

RESOLUTION NO. 98-06

**A RESOLUTION OF THE BOARD OF  
WILLIAMS GATEWAY AIRPORT AUTHORITY  
ACCEPTING THE QUITCLAIM DEED FROM THE UNITED STATES OF AMERICA**

WHEREAS, the Williams Gateway Airport Authority (the "Airport Authority") is a joint powers airport authority formed pursuant to Arizona Revised Statutes §28-8521 et seq. for the purpose of, among other things, redeveloping portions of the former Williams Air Force Base as a civilian airport and industrial and commercial area (the "Airport"); and

WHEREAS, the United States of America has executed a Quitclaim Deed (the "Deed") conveying title to certain property located at the Airport to the Airport Authority, subject to certain terms and conditions; and

WHEREAS, the Board has reviewed the Deed, desires to accept title to the property conveyed by the Quitclaim Deed, and agrees that the terms and conditions contained in the Deed are a legal and binding obligation of the Airport Authority.

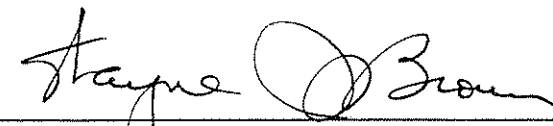
NOW THEREFORE, BE IT RESOLVED by the Airport Authority as follows:

The Airport Authority hereby agrees that it has reviewed the Deed, does hereby accept the property conveyed by the Deed and agrees to the terms and conditions of the Deed, and further hereby agrees that the Indenture constitutes a legal and binding obligation on the Airport Authority in accordance with the terms and conditions contained in the Deed. The Airport Authority hereby authorizes the Executive Director or his designee to execute any and all documents necessary to carry out the intent of this Resolution, including executing the Acceptance on the Deed.

PASSED AND ADOPTED by the Williams Gateway Airport Authority this 27<sup>th</sup> day of April, 1998.

ATTEST:

  
CLERK

  
CHAIRMAN

APPROVED AS TO FORM:



**QUITCLAIM DEED****I. PARTIES**

THIS INDENTURE, made this 14th day of April, 1998, between the UNITED STATES OF AMERICA, acting by and through its Secretary of the Air Force (the "GRANTOR"), pursuant to the Defense Base Closure and Realignment Act of 1990 ("DBCRA")(Public Law No. 101-510), as amended (10 U.S.C. § 2687 note), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. § 484), as amended, and the WILLIAMS GATEWAY AIRPORT AUTHORITY ("WGAA"), (the "GRANTEE"), formed pursuant to a Joint Powers Airport Authority Agreement under Arizona Revised Statutes Title 2, Chapter 3, Article 3, by the Town of Gilbert, the City of Mesa, the Town of Queen Creek, all three parties being municipal corporations formed under the laws of the State of Arizona, and the Gila River Indian Community (a Sovereign Nation).

**II. PROPERTY CONVEYED**

WITNESSETH, that the GRANTOR, for and in consideration of the agreement of the GRANTEE to abide by the conditions, covenants, restrictions and other obligations set forth in this Quitclaim Deed, does remise, release, and forever QUITCLAIM unto the GRANTEE, its successors and assigns, without warranty, express or implied, under and subject to the conditions, covenants and restrictions set out in this Quitclaim Deed, all right, title, and interest which the GRANTOR has in and to certain real property, and improvements thereon, in the City of Mesa, County of Maricopa, State of Arizona (the "Property") and more particularly described in Attachment "A" of this Quitclaim Deed;

A. AND TOGETHER WITH the airfield lighting system, including vaults and service components supporting airfield navigational aids;

B. AND TOGETHER WITH the storm water distribution system;

C. AND TOGETHER WITH the perpetual right and privilege in the GRANTEE, its successors and assigns, and its lessees, sublessees, licensees, invitees, and contractors, the right, in common with the GRANTOR and its assigns, lessees, licensees, agents,

the right, in common with the GRANTOR and its assigns, lessees, licensees, agents, invitees, and contractors, and members of the public, for vehicular and pedestrian ingress and egress to and from the Property over adjoining parcels to the nearest public road over adjoining parcels to all adjacent public roads or public streets along adjoining parcels, and their respective walkways, as such streets and ways may pass over the paved streets, roads, and walkways on land owned by the GRANTOR until such time as such streets and ways become dedicated and accepted as public streets or ways within the jurisdiction of the State, County, or City;

D. AND TOGETHER WITH the perpetual non-exclusive right in the GRANTEE and its successors and assigns, to use, subject to lawful conditions imposed by the systems' owners, (and without any obligation or liability on the part of the GRANTOR and its assigns, lessees, sublessees, licensees, and invitees), the in-place utilities systems, including the telecommunications, electrical, and natural gas, potable water, sanitary sewer, and wastewater systems now existing on the Property, provided that the GRANTOR and its assigns shall have no responsibility for maintenance, repair or damage to such systems not caused by it;

### III. EXCEPTIONS

A. EXCEPTING THEREFROM eight (8) Williams Air Force Base (AFB) Installation Restoration Program (IRP) Sites, identified as: Site FT-02, comprised of 0.1518 acres within Parcel E (see legal description at Attachment B); Site LF-26, comprised of 39.1799 acres within Parcel F (see legal description at Attachment C); Site SS-20, comprised of 2.1230 acres within Parcel F3 (see legal description at Attachment D); Site ST-12, comprised of 26.437 acres within Parcel B (see legal description at Attachment E); Site SS-16, comprised of 2.201 acres within Parcel B (see legal description at Attachment F); Site SD-18, comprised of 0.035 acres within Parcel B (see legal description at Attachment G); Site SS-21, comprised of 19.2374 acres within Parcel E (see legal description at Attachment H); Site ST-22, comprised of 26.437 acres within Parcel B (see legal description at Attachment E as Sites ST-22 and ST-12 are colocated);

