

1 ENFORCEMENT ABEYANCE AGREEMENT

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3 THIS ENFORCEMENT ABEYANCE AGREEMENT (“AGREEMENT”) is made and entered  
4 into this 4<sup>th</sup> day of September, 2023 by and between the CITY OF GRAND JUNCTION by  
5 and through the GRAND JUNCTION FIRE DEPARTMENT, (“CITY” or “GJFD”), WEST  
6 STAR AVIATION, (“WEST STAR”), and the GRAND JUNCTION REGIONAL AIRPORT  
7 AUTHORITY, (“GJRAA”). The GJFD, WEST STAR, and the GJRAA are referred to  
8 collectively as the “Parties” and may in context be referred to individually as a “Party.”  
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10 **RECITALS**

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12 The Parties enter into this AGREEMENT by which, as provided herein, WEST STAR and the  
13 GJRAA individually and collectively agree to fully conform with the International Fire Code  
14 (“IFC”) (2018 ed.) and National Fire Protection Association (NFPA) 407 specifically Section  
15 5.1.12 thereof entitled *Aircraft Fuel Servicing Vehicle Loading and Unloading Racks* (2022 ed.),  
16 collectively referred to as the “CODE”. For purposes of the AGREEMENT conformance to the  
17 CODE will be determined by the GJFD, on or before the date established herein.  
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19 In exchange for WEST STAR and GJRAA executing the AGREEMENT and thereby jointly and  
20 severally assuming and acknowledging the obligations of the CODE, the GJFD agrees to hold  
21 any enforcement action(s) in abeyance on the terms and conditions hereof. The abeyance of  
22 enforcement action(s) may also in context be referred to as an “APPROVED MODIFICATION.”  
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24 The CODE, specifically NFPA 407 Section 5.1.12.1 provides in relevant part that, “[t]he  
25 loading rack shall be equipped with an automatic shutdown system that stops the tank loading  
26 operation when the fuel servicing vehicle tank is full.” NFPA 407 further provides that the  
27 installation of the required automatic fuel shutdown system (“SCULLY SYSTEM”) was to be  
28 completed by June 2, 2023 (“INSTALLATION DEADLINE”).  
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30 The INSTALLATION DEADLINE passed without WEST STAR being in compliance with the  
31 CODE. On or about June 19, 2023 WEST STAR as the aircraft fuel supplier for the GJRAA,  
32 requested relief from enforcement of the CODE by submitting a modification request. A copy of  
33 that modification request (“WEST STAR MODIFICATION”) is attached hereto and  
34 incorporated by this reference as if fully set forth.  
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36 Under CODE sections 1.3.4, 1.4 and 104.8 the GJFD is authorized to consider and approve  
37 modification requests. On or about August 15, 2023 the GJFD declined to issue the WEST  
38 STAR MODIFICATION; however, the GJFD acknowledges the practical difficulties WEST  
39 STAR and/or the GJRAA have in achieving compliance with the CODE by the  
40 INSTALLATION DEADLINE, and by and with this AGREEMENT the GJFD does grant and  
41 issue the APPROVED MODIFICATION as described herein.  
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43 NOW, THEREFORE, in consideration of the RECITALS, which are incorporated as substantive  
44 terms hereof, and other good and valuable consideration, the Parties agree as follows:  
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1. There is adequate consideration for the making and enforcement of this AGREEMENT, which consideration includes the GJFDs APPROVED MODIFICATION as provided in this AGREEMENT and West Star's and the GJRAA's acceptance thereof.
2. WEST STAR and the GJRAA acknowledge and agree that each is jointly and severally liable and obligated to perform, meet, and satisfy, as determined by the GJFD is its sole and absolute discretion, the requirements of the CODE.
3. To presumptively satisfy the CODE, WEST STAR and/or the GJRAA shall install a CODE compliant SCULLY SYSTEM by September 30, 2024 ("COMPLETION DEADLINE").
4. WEST STAR and/or the GJRAA shall provide the GJFD written progress reports ("REPORTS") which REPORTS shall include, but not be limited to progress memorandums, design commencement notifications, purchasing agreements, contractor engagement timelines, installation contracts, evidence of equipment and fuel tank orders, evidence of having secured approval of permits or other authorization(s) for any Authority Having Jurisdiction ("AHJ") other than the GJFD, commencement of construction, *etc.* which demonstrate active progress toward meeting the COMPETITION DEADLINE. The REPORTS are due to the GJFD on or by January 5, 2024, May 3, 2024, and September 6, 2024, unless a CODE compliant SCULLY SYSTEM has been constructed, inspected, and accepted by all AHJ(s) prior thereto.
5. WEST STAR and the GJRAA shall apply, secure permits and inspections, and receive all approvals from GJFD, the Mesa County Building Department as well as any other AHJ(s) necessary for installation and operation of a CODE compliant SCULLY SYSTEM on or before the COMPLETION DEADLINE.
6. If WEST STAR and/or the GJRAA do not apply, are not permitted, and/or fail to complete all inspections, and/or do not receive all approvals from GJFD, the Mesa County Building Department as well as any other AHJ(s) necessary for installation and operation of a CODE compliant SCULLY SYSTEM before the COMPLETION DEADLINE then this AGREEMENT shall be void and of no effect and a) WEST STAR and/or the GJRAA may be fined \$1000.00 per day for its/their failure to meet the INSTALLATION DEADLINE and/or b) any use of the fueling operation(s) not in compliance with the CODE as of the date of default may result in the issuance of a cease and desist order together with an enforcement action(s) and daily fines for violations(s) that occurred after the INSTALLATION DEADLINE.
7. WEST STAR and/or the GJRAA affirmatively acknowledge that the APPROVED MODIFICATION is for the use and benefit of their individual and collective business operations and that the CITY is not a partner or joint venturer



