



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Office of the Associate Administrator  
for Airports

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**Re: Final Agency Decision - FAA Docket No. 16-17-18**

Dear Messrs. Goldberg, Harshman, Wahlberg, and Berk, and Ms. Staton:

Enclosed is a copy of the final agency decision of the Federal Aviation Administration (FAA) affirming the Director's Determination in FAA Docket No. 16-17-18.

I conclude that the Director's analysis and conclusions are supported by a preponderance of reliable, probative, and substantial evidence, and is consistent with applicable law, precedent, and FAA policy. The reasons for affirming the Director's Determination and the related Corrective Action Plan are set forth in the enclosed final agency decision.

Sincerely,

Shannetta R. Griffin, P.E.  
Associate Administrator for Airports

Enclosure

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC

**DAKOTA TERRITORY TOURS, A.C.C., and  
SOLID EDGE AVIATION, LLC,**

**APPELLEES,**

**V.**

**YAVAPAI COUNTY, ARIZONA AND  
SEDONA –OAK CREEK AIRPORT  
AUTHORITY,**

**APPELLANTS.**



**FAA Docket No. 16-17-18**

**FINAL AGENCY DECISION**

**I. INTRODUCTION**

This matter is before the Federal Aviation Administration (FAA) Associate Administrator for Airports on an appeal filed by Yavapai County, Arizona, owner and sponsor of the Sedona-Oak Creek Airport (Airport), and the Sedona Oak Creek Airport Authority (County/Appellants).<sup>1</sup> The County challenges the findings of the Director's Determination. [FAA Exhibit 2, Item 2].

On July 29, 2021, the Director found that the County violated Grant Assurance 22, *Economic Nondiscrimination* by failing to reasonably accommodate Complainants Dakota Territory Tours, A.C.C. and Solid Edge Aviation, LLC. (Dakota/Complainants) at Airport. The Director also found that the County effectively granted an exclusive right in violation of Grant Assurance 23, *Exclusive Rights* and the covenants under the two Deeds of Conveyance executed under Section 16 of the Federal Airport Act. Finally, the Director determined that by allowing the Authority to take the actions it took, Yavapai County also is in violation of Grant Assurance 5, *Preserving Rights and Powers*. [FAA Exhibit 2, Item 1, p. 16].

The County appeals the Director's Determination (DD) on several grounds. The County states the decision (1) is not supported by "a preponderance of reliable, probative, and substantial evidence," (2) draws conclusions that are directly contrary to established FAA law and policy, and (3) constitutes prejudicial error. [FAA Exhibit 2, Item 2, p. 1]. The County argues that the DD lacks evidence of discrimination by the County because the basis for the County's actions is "the failure and continuing refusal by [Complainants] to comply with applicable federal law and regulations, including, but not limited to, 14 CFR Part 135." The County also argues that the failure of Complainants to comply with critical policies adversely impacts the safe and efficient operations of the airport and constitutes a defense to both a claim of "unjust discrimination" and an "exclusive right." [FAA Exhibit 2, Item 2, pp. 13-14]. As a result, the County requests that the

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<sup>1</sup> For the purpose of this decision, Yavapai County, Arizona and Sedona Oak Creek Airport Authority (Appellants) are jointly referred to as the "County." While the Sedona Oak Creek Airport Authority (Authority) has management responsibilities, the County is the actual obligated airport sponsor.

Associate Administrator reverse the Determination or remand the Complaint to the Director. [FAA Exhibit 2, Item 2, p. 3].

Complainants (Appellees) challenge the County's arguments for multiple reasons. Regarding Dakota's lack of an FAA operating certificate under 14 CFR § 135 (Part 135 Certificate), Dakota submits that Solid Edge Aviation (Solid Edge), its affiliate and co-complainant, possesses a Part 135 certificate. Complainants also contend that even without a Part 135 certificate, Complainants are entitled to reasonable access to the Airport, which the County refuses to provide. As a result, the Complainants conclude that the County is violating Grant Assurance 22, Grant Assurance 23, and Grant Assurance 5. [FAA Exhibit 2, Item 3, p. 2]. Complainants request the Associate Administrator to affirm the DD and require the County to submit and implement a Corrective Action Plan (CAP) to correct those violations. [FAA Exhibit 2, Item 3, p. 15].

The Associate Administrator has reexamined the record, including the Director's Determination, its administrative record, the Appeal, and its pleadings, and applicable law and policy. Based on this reexamination, the Associate Administrator concludes that the DD is supported by a preponderance of reliable, probative, and substantial evidence and is consistent with applicable law, precedent, and FAA policy. Therefore, the Associate Administrator affirms the Director's Determination.

## **II. SUMMARY OF THE DIRECTOR'S DETERMINATION**

In the July 29, 2021, DD, the Director found that the County has violated Grant Assurance 22, *Economic Nondiscrimination* by failing to provide reasonable accommodations at the Airport for a class of commercial aeronautical activities such as Complainants. The Director also found that the County granted an exclusive right contrary to Grant Assurance 23, *Exclusive Rights* by making a 14 CFR Part 135 certificate a requirement for operators seeking to enter into leases to become air tour operators and excluding other classes of commercial aeronautical users. The Director found that the County's lack of consistency between different classes of commercial aeronautical users is contrary to Grant Assurance 23. Finally, the Director determined that by allowing the Authority, operator of Sedona-Oak Creek Airport, to take the actions it took which resulted in violations of the applicable Federal obligations, the County is also in violation of Grant Assurance 5, *Preserving Rights and Powers*. The Director also determined that the County actions violated the covenants under the two Deeds of Conveyance executed under Section 16 of the Federal Airport Act. [FAA Exhibit 2, Item 1, pp. 12, 15-16].

In the DD, the Director ordered the County to present a CAP within 30 days. In addition, pending the FAA's approval of a CAP, the Director outlined the Federal funding implications related to this action to include withholding approval of any applications submitted by Yavapai County for the Sedona-Oak Creek Airport under 49 U.S.C. § 47114(d) and authorized under 49 U.S.C. § 47115 and the potential withholding of these approvals under 49 U.S.C. § 47106(d). [FAA Exhibit 2, Item 1, p. 17].

### III. PARTIES

#### A. Appellees

Complainants consist of two companies, Dakota Territory Tours (Dakota) and Solid Edge Aviation LLC (Solid Edge). Dakota has operated at the Airport since 1994 and operates at the Airport under a lease and license amended in 2015. Solid Edge Aviation, LLC operates under 14 CFR Part 135, doing business as "Sky Safari Charter" and "Sky Safari." Dakota and Solid Edge have a business relationship. As established in the DD, and for the purpose of this decision, and for clarity purposes, these two companies are referred to collectively as "Complainants" or individually as "Co-Complainants." [FAA Exhibit 2, Item 1, p. 2].