B. AND EXCEPTING THEREFROM all personal property attached to and associated with the Very High Frequency Omnidirectional Range Finder with TACAN (VORTAC), Facility 1114, including but not limited to the calibrator 8900C, directional coupler, radio frequency test set, USE 6625011752599, digital volt meter, power meter, oscilloscope cart, generator sweep 20X7, spectrum analyzer, oscilloscope, HI antenna assembly, and emergency generators with tanks;

C. AND EXCEPTING THEREFROM the electrical distribution system, described as that portion of an overhead system that is 40.2 miles in length, with 23.2 miles primary service and 17.0 miles secondary; an underground system 28.9 miles, with 16.3 miles of primary wiring and 12.6 miles of secondary service, and including substation Facilities 1024 and 1026, located on the Property, and as shown in Attachment I;

D. AND EXCEPTING THEREFROM the natural gas distribution system; described as that portion of 16.2 miles of gas piping ranging in size from 12 inches to 1.5 inches in diameter, along with valves, fittings, regulators, and associated equipment, located on the Property, and as shown in Attachment J;

E. AND EXCEPTING THEREFROM the telecommunications system described as that portion of the telephone conduit, the 15,000 linear foot duct system, and eleven (11) manholes located on the Property and as shown in Attachment K;

F. AND EXCEPTING THEREFROM the potable water supply system supported by Well 5 (Facility 87), Well 8 (Facility 82), 202 water hydrants and approximately 345,000 linear feet of water distribution mains, located on the Property, and as shown in Attachment L;

G. AND EXCEPTING THEREFROM the sanitary sewerage system, consisting of approximately 190,000 linear feet of sanitary sewer mains and approximately 320 linear feet of industrial waste mains, located on the Property, and as shown in Attachment M;

H. AND FURTHER EXCEPTING THEREFROM any and all rights and interest the GRANTOR may have in or to any geothermal resources in, on, or under the Property, together with the rights to take and recover possession of the same, and to enter upon the Property for the purpose of exploring for, mining, drilling for, extracting, producing, transporting or marketing the same or any portion thereof in any manner not inconsistent with the public airport use for which the Property is conveyed.

NOW THEREFORE by acceptance of this Quitclaim Deed and any rights hereunder, the GRANTEE, for itself, its successors and assigns, agrees that conveyance of the Property by this Deed, is accepted subject to the following reservations, easements, conditions, and restrictions set forth below, which shall run with the land:

#### **IV. RESERVATIONS**

A. RESERVING UNTO THE GRANTOR perpetual, exclusive easements and restrictions for the benefit of the Federal Aviation Administration (FAA) as described in Attachment N;

B. AND RESERVING UNTO THE GRANTOR, for disposal to a third party, perpetual, non-exclusive easements ten (10) feet in width, five (5) feet on each side of the center line, for the existing electrical distribution system; the existing natural gas distribution system; the existing telecommunications system; the existing water distribution system; and the existing sanitary sewage system; for the purpose of repairing, maintaining, replacing, renewing, relocating, and removing such existing systems. Use of any of the foregoing easements for any other purpose must be made by prior agreement with the underlying fee owner;

C. AND RESERVING UNTO THE GRANTOR a right of access to any and all portions of the Property for purposes of environmental investigation or remediation. This reservation includes the right of access to and use of, to the extent permitted by law, available utilities at reasonable cost to the GRANTOR, and where applicable, at the same rates common to tenants at the Airport. These rights shall be exercisable in any case in which remedial action or a response action or corrective action is necessary after the date of conveyance of the Property, or such access is necessary to carry out a remedial action or response action or corrective action on adjoining property. Pursuant to this reservation, the GRANTOR, Environmental Protection Agency (EPA) Region 9, and the State of Arizona Department of Environmental Quality and their respective officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable notice to the GRANTEE or the successor and any authorized occupant of the Property) to enter upon the Property and conduct investigations, tests and surveys, to include drillings, testpitting, borings, data and/or record compilation, inspections, and other activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary under applicable authorities, including but not limited to monitoring wells, pumping wells, and treatment facilities. Any inspection, survey, investigation, or other remedial action, or response action, or corrective action will be coordinated with representatives designated by the GRANTEE. The GRANTEE shall have no claim on account of such entries against the United States or any officer, agent, employee, contractor, or subcontractor thereof;

D. AND RESERVING UNTO THE GRANTOR and any successor or successors in interest in or to any remaining property owned or controlled by the GRANTOR at Williams AFB the right of access to and from such property or any portion thereof to the nearest public road or public way along roadways of the Property open to public use and the use of the roadways, in common with other users of the Property and all necessary and convenient rights of access to such roadways from contiguous property upon such reasonable terms and conditions as the GRANTEE may impose;

#### **V. SUBJECT TO THE FOLLOWING:**

A. SUBJECT TO such rights, if any, as third persons may have in the Property at the date of this Quitclaim Deed by virtue of any grant from the United States or others, and GRANTEE shall assume all duties, obligations, and liabilities of the United States thereunder and hold the same harmless from all claims arising from such transfer of title;

B. AND SUBJECT TO all covenants, easements, reservations, restrictions and encumbrances, whether of record or not.

#### **VI. CONDITIONS AND COVENANTS**

A. GRANTEE covenants and agrees, on behalf of itself and its successors and assigns, with regard to use of the Property, that the following covenants, conditions and

restrictions will run with the land and be enforceable by GRANTOR acting through the Administrator of the FAA against GRANTEE, and each successor, assign, or transferee of the GRANTEE, including without limitation, any tenant or licensee of the GRANTEE who may claim a possessory interest in any portion of the Property.