91 and that by entering into this AGREEMENT, neither the CITY nor any of its  
92 officers or employees assumes any liability for the conduct of fueling operations  
93 and/or an direct or indirect personal or property damage that may occur or be  
94 claimed to occur from or arising out of WEST STAR's and/or the GJRAA's  
95 failure to meet the INSTALLATION DEADLINE and/or GJFDs consent to and  
96 issuance of the APPROVED MODIFICATION.  
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98 8. If WEST STAR and/or GJRAA fail to perform to the reasonable satisfaction  
99 of the GJFD, including but not limited to failing to achieve and reporting progress  
100 in the REPORTS, and/or for any other failure to install and operate a CODE  
101 compliant SCULLY SYSTEM before the COMPLETION DEADLINE, then the  
102 GJFD may terminate this AGREEMENT in writing without prior notice and may  
103 initiate any remedy that it had at law prior to the Parties entering in to the  
104 AGREEMENT.  
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106 9. The Parties acknowledge and agree that the provisions contained herein  
107 constitute their best understanding of the circumstances giving rise to this  
108 AGREEMENT; however, each Party further acknowledges and agrees that  
109 alteration(s), amendment(s), change(s) or modification(s) to this AGREEMENT  
110 may be made, but the same shall be valid only if they are contained in an  
111 instrument, which is executed by all Parties with the same formality as this  
112 AGREEMENT. Course of dealing, no matter how long, is not intended, and shall  
113 not be construed, as an alteration(s), amendment(s), change(s), or modification(s)  
114 to this AGREEMENT.  
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116 10. This AGREEMENT shall be construed and interpreted in accordance with  
117 the laws of the State of Colorado and the laws, including but not limited to the  
118 CODE of the City of Grand Junction.  
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120 11. By the terms hereof and with the authorized signatures affixed hereto, the  
121 Parties represent that each is ready, willing, and able to perform the terms set  
122 forth in this AGREEMENT with full knowledge and understanding of the relative  
123 rights and responsibilities attendant to each Party.  
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125 12. The persons signing this AGREEMENT are authorized to sign and bind the  
126 entity for which they sign.  
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128 13. The provisions of this AGREEMENT are not mere recitals but are  
129 contractual in nature.  
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131 14. This AGREEMENT may be executed in counterparts and by facsimile or  
132 electronic pdf, all of which shall constitute one valid and binding instrument.  
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134 IN WITNESS WHEREOF, the Parties have caused this AGREEMENT to be executed as of the  
135 day and year first written above.

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WEST STAR AVIATION

by: Scott Sweeney  
Scott Sweeney (Sep 14, 2023 11:05 MDT)  
Scott Sweeney, General Manager

GRAND JUNCTION REGIONAL AIRPORT AUTHORITY

by: Angela Padalecki  
Angela Padalecki, Executive Director

GRAND JUNCTION FIRE DEPARTMENT

by: Ken Watkins  
Ken Watkins, Fire Chief