#### B. Appellant

The Sedona-Oak Creek Airport (Airport) is a public use, general aviation airport owned by Yavapai County, Arizona. The County is the Airport owner and sponsor. The Sedona-Oak Creek Airport Authority (Authority) is the operator of the Airport. The development of the Airport was financed in part with FAA Airport and Improvement Program (AIP) funding, authorized by the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, *et seq.* Between 1982 and 2020, the Airport received approximately \$14 million in AIP funding. Thus, the County is obligated to comply with the FAA sponsor grant assurances and related Federal law, 49 U.S.C. § 47101. The United States conveyed the land that constitutes Sedona-Oak Creek Airport to the County under two Deeds of Conveyance executed under Section 16 of the Federal Airport Act. The County is obligated to comply with the covenants included in the Deeds of Conveyance. [FAA Exhibit 1, Item 43 and Item 44].

Although the County is the airport sponsor, the Airport is operated under a Master Lease Agreement with the Authority, a 501(c)(3) non-profit organization. The lease agreement was renewed on February 12, 2003, with terms set to expire on June 30, 2050. The Authority is governed by a Board of Directors, which includes seven members elected for five-year terms with a 10-year term limit. The day-to-day operation of the Airport is overseen by the Authority's general manager, business manager, and six staff members. The Authority also owns and operates the Airport's sole fixed-base operator (FBO), Red Rock Aviation. [FAA Exhibit 2, Item 1, pp. 2-3].

### IV. PROCEDURAL HISTORY

1. July 29, 2021 - The *Director's Determination* is issued. [FAA Exhibit 2, Item 1].
2. August 27, 2021 – Respondent filed a *Motion to Suspend Submission of Corrective Action Plan Pending Outcome of Appeal* (Appeal). [FAA Exhibit 2, Item 2].
3. September 15, 2021 – Complainants filed a *Reply Brief in Opposition to Respondents' Appeal of the Director's Determination* (Reply). [FAA Exhibit 2, Item 3].
4. September 22, 2021 – Respondent filed a *Petition Under 14 CFR § 16.33 to Enlarge the Record*. [FAA Exhibit 2, Item 4].

5. September 23, 2021 – Respondents filed a *Brief in Response to Complainants' Reply*. [FAA Exhibit 2, Item 5].
6. September 24, 2021 – Complainants filed a *Motion to Strike Yavapai County's Petition to Enlarge Record or Alternatively for 14 Days to Respond to Petition*. [FAA Exhibit 2, Item 9].
7. September 29, 2021 – Complainants file a *Surreply In Support of Director's Determination*. [FAA Exhibit 2, Item 6].
8. September 29, 2021 – Complainants filed a *Response to County's September 22, 2021 Petition to Enlarge Record*. [FAA Exhibit 2, Item 7].
9. October 8, 2021 – Respondents filed *Objections to Complainants' Surreply in Support of Director's Determination*. [FAA Exhibit 2, Item 8].
10. October 20, 2021 - Complainants filed a *Reply Brief in Opposition to Respondents' Objections to Complainants' Surreply in Support of the Director's Determination*. [FAA Exhibit 2, Item 10].
11. December 2, 2021 - Complainants filed a *Reply In Support Of Request for Order Requiring Compliance with Requirement for a Corrective Action Plan*. [FAA Exhibit 2, Item 11].
12. December 13, 2021 - Respondents filed a *Surreply in Response to Complainants' Reply in Support of Request for Order Requiring Compliance With Requirement for Corrective Action Plan*. [FAA Exhibit 2, Item 12].
13. December 22, 2021 - Respondent filed a *Motion to Enlarge the Part 16 Administrative Record*. [FAA Exhibit 2, Item 13].
14. December 29, 2021 - Complainants filed a *Response to Respondent Yavapai County's Motion to Enlarge the Part 16 Administrative Record*. [FAA Exhibit 2, Item 14].
15. February 15, 2021 - Complainants filed a *Motion for Cease and Desist Order*. [FAA Exhibit 2, Item 15].
16. February 17, 2022 - The Director issued an *Order Shortening Time for Response* directing Yavapai County and the Sedona-Oak Creek Airport Authority (Respondents) to submit a response by Friday, February 18, 2022. [FAA Exhibit 2, Item 16].
17. February 18, 2022 - Respondents filed a *Response to Complainants' Time-Sensitive Renewed Motion for Cease-And-Desist Order*. [FAA Exhibit 2, Item 17].
18. February 19, 2022 - Complainants filed a *Reply Brief In Support of Its Time-Sensitive Renewed Motion for Cease and Desist Order*. [FAA Exhibit 2, Item 18].
19. February 22, 2022 - Respondents filed a Supplemental Citation of Authority. [FAA Exhibit 2, Item 18A].

See Index for other administrative filings.

## V. THE APPEALS PROCESS

A party adversely affected by the DD, in cases such as this, must file an appeal with the Associate Administrator within 30 days after the date of service of the initial determination [14 CFR § 16.33(c)]. The review is limited to an examination of the DD and the administrative record upon which such determination was based. The Associate Administrator does not consider new allegations or issues on appeal unless finding good cause as to why the new issue or evidence was not presented to the Director. [14 CFR § 16.33(f)].

On appeal, the Associate Administrator will consider (1) whether the findings of fact are supported by a preponderance of reliable, probative, and substantial evidence contained in the record; (2) whether the conclusions were made in accordance with law, precedent, and policy; and (3) whether there are questions on appeal that are substantial; and (4) whether any prejudicial errors occurred. [14 CFR § 16.33(e)].

## VI. PRELIMINARY ISSUES

The County introduced evidence that Dakota Territory Tours, A.A.C. filed for protection in the U.S. bankruptcy court during the pendency of this appeal and that company is no longer operating. The County argues that the complaint is now moot. However, the County continues to argue that it need not accommodate or provide reasonable access to air tour operators who lack a 14 CFR Part 135 certificate, such as Dakota Territory. Additionally, co-complainant Solid Edge appears to be unaffected by Dakota Territory's bankruptcy and continues to seek the relief sought in the complaint, including reasonable access to the airport. Therefore, the Associate Administrator finds the complaint is not moot and will address the primary issues raised on appeal, as discussed below. [FAA Exhibit 2, Items 22-31, and 33-34].

## VII. ISSUES ON APPEAL

The Associate Administrator identified the following two issues to be reviewed on Appeal:<sup>2</sup>

**Issue 1 - Whether the Director erred in finding that the County violated Grant Assurance 22, *Economic Nondiscrimination*, or the similar provisions contained in the property conveyance, by denying Complainants a lease to operate on the airport.**

**Issue 2 - Whether the Director erred in finding that the County violated Grant Assurance 23, *Exclusive Rights* or the similar provisions contained in the property conveyance, by excluding Complainants from the airport.**

## VIII. ANALYSIS

**A. Issue 1 - Whether the Director erred in finding that the County violated Grant Assurance 22, *Economic Nondiscrimination*, or the similar provisions contained in the property conveyance, by denying Complainants a lease to operate on the airport.**

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<sup>2</sup> Because the finding in the Director's Determination that the County is in violation of Grant Assurance 5 *Rights and Powers* was not appealed, that issue was not considered on appeal.