1. Except as provided in Section VI, subsection A4 of this Quitclaim Deed, the Property shall be used for public airport purposes for the use and benefit of the public, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for the use of the Property within the meaning of the term "exclusive right" as used in Section VI, subsection A6.

2. Except as provided in Section VI, subsection A4 hereof, the entire landing area, as defined in 49 United States Code Section 40102(a)(28), as amended, and Federal Aviation Regulations pertaining thereto, and all structures, improvements, facilities and equipment in which any interest is transferred, shall be maintained for the use and benefit of the public at all times in safe and serviceable condition so as to assure its efficient operation and use; provided, however, that such maintenance shall be required to structures, improvements, facilities, and equipment only during the useful life thereof as determined by the Administrator of the FAA or his or her successor in function. In the event materials are required to rehabilitate or repair certain of the aforementioned structures, improvements, facilities, or equipment, they may be procured by demolition of other structures, improvements, facilities, or equipment transferred as a result of this Quitclaim Deed and located on the Property, which have outlived their use as a public airport in the opinion of the Administrator of the FAA or his or her successor in function. Notwithstanding any other provision of this Quitclaim Deed:

a. with the prior written approval of the FAA, the GRANTEE may close or otherwise limit use or access to any portion of the Property that it deems appropriate if such closure or use limitation is related to airport operating considerations or is based upon insufficient demand for such portion of the Property; and

b. with respect to any such portion of the Property, the GRANTEE shall be under no obligation to maintain the same other than as may be required to maintain adequate public safety conditions.

3. Insofar as it is within its power and to the extent reasonable, the GRANTEE shall adequately clear and protect the aerial approaches to the Property. The GRANTEE will, either by the acquisition and retention of easements or other interests in or rights for the use of land airspace, or by seeking the adoption and enforcement of zoning regulations, prevent the construction, erection, alteration, or growth of any structure, tree, or other object in the approach areas of the runways on the Property which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Part 77 of the Federal Aviation Administration Regulations or 14 CFR Part 77, as applicable, according to the currently approved airport layout plan. In addition, the GRANTEE will not erect, or permit the erection of, any permanent structure or facility

which would interfere materially with the use, operation, or future development of the Property, in any portion of a runway approach area in which the GRANTEE has acquired, or may hereafter acquire, a property interest permitting it to so control the use made of the surface of the land. Insofar it is within its power and to the extent reasonable, the GRANTEE will take action to restrict the use of the land adjacent to or in the immediate vicinity of the Property to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.

4. No land or improvements included in the Property shall be used, leased, sold, salvaged, or disposed of by the GRANTEE for other than airport purposes without the written consent of the Administrator of the FAA or his or her successor in function. This consent shall be granted only if the Administrator of the FAA or his or her successor in function determines that the land or improvements can be used, leased, sold, salvaged, or disposed of for other than airport purposes without materially and adversely affecting the development, improvement, operation, or maintenance of the Property. The term "property" as used in this deed, is deemed to include revenues or proceeds (including any insurance proceeds) derived from the Property. The term "airport purposes" as used in this deed shall include the use and/or development of the property, including hotel development, to produce sources of revenue from nonaviation business at the Property.

5. Land and improvements transferred for the development, improvement, operation or maintenance of the Property as an airport shall be used and maintained for the use and benefit of the public on fair and reasonable terms, without unjust discrimination. In furtherance of this covenant (but without limiting its general applicability and effect), the GRANTEE specifically agrees:

a. that it will keep the Property open to all types, kinds, and classes of aeronautical use without discrimination between such types, kinds and classes. However, the GRANTEE may establish such fair, equal, and not unjustly discriminatory conditions to be met by all users of the Property as may be necessary for the safe and efficient operation of the Property; and provided, that the GRANTEE may prohibit or limit any given type, kind, or class of aeronautical use of the Property if such action is necessary for the safe operation of the Property or necessary to serve the civil aviation needs of the public;

b. that, in its operation and the operation of the Property, neither it nor any person or organization occupying space or facilities thereupon, will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of any of the facilities provided for the public at the Property;

c. that, in any agreement, contract, lease, or other arrangement under which a right or privilege at the Property is granted to any person, firm or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the Property, the GRANTEE will insert and enforce provisions requiring the contractor:

(1) to furnish such service on a fair, equal and not unjustly discriminatory basis to all users thereof, and

(2) to charge fair, reasonable, and not unjustly discriminatory prices for each unit for service, provided, that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers;

d. that, the GRANTEE will not exercise or grant any right or privilege which would operate to prevent any person, firm, or corporation operating aircraft on the Property from performing any services on its own aircraft with its own employees (including, but not limited to maintenance and repair) that it may choose to perform; and

e. that, in the event the GRANTEE itself exercises any of the rights and privileges referred to in Section VI, subsection A5c, above, the services involved will be provided on the same conditions as would apply to the furnishing of such services by contractors or concessionaires of the GRANTEE under the provisions of such Section VI, subsection A5c.

6. The GRANTEE will not grant or permit any exclusive right for the use of the Property which is forbidden by 49 U.S.C. Section 47107(a)(4) by any person or persons to the exclusion of others in the same class and will otherwise comply with all applicable laws. In furtherance of this covenant (but without limiting its general applicability and effect), the GRANTEE specifically agrees that, unless authorized by the Administrator of FAA or his or her successor in function, it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right to conduct any aeronautical activity on the Property including but not limited to, charter flights, pilot training, aircraft rental and sight-seeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity. The GRANTEE further agrees that it will terminate as soon as possible and no later than the earliest renewal, cancellation, or expiration date applicable thereof, any exclusive right existing at any airport owned or controlled by the GRANTEE or hereinafter acquired, and that, thereafter, no such right shall be granted. However, nothing contained in this deed shall be construed to prohibit the granting or exercise of an exclusive right for the furnishing of nonaviation products and supplies or any services of a nonaeronautical nature, or to obligate the GRANTEE to furnish any particular nonaeronautical service at the Property.



