Whereas, City issued a “Request for Qualifications/Proposals for Design, Construct and Private Financing of KCI/ Request #062017” (as amended, the “**RFQ/P**”) on May 30th, 2017 to identify a potential developer for development of a single terminal Airport improvement project (the “**Project**”), and
- B. Whereas, City selected Developer for the Project and determined to advance negotiations with Developer to enter into a development agreement (the “**Development Agreement**”) for the Project, and
- C. Whereas, City and Developer have entered into that certain Memorandum of Understanding related to the Project with an Effective Date of December ____, 2017 which provides that the City, through the Aviation Department, will reimburse the Developer for certain Qualified Out-of-Pocket Costs in the event the Project fails to reach financial close, and
- D. Whereas, City and Developer wish to memorialize their agreement regarding payment of Developer’s Qualified Out-of-Pocket costs by executing this Agreement, and

E. Whereas, the City Council authorized the City Manager's execution of this Agreement with its passage of Ordinance No. _____.

AGREEMENT

I. **Qualified Out-of-Pocket Costs**

a. Qualified Out-of-Pocket costs means those costs incurred by Developer which are direct expenses incurred by Developer that are not increased by any dollar or percentage amount representing added profit, fee, or administrative or other charge and which have been documented by the Developer and approved by the Aviation Director. For purposes hereof, Qualified Out-of-Pocket Costs shall be limited to and include only those costs related to the Project and incurred by Developer for contractors (and their subcontractors), design professionals, consultants (and their subconsultants), attorneys, other architectural and engineering design professionals (including costs of preconstruction services of third party project contractor(s)), Loan principal, interest, and fees as described below, related financing costs and legal fees and other approved costs related to the Project.

b. An estimate of the total Qualified Out-of-Pocket Costs anticipated to be incurred under this Agreement is attached hereto as Exhibit A.

II. **Funding of Qualified Out-of-Pocket Costs Through Financial Close**

a. Developer shall obtain a pre-construction loan or similar loan ("Loan") from a lending institution reasonably acceptable to the City ("Lender") for purposes of funding Qualified Out-of-Pocket costs through financial close of the Project. Developer shall advise the City as to the proposed Loan terms and shall use reasonable commercial efforts to address any comments raised by the City. The City shall acknowledge the Loan terms as documented in the agreement between the Developer and the Lender. All Qualified Out-of-Pocket Costs shall be paid for and funded by the Loan. Upon the date of financial close, Developer shall have funds included in the Project cost wired directly to the lending institution to pay off the full Loan amount, which shall include Loan principal, current and capitalized interest, and fees that have accrued to the Loan consistent with the terms agreed between the Developer and the Lender.

b. Developer and City shall enter into such documents as the Lender may reasonably require in issuance of the Loan, including, but not limited to an assignment of Developer's rights and obligations under this Agreement to the Lender.

III. Documentation and Approval of Qualified Out-of-Pocket Costs

a. On or about the 25th day of each month, Developer shall provide City's Aviation Director with documentation detailing the services and related Qualified Out-of-Pocket Costs that Developer expects to be performed in the following month and which shall be subject to City approval under Section III.b below.

b. Within five (5) business days after City's receipt of Developer's documentation under Section III.a, City's Aviation Director shall approve Qualified Out-of-Pocket Costs in its reasonable discretion, which shall not be unreasonably withheld, conditioned, or delayed. Loan costs shall not be subject to rejection by the City if such costs are consistent with the loan documents entered into between Developer and Lender. In the event the Aviation Director rejects any Qualified Out-of-Pocket Costs documented in accordance with Section III.a, the Aviation Director shall provide Developer with written notice giving reason for the rejection and any additional information needed by the Aviation Director to approve the cost. In such case, and in Developer's discretion, the services related to the rejected Qualified Out-of-Pocket Costs will not be performed until after financial close of the Project or will be performed by Developer at its own cost. For the avoidance of doubt, any Qualified Out-of-Pocket Costs rejected by the City shall be expressly excluded from any draw request under the Loan. Any and all City-approved Qualified Out-of-Pocket Costs shall be a reimbursement obligation of City pursuant to Section IV below.

c. On the 20th day of each subsequent month, Developer shall provide City's Aviation Director with a spreadsheet (and backup documentation upon request) detailing the actual Qualified Out-of-Pocket Costs incurred through the end of the immediately preceding calendar month.

