



September 20, 2021

Mr. Nicholas J. Wood
Snell & Wilmer
One Arizona Center
400 East Van Buren Street, Suite 1900
Phoenix, Arizona 85004-2202

Re: Tempe Arena Request for Proposals, no. 22-030 (Rio Salado Pkwy & Priest Dr);
Arizona Coyotes (IceArizona Hockey Co LLC) & Bluebird Development LLC's
Proposal

Dear Mr. Wood,

Thank you for reaching out to me and inviting the City of Phoenix to meet with you to discuss the Arizona Coyotes and Bluebird's Tempe Entertainment District (TED) proposal submitted in response to the City of Tempe's request for proposals. I very much appreciate the discussion we had with you, Mr. Gutierrez and the development team last Thursday regarding the details of your proposal.

The proposal covers development of Tempe land at Rio Salado Parkway and Priest Drive, approximately 10,000 feet due east from Phoenix Sky Harbor International Airport's center and south runways. As you may have guessed from our questions, the proposed development presents unique and significant challenges that may impair or altogether limit capacity at Phoenix Sky Harbor International Airport (Sky Harbor). It is critical that the Coyotes and Bluebird adequately address Sky Harbor's preliminary concerns, as well as any other challenges that may be identified through a more detailed analysis of data not yet available to Sky Harbor. We must ensure these challenges are addressed immediately so that they do not present a threat to local and regional air navigation in general and to Sky Harbor in particular.

Tempe's RFP requires the developer to comply with FAA-related regulations and Sky Harbor's Part 150 noise contours. To ensure proper implementation of these requirements, avoid creating an air-navigation hazard, and provide additional safety measures for the proposed development and for Sky Harbor, the Coyotes and Bluebird should address, at a minimum, the following concerns and recommendations. Given Sky Harbor does not have a copy of the Coyotes and Bluebird's written proposal, these recommendations are preliminary and not exhaustive:



1. The RFP mentions, and Sky Harbor insists, that the Coyotes and Bluebird strictly comply with 14 CFR Part 77 (requiring notice to FAA of proposed construction) and with 14 CFR Part 150 (noise mitigation standards for sensitive land uses).
2. Specifically, the Coyotes and Bluebird must ensure that the 7460-1 obstruction evaluation required under Part 77 is properly and carefully conducted and that the development itself does not create an air-navigation hazard, interfere with navigational aids, or constrain the current *or future* capacity of Sky Harbor. Additionally, before the property is further entitled and before construction documents are submitted for plan review, any proposed improvements and all related construction activity (cranes, etc) that may exceed 100 feet above ground level (AGL) must be reviewed with Sky Harbor and with major operators (e.g., American Airlines, Southwest, Delta, and FedEx) to ensure compatibility with all airspace requirements. This includes each operator's One Engine Inoperable (OEI) departure profiles, which may differ from federal airspace surfaces.
3. To avoid future disputes about air navigation on the airport's east side, Sky Harbor urges the Coyotes, Bluebird, and Tempe to execute an aviation easement (in form and content like that used in nearby developments) to Sky Harbor. This easement would protect the public's continued right to fly over (and in proximity to) the proposed development.
4. The proposed development is within Sky Harbor's formal 65 DNL noise contour, and consequently, the FAA deems residential development as an incompatible land use. Sky Harbor is obligated to oppose all incompatible land uses, including residential development, for the health and protection of prospective residents and the public in general.
5. The Coyotes and Bluebird—together with all other project developers—should include in all residential sales/lease contracts a copy of the statutory airport disclosure map.
6. In the Tempe Entertainment District as developed, the Coyotes and Bluebird must prohibit all use of lasers, fireworks, promotional spotlights, or similar activities that would create a hazard to air navigation attributable to brilliant light, glare, smoke, dust, or electromagnetic disturbance. We further request that the Coyotes and Bluebird coordinate with Sky Harbor and FAA to ensure that all TED development and venue lighting (e.g., marquees, dynamic light boards, electronic banners, etc.) does not create a safety hazard to flight.
7. At our meeting, the Coyotes and Bluebird agreed to prevent all future TED events and activities that would require implementation of federal Temporary

Flight Restrictions (TFR). We appreciate that consideration as we believe implementation of TFRs in such close proximity to Sky Harbor's southern two runways will likely significantly limit, if not altogether suspend, flight operations to the airport for the duration of such an event.

8. Given the proximity of the TED development to Sky Harbor runways, the Coyotes and Bluebird should prohibit all amateur or recreational drone use (unmanned aerial systems) in and around the development. We also urge the Coyotes and Bluebird to require any professional (institutional or commercial) drone use near the development to receive prior permission from Sky Harbor in addition to all required FAA approvals to ensure public safety and to prevent unintended deployment of law enforcement resources to reports of drone activity.
9. The Coyotes and Bluebird should submit to Sky Harbor and to the Phoenix Planning and Development Department all applications for Tempe General Plan Amendments and Rezoning requests filed for the site. We request the opportunity to review and comment on any submitted site plans and building elevations and to provide our review and comments to the Tempe Community Development Department. We ask the Coyotes and Bluebird to urge Tempe to formally consider and evaluate Sky Harbor's review and comments.
10. The Coyotes and Bluebird should contract with a wildlife biologist meeting FAA qualification standards to review master and block development plans for compliance with FAA wildlife-hazard mitigation criteria and best practices. Sky Harbor requests that the Coyotes and Bluebird comply with these criteria during the development's construction, operation, and maintenance. This requirement is critical given the Coyotes and Bluebird's desire to expand Tempe Town Lake west to Priest Drive.

We ask the Coyotes and Bluebird to provide Sky Harbor with a complete copy of their proposal to Tempe, minus any confidential financial documents. When we receive the proposal and the other documents promised at our meeting, Sky Harbor will be able to conduct a more detailed and informed analysis and provide you with more formal comments, and until then, we express no other opinion on the TED development or on the Coyotes and Bluebird's proposal. To emphasize our perspective, Sky Harbor is the region and state's largest economic engine. Based on our conversation yesterday, I am confident that we share the mutual objective of ensuring that Sky Harbor remains protected from incompatible development and uses so it may continue to support the economic vitality of the City of Tempe and the entire region.

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We look forward to future meetings with you and your team to discuss these concerns and recommendations in more detail. Thank you in advance for your consideration and cooperation.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Chad R. Makovsky'.

Chad R. Makovsky, CM
Director of Aviation Services

- c: Ed Zuercher, Phoenix City Manager
- Andrew Ching, Tempe City Manager
- Mario Paniagua, Phoenix Deputy City Manager
- Alan Stephenson, Phoenix Planning & Development Director
- Brad Holm, Phoenix Assistant Aviation Director
- Jordan Feld, Phoenix Deputy Aviation Director
- Airlines serving Phoenix Sky Harbor International Airport