7. The GRANTEE will operate and maintain in a safe and serviceable condition, as deemed reasonably necessary by the Administrator of the FAA or his or her successor in function, the Property and all facilities thereon and connected therewith which are necessary to service the aeronautical users of the Property, other than facilities owned or controlled by the United States, and will not permit any activity thereon which would interfere with its use for airport purposes. Nothing contained herein shall be construed to require:

a. that the Property be operated for aeronautical uses during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance; or

b. the repair, restoration or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstances beyond the control of the GRANTEE.

8. The GRANTEE will:

a. furnish the FAA with annual or special airport financial and operational reports as may be reasonably requested using either forms furnished by the FAA or in such manner as it elects so long as the essential data are furnished; and

b. upon reasonable request of the FAA, make available for inspection by any duly authorized representative of the FAA the Property and all airport records and documents affecting the Property, including deeds, leases, operation and use agreements, regulations, and other instruments, and will furnish to the FAA a true copy of any such document which may be reasonably requested.

9. The GRANTEE will not enter into any action which would operate to deprive it of any of the rights and powers necessary to perform or comply with any or all of the covenants and conditions set forth in this deed unless by such transaction the obligation to perform or comply with all such covenants and conditions is assumed by another public agency found by the FAA to be eligible as a public agency, as defined in 49 U.S.C. Section 47102(15), to assume such obligation and have the power, authority, and financial resources to carry out all such obligations. If an arrangement is made for management or operation of the Property by any agency or person other than the GRANTEE, the GRANTEE shall reserve sufficient rights and authority to insure that such airport will be operated and maintained in accordance with these covenants and conditions, applicable Federal statutes, and applicable provisions of the Federal Aviation Regulations.

10. The GRANTEE will at all times keep an up-to-date Airport Layout Plan of the airport operated by it on the Property, showing:

a. the boundaries of the airport and all proposed additions thereto, together with the boundaries of all off-site areas owned or controlled by the GRANTEE for airport purposes and proposed additions thereto;

b. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and

c. the location of all existing and proposed nonaviation areas and all existing improvements and uses. The Airport Layout Plan and each amendment, revision or modification, shall be subject to the approval of the FAA, which approval shall be evidenced by the signature of a duly authorized representative of the FAA on the face of the Airport Layout Plan. The GRANTEE will not make, or permit the making of, any changes or alterations in the airport or any of its facilities other than in conformity with the Airport Layout Plan as so approved by the FAA, if such changes or alterations might adversely affect the safety, utility, or efficiency of the airport.

11. If at any time it is determined by the FAA that there is any outstanding right, or claim of right, in or to the Property described herein, the existence of which creates an undue risk of interference with the operation of the Property as an airport or the performance or compliance with covenants and conditions set forth herein, the GRANTEE will, to the extent practicable, acquire, extinguish, or modify such right or claim of right in a manner acceptable to the FAA.

12. The GRANTEE covenants and agrees for itself, its successors and assigns, that:

a. the program for or in connection with which this deed is made will be conducted in compliance with, and the GRANTEE, its successors and assigns, will comply with all requirements imposed by or pursuant to, the regulations of the United States Department of Transportation ("DOT") in effect on the date of the transfer (49 CFR Part 21) issued under the provisions of Title VI of the Civil Rights Act of 1964, as amended;

b. this covenant shall be subject in all respects to the provisions of such regulations;

c. the GRANTEE, its successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant;

d. the United States shall have the right to seek judicial enforcement of this covenant; and

e. the GRANTEE, its successors and assigns, will:

(i) obtain from any person, including any legal entity, who, through contractual or other arrangements with the GRANTEE, its successors and assigns, is authorized to provide services or benefits under said program, a written agreement pursuant to which such other person shall, with respect to the service or benefits which he is authorized to provide, undertake for himself the same obligations as those imposed upon the GRANTEE, its successors and assigns, by this covenant;

(ii) furnish the original of such agreement to the Administrator of the FAA or his or her successor in function, upon his or her request therefor; and that this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the GRANTOR against the GRANTEE, its successors, and assigns.

13. GRANTEE covenants for itself, its successors and assigns, that any construction or alteration is prohibited unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14, CFR, Part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

B. GRANTEE covenants and agrees, on behalf of itself and its successors and assigns, that it will with regard to future use of the Property by the United States:

1. Whenever so requested by the FAA, furnish without cost to the United States, for construction, operation and maintenance of facilities for air traffic control, weather reporting activities, or communication activities related to air traffic control, such areas of the Property or rights in buildings on the Property, as the FAA may consider necessary or desirable for construction at Federal expense of space or facilities for such purposes, and the GRANTEE will make available such areas or any portion thereof for the purposes provided in this deed within four (4) months after receipt of written request from the FAA, if such are or will be available.

2. Make available all facilities at the Property or developed with Federal aid, and all those usable for the landing and taking off of aircraft, to the United States at all times, without charge, and for use by aircraft of any agency of the United States in common with other aircraft, except that if the use by aircraft of any agency of the United States in common with other aircraft, is substantial, a reasonable share, proportional to such use, of the cost of operating and maintaining facilities so used, may be charged. Unless otherwise determined by the FAA, or otherwise agreed to by the GRANTEE and the using Federal agency, substantial use of an airport by United States aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the FAA, would unduly interfere with use of the landing area by other authorized aircraft or, that during any calendar month:

a. either five (5) or more aircraft of any agency of the United States are regularly based at the airport or on land adjacent thereto; or

b. the total number of movements (counting each landing as a movement and each takeoff as a movement) of aircraft of any agency of the United States is three hundred (300) or more; or

c. the gross accumulative weight of aircraft of any agency of the United States using the airport (the total movements of such Federal aircraft multiplied by gross certified weights thereof) is in excess of five million (5,000,000) pounds.