IV. City's Obligation to Reimburse Developer for Qualified Out-of-Pocket Costs

a. In the event the parties fail to achieve financial close of the Project for any reason, other than as set forth in Section IV.b below, City shall reimburse Developer, including all documented Loan-related financing costs, for Developer's Qualified Out-of-Pocket Costs incurred by Developer from and after September 22, 2017 through the date City notifies Developer that it will no longer pursue the Project. Reimbursement of any and all City-approved Qualified Out-of-Pocket Costs shall not be subject to set-off, deductions, abatement, reduction or withholding for any reason by the City, provided the City receives all Instruments of Service (defined below) in accordance with Section IV.c. Payment by City under this Section IV.a shall be made to Developer within thirty (30) calendar days after Developer furnishes to City the Instruments of Service and any other documents required under Section IV.c.

b. City shall have no obligation to reimburse Developer for Qualified Out-of-Pocket Costs in the event the Project fails to achieve financial close due to Developer's fraudulent act or willful misconduct.

c. Developer shall grant or cause to be granted to City and its agent an irrevocable nonexclusive license to use, reproduce and distribute the instruments of service prepared by Developer's architect or other design professionals in connection with the Project (the "Instruments of Service"). Instruments of Service shall include any drawings, specifications, models, renderings or other materials prepared in connection with the Project, as well as any other documents related to the Project for which the City has an obligation to reimburse the Developer, as prepared by Developer's contractors, consultants, attorneys, and other such entities.

d. Developer hereby irrevocably directs City to make any payments under this Reimbursement Agreement to the Lender, a Blocked or Lock-Box Account in which the Lender has a first-priority, perfected security interest, or alternatively as the Lender may direct. Developer and City agree and acknowledge that City will not accept any redirection of payments without Lender's written consent.

V. Termination

Upon full repayment of the Loan, this Agreement shall automatically terminate, without further instrument or action, and shall be of no force or effect.

VI. Miscellaneous

- a. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- b. Applicable Law. The applicable laws of Missouri shall govern the validity, construction and effect of this Agreement. All disputes arising under or relating to this Agreement shall be filed, maintained, and resolved in accordance with the laws of the State of Missouri without regard to its conflict of law rules.
- c. Assignment. Neither party to this Agreement shall be permitted to assign or transfer its rights under this Agreement without the consent of the other party, except that Developer may assign or transfer its interest under this Agreement to an affiliate or subsidiary entity of Developer or as otherwise required by Section II.b.
- d. Amendments. This Reimbursement Agreement may not be varied, amended or supplemented and any obligation, right, power or remedy shall not be waived except by an agreement in writing signed by duly authorized representatives of City and Developer and with Lender's prior written consent.
- e. Notices. A notice or communication under this Agreement by either party to the other shall be sufficiently given or delivered if dispatched by hand, national courier services, or by registered or certified mail, postage prepaid, addressed as follows:

If to City:

Pat Klein
Director, Aviation Department
601 Brasilia Avenue
Kansas City, Missouri
Telephone: (816) 243-3107
Facsimile: (816) 243-

With a copy to:

Galen P. Beaufort
Senior Associate City Attorney
City Attorney's Office
2800 City Hall
414 East 12th Street
Kansas City, Missouri 64106
Telephone: (816) 513-3122
Facsimile: (816) 513-2716

If to Developer:

Edgemoor Infrastructure & Real Estate LLC
7500 Old Georgetown Rd.
Bethesda, MD 20814
Attn: Geoffrey Stricker
Facsimile: (301) 272-1912
Telephone: (301) 272-2990

With a copy to:

Edgemoor Infrastructure & Real Estate LLC
7500 Old Georgetown Rd., 3rd Floor
Bethesda, MD 20814
Attn: Frank J. Baltz
Facsimile: (301) 272-1916
Telephone: (301) 272-8181

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

DEVELOPER:

EDGEMOOR INFRASTRUCTURE & REAL ESTATE
LLC

By: _____

Name: _____

Title: _____

CITY:

CITY OF KANSAS CITY, MISSOURI

By: _____

Name: Troy M. Schulte

Title: City Manager

APPROVED AS TO FORM:

By: _____

Name: Galen P. Beaufort

Title: Senior Associate City Attorney

CERTIFICATION OF AVAILABILITY OF FUNDS

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Randall J. Landes
Director of Finance