## **1. Appellant's Position**

The County argues the Director erred in concluding that the County violated Grant Assurance 22 by denying Complainants a lease at the airport. The County asserts it was justified denying Complainants a lease because Co-Complainant Dakota is not a commercial air tour operator and “possesses no FAA certification for its operations despite the requirements of “14 CFR § 119.5(g); 119.2; 135(a)(1) and § 136.37, and instead operates under a Part 135 certification purportedly applicable exclusively to a separate and distinct entity...Solid Edge Aviation, LLC.” The County asserts that awarding “commercial air tour leases solely to Part 135 operators is entirely proper,” because of “safety and increased FAA oversight of Part 135 operators, as well as the spatial and aeronautical constraints applicable to the airport.” [FAA Exhibit 2, Item 2, pp. 1-2]. The County argues that Co-Complainant Dakota has no 14 CFR Part 135 certification, nor any other certification, that could verify the safety of its operations. The County also discusses 14 CFR Part 91 operations but concludes that “there is no category applicable to [Complainants'] commercial air tour operations that does not require a Part 135 certification.” [FAA Exhibit 2, Item 2, p. 5 and FAA Exhibit 2, Item 5, pp. 2-3].

The County claims its Part 135 certification requirement for commercial service operations constitutes a reasonable restriction upon access to the airport. According to the County, the Director ignored evidence of the physical characteristics of the airport that justify the Part 135 certification restriction. It cites the 2017 Master Plan's statement that “a Part 135 certificated carrier is the only type of for-hire carrier with operational characteristics sufficient to overcome the airport's physical constraints” because the 5,200-foot runway at an elevation of 4,300 feet, “especially in warm weather, inhibits the operation of heavier aircraft, which in the vast majority of cases require a longer runway length.” In other words, the County argues that it met Grant Assurance 22 “by requiring a Part 135 certification of its potential commercial air service providers, and thus refusing to discriminate between entrants under the same operational constraints.” [FAA Exhibit 2, Item 2, p. 8]. The County asserts the Director erred in finding that Complainants' operations are reasonably consistent with the Federal Aviation Regulations (FARs) for commercial air tours when, at the same time, the operations are “in patent violation of one or more of the FARs.” [FAA Exhibit 2, Item 2, pp. 7-8].

The County explains in detail how Complainants (Dakota and Solid Edge) are not in compliance with the FARs and related requirements. For example, the County claims Complainants misstate the requirements of 14 CFR § 91.147 and that “a Part 91 certification requires that the operation must also be “in accordance with §§ 119.1(e)(2), 135.1(a)(5) or 121.1(d).” The County argues that Solid Edge is intentionally violating most, if not all, of the requirements of its Part 135 certification, several sections of Part 119, and specific sections of its Operations Specifications/General Operations Manual itself. Based on these “continuing violations,” the County “had the right, the reason, and the responsibility to deny [Complainants] operational access to the Airport.” Otherwise, the County “would be sanctioning the illegal operation of an operator whose safety has not been verified by the only relevant authority, the Federal Aviation Administration.” [FAA Exhibit 2, Item 8, pp. 2-4].

Concerning the “affiliate” relationship between Dakota and Solid Edge, the County contends that affiliates cannot operate under Solid Edge's FAA Part 135 Certification for several reasons. The Certificate is not transferrable, prohibits transferring responsibility for operational control of aircraft, restricts sharing the certificate holder's authority, and restricts the “doing business as”

(DBA) relationship. The County states that “for argument's sake, [if] Dakota and Solid Edge had some kind of formal relationship, which they do not, Solid Edge has no formal relationship with the airport, i.e., no lessor/lessee relationship, no RFP [Request for Proposals]; submission or approval granting access, not even an insurance policy,” and consequently Co-Complainant “Dakota is the only operator whose Part 135 certification, or lack thereof, is material to the Director's analysis.” [FAA Exhibit 2, Item 2, pp. 6-7].

The County also disagrees with the Director’s findings that there were no problems raised by the FAA’s jurisdictional Flight Standards District Office (FSDO) inspectors concerning Dakota and Solid Edge’s operations or relationship, that there was no noncompliance with any FARs by either entities, or that Dakota and Solid Edge operations and relationship were consistent with the FARs for commercial air tours. The County claims there is no evidence to support the Director’s findings.

The County contends that the Director misapprehended or overlooked facts about Dakota's alleged affiliation with Solid Edge. The County asserts that “Arizona State law precludes two independent legal entities, as in this case, from affiliation through a [DBA], or other mechanism,” and thus “Dakota cannot be construed to be included in any Part 135 certification of the completely independent entity, Solid Edge.” [FAA Exhibit 2, Item 2, pp. 5-6]. The County points out that there is no evidence of that affiliation in the record but rather, the evidence presented “conclusively proves that there is no affiliation or overlapping ownership between the two entities whatsoever,” and that the “previous suggestion by Dakota to the contrary was intentionally misleading.” The County adds that “Solid Edge does not operate at Sedona Airport – or at all, and that “Solid Edge has no operations, airplanes, pilots, employees or revenue.” [FAA Exhibit 2, Item 4, pp. 3-4].

The County also challenges the Director’s finding that "there is no evidence...that the [county] sought to negotiate with [Complainants], or provide [Complainants] any path to become a tenant somewhere at the Airport, after the RFP." The County claims that it “does not have to lean over backward to accommodate a litigious operator like [Complainants],” and that it “attempted to negotiate with [Complainants] numerous times...throughout the seven years of litigation,” but Complainants “arbitrarily and repeatedly failed and refused to comply with FAA regulations, including those governing aircraft certification.” The County adds that despite Complainants’ “failure to comply with the law... [Complainants have] operated continuously and without interruption on the airport.” [FAA Exhibit 2, Item 2, pp. 8-9].

The County claims that the manner in which it dealt with Complainants’ “unauthorized for-hire aircraft operations without an Air Carrier or Operator Certificate,” is “far from acting in a discriminatory, or unjust manner.” The County affirms that it “treat[s] all operators...comparably in support of FAA's mandate for safety and efficiency,” and that “the only discrimination at issue here must be laid at [Complainants’] doorstep as self-inflicted by its refusal to comply with regulations applicable to all others.” The County concludes the “Director has failed to rely on any evidence, let alone reliable and probative, of discrimination in Respondents' actions in dealing with [Complainants], the Director's Determination constitutes prejudicial error that warrants immediate reversal by the Associate Administrator.” [FAA Exhibit 2, Item 2, pp. 9-10].