3. During any national emergency declared by the President of the United States or the Congress thereof, including any existing national emergency, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the Property and its improvements, as it then exists, or of such portion thereof as it may desire. However, the United States shall be responsible for the entire cost of maintaining such part of the Property as it may use exclusively, or over which it may have exclusive possession or control, during the period of such use, possession or control and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of the Property as it may use nonexclusively or over which it may have nonexclusive control and possession. The United States shall also pay a fair rental for use, control or possession, exclusively or nonexclusively, of any improvements to the Property made without United States aid and never owned by the United States.

C. Release From Airport Liability Claims.

The GRANTEE does hereby release the GRANTOR, and will take whatever action may be required by the Administrator of the FAA or his or her successor in function, to assure the complete release of the GRANTOR, from any and all liability the GRANTOR may be under for restoration or other damage under any lease or other agreement covering the use by the GRANTOR of any other airport, or part thereof, owned, controlled or operated by the GRANTEE, upon which, adjacent to which, or in connection with which, any property transferred by this instrument was located or used. However, no such release shall be construed as depriving the GRANTEE of any right it may otherwise have to receive reimbursement for the necessary rehabilitation or repair of public airports previously, or hereafter substantially damaged by any Federal agency.

D. Reverter and Conveyance by Grantee of the Property.

1. In the event that any of the terms, conditions, reservations, or restrictions in this deed are not met, observed, or complied with by the GRANTEE or any subsequent transferee, whether caused by the legal inability of the GRANTEE or subsequent transferee to perform any of the obligations herein set out or otherwise, the title, right of possession and all other rights transferred by this instrument to the

GRANTEE, or any portion thereof, shall at the option of the GRANTOR revert to the GRANTOR in its then-existing condition sixty (60) days following the date upon which demand to this effect is made in writing by the Administrator of the FAA or his or her successor in function, unless within said sixty (60) days such default or violation shall have been cured and all such terms, conditions, reservations and restrictions shall have been met, observed, or complied with, or if the GRANTEE shall have commenced the actions necessary to bring it into compliance with such terms, conditions, reservations and restrictions in accordance with a compliance schedule approved by the Administrator of the FAA or his or her successor in function, in which event said reversion shall not occur and title, right of possession, and all other rights transferred hereby, except such, if any, as shall have previously reverted, shall remain vested in the GRANTEE, its transferees, successors and assigns.

2. Any of the property included in the Property may be successively transferred to successors and assigns of the GRANTEE only with the approval of the Administrator of the FAA or his or her successor in function to the extent required by the provisions of Section VI, subsection A4 hereof, with the proviso that any such subsequent transferee assumes all the obligations imposed herein unless released in writing therefrom by the Administrator of the FAA or his or her successor in function. However, the Administrator of the FAA or his or her successor in function shall have no authority to release the GRANTEE or any subsequent transferee from any of the provisions of the Federal Facilities Agreement or historic preservation covenant set out below in Section VIII.

E. Construction of Provisions of This Quitclaim Deed. If the construction as covenants of any of the foregoing reservations and restrictions recited herein as covenants or the application of the same as covenants in any particular instance is held invalid, the particular reservation or restrictions in question shall be construed instead merely as conditions, the breach of which the United States may exercise its option to cause the title, interest, right of possession, and all other rights transferred to the GRANTEE, or any portion thereof, to revert to it, and the application of such reservations or restrictions as covenants in any other instance and the construction of the remainder of such reservations and restrictions as covenants shall not be affected thereby.

## **VII. ENVIRONMENTAL NOTICES, RESTRICTIONS, COVENANTS**

A. Grantee Cooperation. In the event of any environmental remediation activity by the GRANTOR pursuant to Section VII, subsection E2 of this Quitclaim Deed, the GRANTEE covenants and agrees that it shall cooperate with the GRANTOR and shall not disrupt remediation activity of the GRANTOR by engaging in activities that may hinder the execution or efficacy of environmental remediation efforts of the GRANTOR, including but not limited to, surface application of water that may affect the flow of groundwater; and subsurface excavation, drilling or use of ground water, unless the GRANTOR first determines that there will be no adverse impacts on the environmental remediation activities of the GRANTOR.

B. Asbestos Containing Material (ACM). The Property is improved with buildings and facilities and equipment that may contain asbestos containing materials. Attachment O discloses the location of any asbestos-containing materials.

1. The GRANTEE is warned that the Property contains asbestos-containing materials. Unprotected or unregulated exposure to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

2. No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or is or is not safe for a particular purpose.

3. GRANTEE covenants and agrees, on behalf of itself, its successors and assigns, that in its and their use and occupancy of the Property they will comply with all Federal, State, and local laws relating to asbestos; and that the GRANTOR assumes no liability for damages for personal injury, illness, disability or death, to the GRANTEE, or to GRANTEE'S successors, assigns, employees, invitees, or any other person subject to the control or direction of GRANTEE, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether GRANTEE, its successors or assigns have properly warned or failed properly to warn the individual(s) injured.

C. Lead-Based Paint (LBP)-Facilities other than Housing. GRANTEE acknowledges that the Property includes improvements that are duly presumed to contain lead-based paint because they are thought or known to have been constructed before 1978 as listed in the Facility Matrix Table, Attachment P.

