



September 24, 2021

Ms. Lisa Goodman, Procurement Officer
City of Tempe
31 East Fifth Street
Tempe, Arizona 85281

Re: Tempe Arena Request for Proposals, no. 22-030 (Rio Salado Pkwy & Priest Dr)

Dear Ms. Goodman,

This letter provides important information for consideration by the City of Tempe regarding the request for proposals to develop Tempe land at Rio Salado Parkway and Priest Drive. I write you as the procurement officer for this solicitation. While the RFP presents significant opportunities for Tempe, the proposed development may present unique challenges that could impair or may altogether limit capacity to Phoenix Sky Harbor International Airport (Sky Harbor). By this letter, I request more formal collaboration and dialog between Tempe and Sky Harbor. I hope this collaboration will enable us to develop amicable solutions to these potential challenges, so they do not present threats to local and regional air navigation in general and to Sky Harbor in particular.

I invite the appropriate Tempe officials to begin discussions with Sky Harbor about key features of the proposed development as set forth in the RFP. I am grateful the RFP clearly 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 Sky Harbor, Tempe should address, at a minimum, the following concerns and recommendations identified by Sky Harbor staff. Because Sky Harbor staff does not yet have specific proposal details, these recommendations are preliminary and not exhaustive:

1. The RFP mentions, and Sky Harbor recommends, that the developer 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 developer should 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 Tempe and the developer 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 incompatible land uses, including residential development, for the health and protection of prospective residents and the public in general.
5. All 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, Tempe should 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 Tempe ensure the prospective developer coordinates with Sky Harbor and FAA to ensure development and venue lighting (e.g., marquees, dynamic light boards, electronic banners, etc.) do not create a safety hazard to flight.
7. Tempe should ensure the developer, and/or owner of the future arena, limit event activities to those not subject to implementation of federal Temporary Flight Restrictions (TFR). Implementation of TFRs in such close proximity to Sky Harbor's southern two runways would significantly limit, if not altogether suspend, flight operations to the airport for the duration of the event. Based on a meeting between the developer and Sky Harbor staff last Thursday, it appears the developer is agreeable to this important mitigation.
8. Given the close proximity of the development to Sky Harbor runways, Tempe should prohibit all amateur or recreational drone use (unmanned aerial systems) in and around the development. We also urge Tempe 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

in response to drone activity.

9. The Tempe Community Development Department (and all Tempe staff overseeing the General Plan and municipal zoning) should include Sky Harbor and the Phoenix Planning and Development Department in the review distribution for any General Plan Amendment and Rezoning filed for the site. We also request the opportunity to review and comment on any submitted site plans and building elevations.
10. The developer should contract with a wildlife biologist who meets 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 Tempe impose on the developer the obligation to comply with these criteria during the development's construction, operation, and maintenance. This requirement is critical given the developer's desire to expand Tempe Town Lake west to Priest Drive.

Sky Harbor is the region and state's largest economic engine. I am confident that Tempe shares with us the mutual objective of ensuring the airport remains protected from incompatible development and uses so that it may continue to support the economic vitality of the City of Tempe and our entire region. Ultimately, it is our goal to continue the beneficial relationship between Tempe, Phoenix, and Sky Harbor on air-navigation and airport matters. 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 support.

Sincerely,



Chad R. Makovsky, C.M.
Director of Aviation Services
City of Phoenix

- c: Ed Zuercher, Phoenix City Manager
Jeff Barton, Assistant City Manager
Mario Paniagua, Phoenix Deputy City Manager
Alan Stephenson, Phoenix Planning & Development Director
Michael Greene, C.P.M., CPPO, Tempe Procurement Administrator
Donna Kennedy, Tempe Economic Development Director
Shelly Seyler, Tempe Interim Community Development Director
Donna Sullivan-Hancock, Interim Deputy Director – Community
Development/Building Safety