## **2. Appellees’ Position**

Complainants assert that Dakota has been affiliated with Solid Edge’s Part 135 certificate with the County’s knowledge for years. Complainants explain that Dakota has been operating at the Airport



since 1994 and that the County acknowledged in 2015 that Solid Edge was a “Part 135 Operating Company” of Dakota. Complainants point to the record to show that (1) the County was aware that Dakota and Solid Edge were conducting Part 135 operations prior to 2017, and (2) that the County communicated with the FSDO in 2017 when it questioned the FSDO about the Dakota and Solid Edge certifications and relationship. Complainants state that (1) the record does not indicate the FSDO inspectors had concerns regarding Dakota and Solid Edge operations or relationship, (2) the FAA inspections of Dakota and Solid Edge failed to identify noncompliance with any FARs, and (3) Dakota and Solid Edge operations and relationship were consistent with the FARs for commercial air tours. [FAA Exhibit 2, Item 3, pp. 3-6]. Complainants reject the County’s claim that Dakota “has no legally cognizable relationship with Solid Edge,” and add that “there is ample evidence in the record of the relationship between Dakota and Solid Edge.” Dakota summarizes this by stating that “Complainants are affiliated entities under common ownership and management.” [FAA Exhibit 2, Item 6, p. 2 and FAA Exhibit 2, Item 7, p. 1].

Complainants contend that the FAA had no problem with its safety record, status or operations at the Airport and that the County cannot “assert that there is a safety or regulatory problem associated with Complainants” regarding their Federal authorization to serve the Airport. Complainants argue that “even if Solid Edge’s status as a Part 135 certificate holder is ignored,” Complainants can provide aeronautical services at the Airport as air tour operators under 14 CFR Part 91. [FAA Exhibit 2, Item 3, pp. 6-7]. Complainants point to the FAA Letter of Authorization (LOA) under which Dakota is “authorized to conduct commercial air tour operations under Title 14 Code of Federal Regulations (CFR) Section 91.147.” Complainants’ flights “are within 25 miles of Sedona Airport, which is authorized to occur by 14 CFR 119.1(e)(2) without the necessity of a Part 135 certificate.” Thus, Complainants argue that the County “erroneously assert that Dakota needed certification under §§ 119, 135, or 121 to operate its commercial flights.” Complainants assert that the County is unreasonably denying them access to the Airport. [FAA Exhibit 2, Item 3, pp. 6-7].

Regarding the lease, Complainants assert that the County acted arbitrarily in denying a lease and in only allowing Part 135 operators to enter into leases at the airport. Complainants assert the County did not provide a similar opportunity for leases to other classes of commercial aeronautical activities offering similar services. Complainants challenge the County’s position that it has “no obligation to provide such space” under Grant Assurance 22 and argue the Director correctly found that Complainants were “plainly interested in being a commercial activity tenant at the Airport, before and after the RFP,” and that “there is no evidence...that the [County] sought to negotiate with Complainants, provide Complainants with any path to become a tenant somewhere at the Airport, after the RFP,” but “on the contrary, [the County] began terminating[ Complainants’] lease immediately after announcing that Guidance’s [another operator] proposal was selected.” Complainants also point to the Director’s finding that the County unreasonably restricted “access to the Airport to prevent other classes of commercial air tour activities who otherwise meet regulatory requirements,” and “in the absence of special circumstances, denying a commercial operator access, or applying a higher minimum standard, because of a concern about what an operator might do, is not a legitimate exercise of a sponsor’s authority,” and is thus, a violation of Grant Assurance 22. [FAA Exhibit 2, Item 3, pp. 10-11].

### **3. Associate Administrator's Determination**

The County challenges the Director's decision that it violated Grant Assurance 22, *Economic Nondiscrimination*, by denying Dakota access to the airport. Grant Assurance 22 provides two restrictions relevant to this case:

(a) [The airport sponsor] will make its airport available as an airport for public use on fair and reasonable terms and without unjust discrimination, to all types, kinds, and classes of aeronautical uses.

\* \* \*

(i) The sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

Under Grant Assurance 22, an airport sponsor cannot unjustly discriminate between types of aeronautical activities. A sponsor may only prohibit a given aeronautical use "if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public." [Grant Assurance 22(i)] The authority to prohibit activities under Grant Assurance 22(i) is "limited so as to ensure consistency with FAA safety determinations" and the final decision as to what prohibitions may be necessary at an airport to ensure the safe operations of that airport lies with the FAA. [*City of Santa Monica v. F.A.A.*, 631 F.3d 550, (D.C. Cir. 2011)(invalidating airport sponsor's ban against certain classes of aircraft using the airport based upon alleged safety concerns); *In the Matter of the City of Santa Monica*, 2009 WL 3176873, FAA Docket No. 16-02-08, (July 8, 2009); *Jeff Bodin and Garlic City Skydiving v. County of Santa Clara*, 2013 WL 12244245, FAA Docket No. 16-11-06 (August 12, 2013) (invalidating airport sponsor's ban against skydiving based upon alleged safety concerns)].

The County argues it is justified in not accommodating Complainants because Dakota is not an "approved" commercial air tour operator and does not have a Part 135 Certificate. The County contends that Co-Complainant Dakota (1) is not qualified and does not possess the required certification to conduct air tours for compensation, (2) has refused to obtain a Part 135 or other qualifying certificate, and (3) has repeatedly failed and refused to comply with FAA regulations. The County also challenges Dakota's claimed affiliation with Solid Edge and their ability to jointly operate as affiliates at the airport. The County insists that awarding commercial air tour leases solely to Part 135 operators is proper because of the "safety and increased FAA oversight of Part 135 operators, as well as the spatial and aeronautical constraints applicable to the airport." The County argues there is no way to ensure the safety and efficiency of [Complainants'] operation without 14 CFR Part 135 certification. The County further rejects Complainants' claim they conducted 14 CFR Part 91 operations and adds that there is no category applicable to Complainants' "commercial air tour operations that does not require a Part 135 certification." The County summarizes its actions as a permissible "defense" to the claim of "unjust discrimination."

On appeal, the County provides an analysis of the applicable FARs, including 14 CFR Part 119, Part 135, and Part 91, to explain why Complainants have not, could not, or cannot comply with the FARs. The County details how Dakota's operations are contrary to Solid Edge's Part 135 certificate, including its Operations and Specifications, and how Dakota has been "trading one violation of FAA regulations for another." [FAA Exhibit 2, Item 5, p. 5]. The County concludes

Complainants have been operating in “patent violation of one or more of the FARs,” and the DD is “directly contrary to the express terms of FAA's governing statutes and regulations.”

The Associate Administrator disagrees.<sup>3</sup> The County primarily contends on appeal that Complainants should not be allowed to operate at the airport as an air tour operator because they do not possess a valid Part 135 certification. This is the issue the Associate Administrator must review on appeal.