D. Notice of Voluntary Environmental Mitigation Use Restriction (VEMUR) by the United States of America. Pursuant to Arizona Revised Statute §49-152(A), the GRANTOR has chosen to record four (4) VEMURs for portions of the Property, rather than remediate those portions to the residential health based guidance level (HBGL). The GRANTEE agrees to restrict use of the area covered by the VEMURS to nonresidential use:

1. Facility 1114, 194 square feet (see legal description at Attachment Q);  
and

- R); and
2. Facility 1085-2, 1,051 square feet (see legal description at Attachment R); and
  3. Facility 1093/1094, 0.8527 acre (see legal description at Attachment S); and
  4. Facility 46, 539 square feet (see legal description at Attachment T).

E. Notice Pursuant to CERCLA. Pursuant to Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. §9620(h)(3), the following is notice of hazardous substances, and the description of remedial action taken concerning the Property:

1. Notice of Hazardous Substances. The GRANTOR has made a complete search of its files and records concerning the Property. Those records indicate that the hazardous substances listed in Attachment T have been stored for one (1) year or more, and those listed in Attachment V indicate those released on the Property.

2. Remedial Action Taken. All areas of contamination on the Property have been addressed under the IRP and have been determined to require no further remedial action.

3. Covenant. The GRANTOR covenants and warrants that all remedial action necessary to protect human health and the environment with respect to hazardous substances remaining on the Property has been taken before the date of this Deed, and any remedial action found to be necessary after the date of this Deed shall be conducted by the GRANTOR; provided, however, that the foregoing covenant shall not apply in any case in which the GRANTEE, or its successors and assigns of any or all of the Property, is a potentially responsible party with respect to any portion of the Property.

## VIII. PRESERVATION COVENANT FOR HISTORIC PROPERTY

A. The GRANTEE hereby covenants on behalf of itself, its successors and assigns, to preserve and maintain those portions of the Property transferred containing archaeological sites identified as the Southwest Germann Site [AZ U:10:20 (ASU)]; the Midvale Site [AZ U:10:24 (ASU)]; the Will E. Coyote Site [AZ U:10:25 (ASU)]; the In-Between Site [AZ U:10:60 (ASM)]; the Ordnance Site [AZ U:10:61 (ASM)]; the Radar Site [AZ U:10:65 (ASM)]; the El Horno Grande Site [AZ U:10:66 (ASM)]; the Outer Limits Site [AZ U:10:68 (ASM)]; and an unnamed site [AZ U:10:77 (ASM)] (legal descriptions for each site at Attachment W); and the historic buildings identified as building or facility 24, 25, 27, 31, 32, 37, 38, and 46 placed on or eligible for the National Register of Historic Places (NRHP) located in the County of Maricopa, State of Arizona, more particularly described in the Programmatic Agreement dated May 8, 1995, referenced in subsection 2, below, and other documents previously mentioned, in accordance with the recommended approaches in "The Secretary of Interior's Standards

for Rehabilitation and Guidelines for Rehabilitating Historic Buildings” (National Park Service, 1990) and the National Advisory Council's publication, Treatment of Archaeological Properties (Advisory Council on Historic Preservation 1980), in order to preserve and enhance those qualities that make them eligible for inclusion in the National Register of Historic Places. This covenant shall be a binding servitude upon the Property and shall be deemed to run with the land.

1. No construction, alteration, remodeling, demolition, disturbance of ground (within 15 meters of site boundary), or other action shall be undertaken or permitted to be undertaken on said Property that would materially affect the integrity or the appearance of the aforesaid attributes without the prior consultation with the Gila River Indian Community, Ak-Chin Indian Community, Salt River Pima-Maricopa Indian Community, Tohono O'Odham Nation, and The Hopi Tribe, and written permission of the Arizona State Historic Preservation Officer (SHPO), and signed by a fully authorized representative thereof. Should the SHPO object to the proposed treatment of buildings and/or sites within the said thirty (30) days of receipt and if the GRANTEE cannot resolve the dispute with the SHPO, then the GRANTEE will request comments from the SHPO. The SHPO will provide comments within the said (30) days of receipt of the request from the GRANTEE. The GRANTEE shall consider the comments of the SHPO in reaching its decision on the treatment. The GRANTEE will report its decision to the SHPO prior to initiating the treatment.

2. In the event that avoidance and protection of archaeological sites cannot be accomplished, the GRANTEE shall ensure that an Archaeological Data Recovery Plan is consistent with the Umbrella Treatment Plan developed by the Air Force for Williams AFB; and developed in consultation with the SHPO for the recovery of archaeological data from the archaeological site within those portions of the project area that will be impacted by construction and shall be implemented before construction can start. The GRANTEE shall be responsible for all costs arising out of archaeological testing or data recovery. The Data Recovery Plan shall be consistent with the Secretary of Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37), and take into account the Council's publication, Treatment of Archaeological Properties (Advisory Council on Historic Preservation 1980). It shall specify, at a minimum:

a. the property, properties, or portions of properties where data recovery will be carried out;

b. any property, properties, or portions of properties that will be destroyed without data recovery;

c. the research questions to be addressed through the data recovery, with an explanation of their relevance and importance;

d. the field and analysis methods to be used, with an explanation of their relevance to the research question;



- e. the methods to be used in data management, and dissemination of data, including a schedule;
- f. the proposed disposition of recovered materials and records;
- g. the proposed treatment and disposition of human remains and associated grave goods; and
- h. the proposed schedule for the submission of progress reports to the SHPO.

The draft Data Recovery Plan shall be submitted to the SHPO and concurring parties to the Programmatic Agreement among the United States Air Force, the Arizona State Historic Preservation Officer, and the Advisory Council on Historic Preservation concerning Disposal of Williams Air Force Base, Mesa, Arizona dated May 8, 1995 for thirty (30) days review. Unless the SHPO or another party objects within thirty (30) days after receipt of the Draft Data Recovery Plan, the GRANTEE shall ensure that it is implemented. If the SHPO or another party requests changes in draft Plan, all parties shall be provided with a twenty (20)-day period, from receipt, to review and comment upon the revised Data Recovery Plan. If the SHPO or another party fails to comment within the specified periods, the lack of comment shall be taken as concurrence with the Plan.