EXHIBIT A
ESTIMATED QUALIFIED OUT-OF-POCKET COSTS

Qualified Out-Of-Pocket Expense Estimate

	0	1	2	3	4	5	6	7	8	9	10	11	Total
		Nov. '17	Dec. '17	Jan. '18	Feb. '18	Mar. '18	Apr. '18	May '18	Jun. '18	Jul. '18	Aug. '18	Sept. '18	
DESIGN-BUILD COSTS													
SOM Team		\$745,000	\$1,086,000	\$1,668,000	\$1,705,000	\$1,910,000	\$2,015,000	\$2,100,000	\$2,120,000	\$2,120,000	\$2,175,000	\$2,175,000	\$19,819,000
Geotech		\$50,000	\$100,000	\$100,000									\$250,000
Existing Conditions Surveying		\$35,000	\$35,000	\$35,000									\$105,000
Traffic Study		\$75,000	\$75,000	\$75,000									\$150,000
Parking Study		\$50,000	\$50,000	\$50,000									\$100,000
Underground Investigation		\$20,000	\$20,000	\$40,000	\$40,000								\$100,000
Asbestos Abatement				\$50,000	\$50,000	\$50,000	\$25,000						\$100,000
Co-location Office		\$50,000	\$50,000	\$50,000			\$25,000						\$150,000
Office Expense		\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$7,500	\$82,500
Travel		\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$45,000	\$495,000
Vehicles & Transportation		\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$55,000
Information Technology		\$10,000	\$10,000	\$10,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$70,000
Clark/Weitz/Clarkson Preconstruction		\$100,000	\$200,000	\$200,000	\$250,000	\$250,000	\$300,000	\$300,000	\$350,000	\$350,000	\$350,000	\$400,000	\$3,050,000
Cost through Referendum	\$750,000												\$0
													\$0
													\$750,000
	\$750,000	\$1,047,500	\$1,683,500	\$2,285,500	\$2,132,500	\$2,297,500	\$2,402,500	\$2,462,500	\$2,532,500	\$2,532,500	\$2,587,500	\$2,637,500	\$25,351,500
cumulative	\$750,000	\$1,797,500	\$3,481,000	\$5,766,500	\$7,899,000	\$10,196,500	\$12,599,000	\$15,061,500	\$17,594,000	\$20,126,500	\$22,714,000	\$25,351,500	

	0	1	2	3	4	5	6	7	8	9	10	11	Total
		Nov. '17	Dec. '17	Jan. '18	Feb. '18	Mar. '18	Apr. '18	May '18	Jun. '18	Jul. '18	Aug. '18	Sept. '18	
EDGEMOOR COSTS													
Travel		\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$165,000
Environmental Assessment *		\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$0
Community Relations													\$220,000
Insurance Advisors										\$50,000	\$50,000	\$50,000	\$150,000
Technical Advisors										\$50,000	\$50,000	\$50,000	\$150,000
Rating Agency										\$100,000	\$100,000	\$100,000	\$100,000
Legal Costs		\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$1,100,000
Financial Advisors		\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	\$275,000
Consultants													\$220,000
Cost through Referendum	\$200,000												
	\$200,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$2,330,000
cumulative	\$200,000	\$365,000	\$530,000	\$695,000	\$860,000	\$1,025,000	\$1,190,000	\$1,355,000	\$1,520,000	\$1,785,000	\$2,075,000	\$2,365,000	

	0	1	2	3	4	5	6	7	8	9	10	11	Total
		Nov. '17	Dec. '17	Jan. '18	Feb. '18	Mar. '18	Apr. '18	May '18	Jun. '18	Jul. '18	Aug. '18	Sept. '18	
SUMMARY													
Design-Build	\$750,000	\$1,047,500	\$1,683,500	\$2,285,500	\$2,132,500	\$2,297,500	\$2,402,500	\$2,462,500	\$2,532,500	\$2,532,500	\$2,587,500	\$2,637,500	\$25,351,500
Edgemoor	\$200,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$165,000	\$2,365,000
Subtotal	\$950,000	\$1,212,500	\$1,848,500	\$2,450,500	\$2,297,500	\$2,462,500	\$2,567,500	\$2,627,500	\$2,697,500	\$2,797,500	\$2,877,500	\$2,927,500	\$27,716,500
Financing Costs	\$1,935,542	\$12,615	\$23,398	\$37,692	\$51,094	\$65,459	\$80,436	\$95,763	\$111,498	\$127,817	\$144,603	\$161,680	
Total Monthly Costs	\$2,885,542	\$1,225,115	\$1,871,898	\$2,488,192	\$2,348,594	\$2,527,959	\$2,647,936	\$2,723,263	\$2,808,998	\$2,925,317	\$3,022,103	\$3,089,180	\$30,564,095
Total Cumulative Costs	\$2,885,542	\$4,110,656	\$5,982,554	\$8,470,746	\$10,819,340	\$13,347,299	\$15,995,235	\$18,718,498	\$21,527,496	\$24,452,813	\$27,474,915	\$30,564,095	

* NOTE: Assumes that KCI Aviation Department contracts the environmental assessment, starting November 8th.