An airport sponsor may not restrict access to an airport based upon whether the sponsor believes a particular aeronautical operator is appropriately certificated by the FAA or complies with 14 CFR Part 91, 119, or 135. [*City of Santa Monica v. F.A.A.*, 631 F.3d 550, (D.C. Cir. 2011)]. An operator’s compliance with certification standards is an FAA (Flight Standards Service) function.<sup>4</sup> Complainants are aeronautical users and service providers whether they are qualified as a 14 CFR Part 91 operator or as a 14 CFR Part 135 operator, affiliated or not, and therefore, they must be accommodated at the airport. It is true that the FARs have specific provisions for different types of air tour operators. For example, a commercial air tour operator can operate under 14 CFR Part 91 or Part 135. The FAA Flight Standards Service is responsible for development of policy and guidance and enforcement of the FARs for all commercial air tour operations, both Part 91 and Part 135. However, it is the FAA, not the County, who has authority to determine what constitutes a legitimate air tour operator under the regulatory framework, such as 14 CFR Part 91 or Part 135. The County lacks authority to do so. Therefore, the County must accommodate Complainants’ aeronautical operations and do so in a reasonable and non-unjustly discriminatory manner.

Whether a particular air tour operation can be safely conducted at an airport is an FAA regulatory function authorized under Part A of Subtitle VII of the Title 49 of the United States Code (49 U.S.C. §§ 40101 – 46507) and based upon the facts as applied under the applicable FARs. The Associate Administrator reviewed the record and found no evidence that the FAA FSDO, which has regulatory oversight responsibilities over Complainants, determined that 1) Complainants’ operations violated any FARs, 2) the relationship between Dakota and Solid Edge is contrary to the FARs, 3) there are underlying safety issues in the way Complainants conduct operations, 4) there were adverse impacts on the safety and efficiency of the airport, or 5) there were other legitimate reasons that would preclude Complainants from operating as air tour operators. The record substantiates that Complainants can engage in air tour operations at the airport.

The County argues that the Director did not accurately interpret FAA’s regulations and the County’s interpretation should be adopted. This argument is rejected. The FAA interprets its regulations, not the County, and in this case, the FAA FSDO found there were no violations or safety issues presented by Complainants’ operations. Further, the County lacks authority to decide whether an operator meets the applicable FARs affecting air tour operators or any other aeronautical operation. For example, the County cannot choose only to permit 14 CFR Part 141 flights schools and restrict 14 CFR Part 61 flights schools, or only allow aircraft maintenance under 14 CFR Part 145, or only permit 14 CFR

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<sup>3</sup> The County makes several peripheral or diversionary arguments, such as arguing that Complainants were litigious, that the relationship between Dakota and Solid Edge is unlawful or was misrepresented and that Solid Edge is not a legitimate tenant.

<sup>4</sup> FAA Flight Standards Service is the responsible federal entity for the certification, surveillance, and certificate management of all air carriers, air operators, airmen, and air agencies in the following Federal Regulations: 14 CFR Parts 43, 61, 65, 91, 125, 133, 135, 137, 141, 142, 145, 147, 183, and other areas. See [https://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/afx/afg](https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afx/afg). See also 49 U.S.C., Subtitle VII, Part A (49 U.S.C. §§ 40101 – 46507).

Part 121 and not allow 14 CFR scheduled Part 135 operations based upon its own interpretation of the level of certification constituting a safe operation. In the end, none of the County's arguments justify the denial of air tour operators' access to the airport. Such a denial is both unreasonable and unjustly discriminatory under the airport's Federal obligations.

For the foregoing reasons, the Associate Administrator finds that the Director did not err in determining that County is in violation of Grant Assurance 22, *Economic Nondiscrimination* or the similar provisions contained in the property conveyance, by denying Complainants' access to the airport and facilities when it denied Complainants a lease.

**B. Issue 2 - Whether the Director erred in finding that the County violated Grant Assurance 23, *Exclusive Rights* or the similar provisions contained in the property conveyance, by excluding Complainants from the airport.**

**1. Appellant's Position**

The County challenges the Director's finding that it violated Grant Assurance 23, *Exclusive Rights*, by effectively granting Guidance Air Services, LLC (Guidance) and Westwind Aviation, Inc. (Westwind) exclusive rights to operate at the airport. The County argues that because Complainants continue to operate on the airport, other operators, like Guidance, "never became the only helicopter air tour operator tenant on the Airport as the Director concludes." [FAA Exhibit 1, Item 2, p. 2]. The County argues the Director's finding of an exclusive right violation based upon Westwind's operation at the terminal neglected "to recognize that Westwind is "a fixed wing tour operator, held the appropriate certification for commercial air tours (meeting applicable safety standards for fixed-wing operations)," and that "Westwind was moved out of the terminal to separate modular space before [Complainants made their] Complaint." [FAA Exhibit 2, Item 2, p. 2].

Like Issue 1, the County argues that Dakota's "failure to obtain a certification under 14 CFR Part 135" justifies the County's efforts to "replace it with a compliant, safe, and efficient operator" and thus "the relevant exception to the exclusive rights prohibition clearly applies here, where the safety and efficiency, not just of [Complainants and their passengers], but of the whole airport, is at risk because of the absence of Dakota's requisite certification." The County asserts that "it is indisputable that FAA certification is crucial to the determination of safety in aircraft operations," and that the "the absence of such certification...vitiates any exclusive rights claim as falling directly into an exception to the Exclusive Rights Doctrine." [FAA Exhibit 2, Item 2, pp. 12-13]. The County claims that it acted "in accordance with the relevant and recognized exceptions from the exclusive rights prohibition" because "the airport is constrained by lack of usable space." The County then argues that "until [Complainants] vacate [their] position on the airport, there will be no space for an additional operator. [FAA Exhibit 2, Item 2, pp. 2-3].

The County claims that no exclusive rights have been granted because Complainants are operating at the airport. It notes that Complainants have "managed to maintain operations consistently over the past seven years," and therefore, "two helicopter tour operators, [Complainants] and Guidance have been operating on the airport, and will continue to do so, at least until [the County is] able to enforce the Arizona Court of Appeals decision, conclusively adjudging Dakota guilty of "forcible detainer," i.e., improperly occupying space to which it is not entitled." [FAA Exhibit 2, Item 2, pp. 11-12]. Complainants "continues to occupy one of the only remaining areas for helicopter operations on the airport," and that the site that Complainants "still [occupy], albeit currently illegally, [is] the only

developed and available helicopter positions on the airport.” The County also states that it began “the process of developing Requests for Proposals (RFP) to obtain alternative helicopter operators,” so that despite Complainants’ “intransigence in refusing to vacate its current space, Respondents are currently taking all possible steps to eliminate the possibility that an "exclusive right" might come to exist.” [FAA Exhibit 2, Item 2, p. 12].

## **2. Appellees’ Position**

On appeal, Complainants argue that the Director correctly found that the County violated Grant Assurance 23 by granting exclusive rights to Guidance Air with regard to helicopter operations at the Airport, and to Westwind for fixed-wing aircraft operations at the Airport. According to Complainants, the County attempted to evict them from the Airport, refused to lease Airport space, and required payment of “a prohibitively large and unjustly discriminatory landing fee to use the Airport for commercial purposes.” As a result, Complainants argue the County created an impermissible exclusive right by denying similar use of the Airport terminal to conduct its air tour business. [FAA Exhibit 2, Item 3, pp. 12-13].