The GRANTEE shall make arrangements for the disposition of any human remains encountered during data recovery, shall be consistent with the requirements of the Native American Graves Protection and Repatriation Act (P.L. 101-601) of 1990 and State Law A.R.S. 41-844 and A.R.S. 41-865. The GRANTEE shall be responsible for all costs related to the excavation and disposition of human remains and associated funerary objects.

The GRANTEE shall ensure that all materials and records resulting from the data recovery are curated in accordance with 36 CFR Part 79, except those human remains and associated funerary objects for which alternative disposition is provided in accordance with the Burial Agreement. The GRANTEE shall consider the concerns of any tribe(s) about curation standards and facilities.

3. Upon acquisition, the GRANTEE shall protect the standing historic structures against accelerated deterioration due to vandalism; structural failure; climate weathering; biological affects of insects, animals or plants; fire; or flooding.

a. In the case of an emergency, the GRANTEE will respond in a prompt manner in order to maintain the stability of the historic structures. With seventy-two (72) hours, the GRANTEE will report to the SHPO the cause of the emergency and any actions taken to mitigate the situation.

b. The GRANTEE will make every effort to retain or reuse, to the extent practical, the historic structures. In the event that the GRANTEE, after consultation with the SHPO and in consideration of viable alternatives, determines to demolish a standing structure, the GRANTEE will prepare a Historic American Building Survey/Historic American Engineering Record (HABS/HAER) document in consultation with the SHPO and the National Park Service.

4. Should any Historic Properties (structures, artifacts, etc.) be discovered during implementation of an undertaking, the GRANTEE will immediately stop work in the immediate area of discovery and obtain the comments of the SHPO regarding appropriate treatment of the findings and the site. Work in the area of the discovery shall not resume until appropriate treatment for the affected Historic Properties has been developed and implemented in consultation with the SHPO. The final mitigation plan shall be approved by the SHPO.

5. GRANTEE will allow the SHPO or his or her designee, at all reasonable times and upon reasonable advance notice to GRANTEE, to inspect those portions of the Property transferred containing the Southwest Germann Site [AZ U:10:20 (ASU)]; the Midvale Site [AZ U:10:24 (ASU)]; the Will E. Coyote Site [AZ U:10:25 (ASU)]; the In-Between Site [AZ U:10:60 (ASM)]; the Ordnance Site [AZ U:10:61 (ASM)]; the Radar Site [AZ U:10:65 (ASM)]; the El Horno Grande Site [AZ U:10:66 (ASM)]; the Outer Limits Site [AZ U:10:68 (ASM)]; and an unnamed site [AZ U:10:77 (ASM)]; and the historic buildings identified as Building or Facility 24, 25, 27, 31, 32, 37, 38, and 46 in order to ascertain whether GRANTEE is complying with the conditions of this Preservation Covenant.

6. Failure of the SHPO to exercise any right or remedy granted under this covenant shall not have the effect of waiving or limiting the exercise by the SHPO of any other right or remedy or the invocation of such right or remedy at any other time.

7. In the event of a violation of this covenant, in addition to any remedy now or hereafter provided by law, any signatory or concurring party to the Programmatic Agreement described in subsection 2 of this covenant may, following reasonable notice to the GRANTEE, institute suit to enjoin said violation and to require, at the expense of the GRANTEE, mitigation of data recovery and restoration of those qualities which made the Historic Property eligible for listing on the National Register of Historic Places. Any party that institutes such suit (other than the SHPO) shall not include the SHPO as an additional party to such suit. Subject to applicable law the successful party to such lawsuit shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees.

8. The GRANTEE agrees that the SHPO is the covenantee and may without prior notice to the GRANTEE convey and assign all or part of the rights and responsibilities of the SHPO contained in Section VII to a third party as covenantee. The

responsibilities of the SHPO as covenantee are limited to those set forth in A.R.S. §41-511.04(C)(4), to "advise, assist and monitor, as appropriate, federal and state agencies and political subdivisions of this State in carrying out their historic preservation responsibilities and cooperate with federal and state agencies and political subdivisions of this State and other persons to ensure that historic properties are taken into consideration at all levels of planning and development" and §41-511.04(C)(5) to "develop and make available information concerning professional methods and techniques for the preservation of historic properties." The SHPO shall not incur liability due to its status as covenantee. Any remaining responsibilities which may be the responsibility of the "covenantee" are reserved by the GRANTOR.

9. All requirements set forth in this preservation covenant requiring the expenditure of SHPO funds are expressly subject to the availability of appropriations. If the SHPO cannot perform any obligation set forth in this preservation covenant due to the unavailability of funds, the Air Force, the SHPO, the Advisory Council on Historic Preservation, and the GRANTEE may negotiate an amendment to this preservation covenant in accordance with Stipulation 10 of the Programmatic Agreement, or invoke the dispute resolution clause in accordance with Stipulation 4 of the Programmatic Agreement.

This covenant is binding on GRANTEE, its successors and assigns, in perpetuity. The restrictions, stipulations and covenants contained this Section VIII shall be inserted by GRANTEE, its successors and assigns, verbatim or by express reference in any deed or other legal instrument by which it divests itself of either the fee simple title or any lesser estate in the affected Property identified as the Southwest Germann Site [AZ U:10:20 (ASU)]; the Midvale Site [AZ U:10:24 (ASU)]; the Will E. Coyote Site [AZ U:10:25 (ASU)]; the In-Between Site [AZ U:10:60 (ASM)]; the Ordnance Site [AZ U:10:61 (ASM)]; the Radar Site [AZ U:10:65 (ASM)]; the El Horno Grande Site [AZ U:10:66 (ASM)]; the Outer Limits Site [AZ U:10:68 (ASM)]; and an unnamed site [AZ U:10:77 (ASM)]; or any part thereof.