Complainants also argue that the County’s “pretense of their attempt to exclude [Complainants] from the Airport because of...subjective and unsupported safety concerns cannot prevail in this appeal,” and that “any denial based on safety must be based on reasonable evidence demonstrating that airport safety will be compromised if the applicant or individual is allowed to engage in the proposed aeronautical activity.” Complainants state that “airport sponsors should carefully consider the safety reasons for denying an aeronautical service provider or individual the opportunity to engage in an aeronautical activity if the denial has the possible effect of limiting competition or access,” and that the “FAA is the final authority in determining what, in fact, constitutes a compromise of safety.” Complainants conclude “the airport sponsor uses a safety excuse to try to preclude a competing aeronautical services provider from serving the airport, it cannot do so without FAA substantiation of the alleged, safety problem, which in this case is not present.” [FAA Exhibit 2, Item 3, pp. 12-14].

## **3. Associate Administrator’s Determination**

The Director held that County is violating Grant Assurance 23, *Exclusive Rights* by allowing only one class of aeronautical “air tour” users (Part 135 air charter operators) to be tenant/operators, and excluding other air tour operators without justification, resulting in a single company being the sole tenant helicopter air tour operator at the Airport. The Director found that the County’s lack of consistency between different classes of commercial aeronautical users is contrary to Grant Assurance 23. [FAA Exhibit 2, Item 1, pp. 15-16].

Grant Assurance 23 implements the provisions of title 49 U.S.C. §§ 40103(c) and 47107(a)(4), which provides that “a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport ....” 49 U.S.C. § 47104(a)(4). The sponsor agrees under Grant Assurance 23(b) that it “will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities... and will terminate any exclusive right to conduct an aeronautical activity now existing at an airport before the grant of any assistance under Title 49, United States Code.”

Like the arguments under Issue 1, the County argues that Complainants' failure to obtain a valid Part 135 certification “fully justifies [the County’s] efforts to replace [Complainants] with a compliant,

safe, and efficient operator.” The County adds that “the relevant exception to the exclusive rights prohibition clearly applies here, where the safety and efficiency, not just of [Complainants and their] passengers, but of the whole airport, is at risk because of the absence of [the] requisite certification.” The County asserts that “it is indisputable that FAA certification is crucial to the determination of safety in aircraft operations,” and that the “the absence of such certification...vitiates any exclusive rights claim as falling directly into an exception to the Exclusive Rights Doctrine.” The County concludes that its actions are a permissible “defense” to the claim of an "exclusive right." [FAA Exhibit 2, Item 2, pp. 12-14].

An airport sponsor’s denial of access to the airport based on safety concerns must be supported by reasonable evidence demonstrating that airport safety will be compromised if the applicant or individual is allowed to engage in the proposed aeronautical activity. [*City of Santa Monica v. F.A.A.*, 631 F3d 550, (D.C. Cir. 2011); *In the Matter of the City of Santa Monica*, 2009 WL 3176873, FAA Docket No. 16-02-08, (July 8, 2009); *Jeff Bodin and Garlic City Skydiving v. County of Santa Clara*, 2013 WL 12244245, FAA Docket No. 16-11-06 (August 12, 2013)]. Again, the FAA, not the airport sponsor, is the final authority in determining what constitutes an acceptable level of safety for aeronautical activity at the airport. As in Issue 1, the Associate Administrator finds no evidence that the FAA FSDO found Complainants’ operations to be in violation of the FARs, that there were safety issues in the way Complainants conducted operations, or that Complainants caused an adverse impact on the safety and efficiency of the airport. No other evidence is presented that substantiates the County’s safety argument. To the contrary, as noted above, the record indicates that Dakota can legally engage in air tour operations, as provided by the applicable FARs.

Therefore, the Associate Administrator rejects the County’s argument that safety concerns justify the County’s decision to exclude Complainants. Consequently, the County’s argument that “the absence of [a Part 135 certificate] ...vitiates any exclusive rights claim as falling directly into an exception to the Exclusive Rights Doctrine,” fails.

The Associate Administrator also rejects the County’s theories that no exclusive rights violation occurred because (1) there are other “legitimate” operators at the airport and (2) Complainants have continued to operate at the airport using the “only developed and available helicopter positions on the airport.” An exclusive right is defined as a power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege or right. [*Atlantic Beechcraft Services, Inc. and Southeast Turbine Corp. vs. City of Fort Lauderdale, Florida*, FAA Docket No. 16-17-03, p. 12]. An exclusive right may be conferred by express agreement, imposition of unreasonable standards or requirements, or by another means. While public-use airports may impose qualifications and minimum standards upon those who engage in aeronautical activities, any unreasonable requirement or standard that is applied in an unjustly discriminatory manner may constitute the granting of an exclusive right. [*Atlantic Beechcraft Services, Inc. and Southeast Turbine Corp. vs. City of Fort Lauderdale, Florida*, FAA Docket No. 16-17-03, p. 8]. Courts have found the grant of an exclusive right where a significant burden has been placed on one competitor that is not placed on another [*Pompano Beach v. FAA*, 774 F2d 1529, (11th Cir, 1985)]. Such a right conferred on one or more parties but excluding others from enjoying or exercising a similar right or right, would be an exclusive right.

Here, the County imposed a requirement upon Complainants which restricted their operations at the airport while other air tour operators are permitted to operate. The basis for restricting Complainants’

operations from operating is flawed and unjustified. Hence, an exclusive right has been created in favor of the other air tour operators.

The Associate Administrator rejects the County's argument that its actions are justified because there is an "exception from the exclusive rights prohibition" related to a lack of space which can only be cured if "[Complainants vacate their] position on the airport." Removing Complainants from whatever space was occupied does not diminish the County's obligation to reasonably accommodate Complainants somewhere else at the airport. This is especially true, as is the case here, the removal is based on flawed and unjustified arguments. The application of flawed and unjustified arguments or processes do not, and cannot, lead to a permissible exclusive right.

In summary, as long as Complainants' operation is lawful under FAA regulations, as determined by the FAA, be it under Part 91, Part 135, affiliated (e.g., aircraft leases, agreement) or not, incorporated or not, the operation must be reasonably accommodated at the Airport, without unjust discrimination, irrespective of the County's interpretations of the FARs or whether the existing minimum standards cover the proposed activity. Against this background, the Associate Administrator finds that the Director did not err in determining that County is in violation of Grant Assurance 23, *Exclusive Rights* or the similar provisions contained in the property conveyance, by denying Complainants access to the airport and facilities.

## **IX. CONCLUSIONS AND FINDINGS**

The Associate Administrator's role in this Appeal is to determine whether the Director erred in findings of fact or conclusions of law in issuing the Director's Determination. In arriving at a final decision in this Appeal, the Associate Administrator has reexamined the record, including the DD, its administrative record, the Appeal, the City's Reply, and applicable law and policy. Based on this reexamination, this decision concludes that the DD is supported by a preponderance of reliable, probative, and substantial evidence and is consistent with applicable law, precedent, and FAA policy. The DD is affirmed, including the CAP as amended. This decision constitutes a final decision of the Associate Administrator pursuant to 14 CFR § 16.33.

The Associate Administrator notes that as part of these proceedings, the County has not attempted any level of compliance by engaging in the CAP process as called for in the DD despite asking for additional time to do just that. Instead, the County has permitted its agent, the Sedona-Oak Creek Airport Authority, to proceed with imposing and pursuing its position that Complainants can be restricted from operating at the Airport.

The Associate Administrator notes that the fact that an RFP process was or is used to select certain operators to use leased airport property does not absolve the County from having to comply with its broader Federal obligations on airport access. An RFP is not a requirement for airport access. Similarly, not all operations require a lease for reasonable airport access. There might be differences in terms and conditions applying to certain operators because of an RFP, whether a lease is entered into or not, and other factors, these processes cannot be used to exclude others from some level of airport access on reasonable terms, without unjust discrimination and without granting an exclusive right. On this alone, the County must provide Complainant access to the Airport. Consequently, the County must adjust its and any applicable requirements to be compliant with the federal obligations to provide reasonable, not unjustly discriminatory access, and without grant an exclusive right to all types of air tours operators that can legally, under the applicable FARs, and as determined by the

FAA, operate at the Airport, now or in the future. The County must develop a CAP that permits Complainants, including Solid Edge, or other similar operators, to operate either as a Part 135, with or without affiliation, or as a Part 91 operator, and to do in a manner consistent with the applicable federal obligations as discussed in this determination.

## **X. ORDER**

ACCORDINGLY, it is hereby ORDERED that:

- (1) The Director's Determination is affirmed and the Appeal is dismissed pursuant to 14 CFR § 16.33.
- (2) Yavapai County shall present a corrective action plan (CAP) within 30 days from the date of this Order. The plan shall explain in detail how it intends to return the Airport to compliance with its Federal obligations concerning the elimination of exclusive rights, access on reasonable terms and conditions without unjust discrimination, and preserving its rights and powers.
- (3) Pending the FAA's approval of a CAP, the FAA will withhold approval of any applications submitted by Yavapai County for the Sedona-Oak Creek Airport for amounts apportioned under 49 U.S.C. § 47114(d) and authorized under 49 U.S.C. § 47115. The FAA is authorized to withhold these approvals under 49 U.S.C. § 47106(d).
- (4) Further FAA action, as provided under the two Deeds of Conveyance executed under Section 16 of the Federal Airport Act, may be considered.
- (5) All Motions not specifically granted in this Order are denied.

### **RIGHT OF APPEAL**

The parties are offered the opportunity to appeal the agency's final decision in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the Circuit in which the person resides or has its principal place of business.

A party to this decision disclosing a substantial interest in the final decision and order of the Federal Aviation Administration may file a petition for review pursuant to 49 U.S.C. § 46110, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the Circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after a Final Decision and Order has been served on the party. [Title 14 CFR § 16.247(a).]

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Shannetta R. Griffin, P.E.  
Associate Administrator for Airports  
Federal Aviation Administration

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Date



***DAKOTA TERRITORY TOURS, A.C.C., and  
SOLID EDGE AVIATION, LLC,  
APPELLEES***

**V.**

***YAVAPAI COUNTY, ARIZONA AND  
SEDONA –OAK CREEK AIRPORT AUTHORITY,  
APPELLANTS***

FAA Docket No. 16-17-18

**INDEX OF ADMINISTRATIVE RECORD**

The following items constitute the administrative record in this proceeding:

**FAA Exhibit 1**

**Item 1.** FAA Form 5010 for the Airport, dated September 23, 2020.

**Item 2.** Sedona-Oak Creek Airport FAA grant history, dated October 6, 2020.

**Item 3.** On November 27, 2017, Part 16 Complaint filed by Dakota Territory Tours A.C.C. and Solid Edge Aviation, LLC alleging violations of Grant Assurances 22 and 23 against Yavapai County, Arizona and Sedona-Oak Creek Airport Authority. List of Exhibits includes:

Exhibit 1. February 1, 2003, Amended Airport Lease Agreement between Yavapai County, Arizona and the Sedona-Oak Creek Airport Authority.

Exhibit 2. Sedona Airport Master Plan, June 2017.

Exhibit 3. Land-Use Inspection Report, Sedona Airport Arizona, January 22, 2016.

Exhibit 4. November 17, 2015, Letter to Eric Brenner, Dakota Territory Tours, A.C.C. from Timothy I. McCulloch, Hinshaw & Culbertson LLP.

Exhibit 5. In the Superior Court of the State of Arizona in and for the County of Yavapai, Excerpt of Transcript, Transcript of Evidential Hearing, Day 3 of 3, Dakota Territory Tours, AAC v. Sedona-Oak Creek Airport Authority, Inc.; Amanda Shankland and John Doe Shankland.

Exhibit 6. November 21, 2017, Letter to Darren Henley, Principal Operations Inspector, FAA Scottsdale FSDO from Eric J. Brunner, Director of Operations, Solid Edge Aviation, LLC.

Exhibit 7. April 14, 2015, Affidavit of Eric Brunner, President Dakota Territory Tours, A.C.C.

Exhibit 8. September 1, 2012, Commercial Activity Lease between Sedona-Oak Creek

Airport Authority and Dakota Territory Tours A.A.C.

Exhibit 9. November 13, 2014, Complaint filed by Dakota Territory Tours, A.C.C. vs. Sedona-Oak Creek Airport Authority, Superior Court of the State of Arizona.

Exhibit 10. November 15, 2013, Letter to Larry Brunner, Owner Dakota Territory Tours, Inc. Dba Red Rock Biplane, Helicopter & Sky Safari Charters from Rod Propst, A.A.E., General Manager, Sedona-Oak Creek Airport Authority.

Exhibit 11. April 27, 2017, Settlement Agreement, Dakota Territory Tours, A.C.C. v. Sedona-Oak Creek Airport Authority, Case No. V1300CV201480422, Yavapai County Superior Court, State of Arizona.

Exhibit 12. August 18, 2017, Dakota Territory Tours, ACC v. Sedona-Oak Creek Airport Authority, Inc.; Amanda Shankland and John Doe Shankland, Evidentiary Hearing Transcript Excerpt, Case No.: V1300CV201780201, Superior Court of Arizona, Yavapai County.

Exhibit 13. May 16, 2017, Sedona-Oak Creek Airport Authority, Pre-Submittal Meeting Transcript.

Exhibit 14. May 1, 2017, Sedona-Oak Creek Airport Authority RFP Proposal Packet signed by Amanda Shankland, Airport General Manager.