#### **IX. PROTECTION AND MAINTENANCE**

GRANTEE, by acceptance of this Deed, covenants and in FPMR 101-47.4913 (41 CFR Part 101), now in effect agrees for itself and its successors and assigns that in the event the GRANTOR exercises its option to revert all right, title, and interest in and to the Property to the GRANTOR, or the GRANTEE voluntarily returns title to the Property in lieu of a reverter, then the GRANTEE shall provide protection to, and maintenance of the Property at all times until such time as the title is actually reverted or returned to and accepted by the GRANTOR. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration.

## **XI. AUTHORITY OF THE UNITED STATES TO CONVEY**

The Property has been declared surplus to the needs of the United States of America, is presently under the jurisdiction of the Air Force, is available for disposal and its disposal has been heretofore authorized by the Air Force, acting pursuant to the Defense Base Closure and Realignment Act of 1990 (Public Law No. 101-510), as amended, and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. §484), as amended, and rules, orders, and regulations issued pursuant thereto.

## **XII. LIST OF ATTACHMENTS**

- A Airport and related property legal description
- B Site FT-02, Installation Restoration Program Site
- C Site LF-26, Installation Restoration Program Site
- D Site SS-20, Installation Restoration Program Site
- E Site ST-12, Installation Restoration Program Site (Includes Site ST-22)
- F Site SS-16, Installation Restoration Program Site
- G Site SD-18, Installation Restoration Program Site
- H Site SS-21, Installation Restoration Program Site
- I Drawing of Electrical Distribution System
- J Drawing of Natural Gas Distribution System
- K Telecommunications System
- L Water Supply System
- M Sanitary Sewerage System
- N FAA Easements
- O Non-Friable Asbestos Containing Material (ACM)
- P Facility Matrix Table
- Q Facility 1114, VEMUR
- R Facility 1085-2, VEMUR
- S Facility 1093/1094, VEMUR
- T Facility 46, VEMUR
- U Hazardous Substance Storage
- V Hazardous Substances Released or Disposed
- W Archeological Sites

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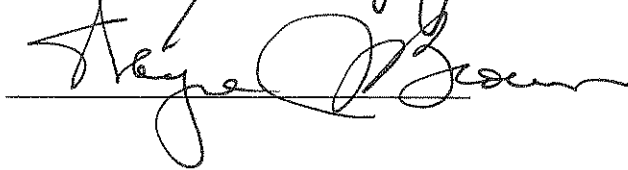
980564787

Airport Deed  
Williams Air Force Base  
6001 South Power Road  
Mesa, Maricopa County, Arizona 85206

WILLIAMS GATEWAY AIRPORT AUTHORITY

By:   
LYNN F. KUSY  
Executive Director

Witnesses:

980564178

980564787

The GRANTOR  
CERTIFICATE OF RECORDATION

I \_\_\_\_\_, of the Office of the County Recorder,  
County of Maricopa, State of Arizona, did receive for recordation the following  
instrument:

QUITCLAIM DEED, dated April 14, 1998, between the UNITED STATES OF  
AMERICA, the GRANTOR, and the WILLIAMS GATEWAY AIRPORT  
AUTHORITY, GRANTEE.

I further certify that the said document was recorded as Document No.  
98-0354787, in Book \_\_\_\_\_, at page \_\_\_\_\_, of the Official Records of said  
County, on the 30<sup>th</sup> day of April, 1997.

\_\_\_\_\_  
Recorder

(SEAL)

By: \_\_\_\_\_  
Deputy Recorder

**Return copies to:**

General Services Administration  
Property Disposal Division (9PR)  
450 Golden Gate Avenue, 4th Floor-East  
San Francisco, CA 94102-3434

Department of the Air Force  
AFBCA/DC  
1700 North Moore Street, Suite 2300  
Arlington, VA 22209-2802

Department of the Air Force  
AFBCA/DC Williams  
6001 S. Power Road, Building 1  
Mesa, AZ 85206-0901

ACCEPTANCE

The Williams Gateway Airport Authority does hereby accept this Indenture and by such acceptance agrees to all the conditions thereof.

Executed this 14<sup>th</sup> day of April, 1998.

(OFFICIAL SEAL)

By: [Signature]  
Name: Lynn F. Kusy  
Title: Executive Director

Attest: [Signature]  
By: WGA Authority Board  
Member

Certificate of Grantee's Attorney

I, R. Neil Jensen, acting as Attorney for the Williams Gateway Airport Authority, herein referred to as the "Grantee" do hereby certify: That I have examined the foregoing Indenture and the proceedings taken by the Grantee relating thereto, and find that the acceptance thereof by the Grantee has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of Arizona, and further that, in my opinion, the Indenture constitutes a legal and binding compliance obligation of the Grantee in accordance with the terms thereof.

Dated at Phoenix, Arizona, this 14<sup>th</sup> day of April, 1998.

By: [Signature]  
Title: Director, Streich Lang P.A.



Stretchland



OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL

98-0364178 05/04/98 10:46

IRENE 1 OF 5

**CAPTION HEADING: RE-RECORDING**

**DO NOT REMOVE  
THIS PAGE IS PART OF THE ORIGINAL DOCUMENT**

THIS DOCUMENT IS BEING **RE-RECORDED** TO CORRECT

Page 23 not on film

ORIGINAL RECORDING NUMBER 98-354787

DATE: 4-30-98