Exhibit 15. June 26, 2017, Tony S. Cullum email to Bradley D. Weech, Notice of Termination of Month-to Month Lease Pursuant to Settlement Agreement dated April 20, 2017.

Exhibit 16. July 21, 2017, Verified First Amended Complaint and Special Action filed by Dakota Territory Tours, A.C.C., against Sedona-Oak Creek Airport Authority, Inc., Amanda Shankland and John Doe Shankland, State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201.

Exhibit 1. April 27, 2017 Settlement Agreement.

Exhibit 2. June 21, 2017, Sedona-Oak Creek Airport Authority Public Records Reproduction Request Form.

Exhibit 3. July 10, 2017, Protest of Sedona-Oak Creek Airport Authority Airport's May 1, 2017 Request for Proposals Letter, to Sedona-Oak Creek Airport Authority/Ms. Amanda Shankland/Sedona Airport Manager from Ms. Kiersten Murphy, Legal Counsel for Davis Miles McGuire Gardner, PLLC/Bradley D. Weech and Eric Brunner, Dakota Territory Tours, ACC.

Exhibit 17. July 10, 2017 Protest of Sedona-Oak Creek Airport Authority Airport's May 1, 2017 Request for Proposals; Letter to Sedona-Oak Creek Airport Authority/Ms. Amanda Shankland/Sedona Airport Manager from Ms. Kiersten Murphy, Legal Counsel for Davis Miles McGuire Gardner/Bradley D. Weech and Eric Brunner, Dakota Territory Tours, AAC.

Exhibit 18. July 24, 2017, Transcript of Hearing re: Application for Temporary Restraining Order and Preliminary Injunction, Prescott, Arizona; Superior court of Arizona, Yavapai County, Case No.: CV 201780201.

Exhibit 19. July 11, 2017 email from Mike Trepasso to eric@sedonaairtours.com.

Exhibit 20. May 1, 2014, Commercial Activity Lease Sedona Airport, Sedona Airport, Yavapai County, Arizona and Westwind Aviation Inc.

Exhibit 21. January 1, 2016, Lease Agreement between Westwind Aviation, Inc. and the Sedona-Oak Creek Airport Authority.

Exhibit 22. July 20, 2017 email, email from Elijah Riggs@westwindairservice.com to Amanda Shankland@sedonaairport.org.

Exhibit 23. May 8, 2017, Sedona-Oak Creek Airport Authority Letter to Dakota Territory Tours ACC.

Exhibit 24. MOV file on enclosed flash drive.

Exhibit 25. August 10, 2017, email from Lisa@ggsczcpa.com to eric@sedonaairtours.com.

Exhibit 26. October 2, 2017, Complaint, Superior Court of Arizona, Yavapai County, Sedona-Oak Creek Airport Authority v. Dakota Territory Tours A.A.C.

Exhibit 27. October 6, 2017, Hunter, Humphrey & Yaritza, PLC letters to Diamond Resorts Management, Inc., Hyatt Corporation, and RCI, LLC.

Exhibit 28. October 23, 2017, Certificate of Service of Process by Certified Process Server; Superior Court, Yavapai County, Arizona.

**Item 4.** On December 28, 2017, FAA issues Notice of Docketing.

**Item 5.** On January 22, 2018, Yavapai County filed a Combined Motion to Dismiss and Motion for Summary Judgment.

**Item 6.** On January 22, 2018, Yavapai County filed a Declaration of Amanda Shankland and Exhibits to Declaration of Amanda Shankland.

Exhibit 1. February 19, 2003, Yavapai County, AZ Amended Lease with Sedona-Oak Creek Airport Authority.

Exhibit 2. September 1, 2012, Dakota Sublease.

Exhibit 3. Sedona-Oak Creek Airport Authority Minimum Standards, dated March 19, 2014.

Exhibit 4. Dakota's November 13, 2014 Lawsuit filed in the Superior Court of the State of Arizona without exhibits.

Exhibit 5. April 27, 2017, Settlement Agreement of 2014 regarding the November 13, 2014, lawsuit.

Exhibit 6. April 28, 2017, Order of Dismissal, (2014 lawsuit).

Exhibit 7. March 27, 2017, Letter to Dakota re: Settlement Negotiations, (2014 lawsuit).

Exhibit 8. Request for Proposals (RFP); Due May 31, 2017.

Exhibit 9. Advertisements and Affidavits.

Exhibit 10. May 16, 2017, Sedona-Oak County Airport Authority RFP Pre-submission Meeting Sign-in Sheet.

Exhibit 11. August 18, 2017, Report's Transcript of Proceedings, Case Number V1300CV201780201.

Exhibit 12. May 16, 2017, Sedona-Oak Creek Airport Authority RFP Pre-submission Meeting Notes.

Exhibit 13. Questionnaire, RFP Exhibit B without the referenced attachments, for Dakota dated May 30, 2017, and Guidance dated May 31, 2017.

Exhibit 14. RFP Scoring Criteria/Airport Committee for Dakota Territory Tours and Guidance Aviation.

Exhibit 15. June 26, 2017, Sedona-Oak Creek Airport Authority Notice of Regular Meeting of Sedona-Oak Creek Airport Authority Board of Directors.

Exhibit 16. June 26, 2017, Unofficial Minutes of the Regular Meeting.

Exhibit 17. June 26, 2017, email from Amanda Shankland, Airport Director to Guidance Air Service, LLC.

Exhibit 18. June 26, 2017, Notice of Termination of Month to Month Lease from Tony S. Cullum to Bradley D. Weech, Esq., Dakota Territory Tours.

Exhibit 19. July 10, 2017, Letter from Davis Miles McGuire Gardner/Bradley B. Weech to SOCAA, Re: Protest of Sedona-Oak Creek Airport Authority May 1, 2017, RFP; June 26, 2017, Award and Related Proceedings.

Exhibit 20. July 24, 2017, Sedona-Oak Creek Airport Authority/Shankland Letter to Dakota Re: Decision on Dakota Territory Tours, AAC's Protest

Exhibit 21. August 3, 2017, Dakota's Letter of Appeal to Ms. Kiersten Murphy.

Exhibit 22. August 15, 2017, Sedona-Oak Creek Airport Authority's email to Board of Directors re: Airport Director's Report; August 25, 2017, Dakota/Davis Miles McGuire Gardner email to Sedona-Oak Creek Airport Authority Re: Comments to Director Amanda Shankland's Report on Dakota Territory Tours, AAC's Appeal; August 28, 2017, Sedona-Oak Creek Airport Authority Minutes of the Regular Meeting.

Exhibit 23. July 24, 2017, Page 45 of Transcript of Hearing Re: Application for Temporary Restraining Order and Preliminary Injunction, Case No. CV201780201.

Exhibit 24. September 7, 2017, Transcript of Evidentiary Hearing, Pages 220 through 232, Case No.: V1300201780201.

Exhibit 25. October 5, 2017, Sedona-Oak Creek Airport Authority's Motion to Lift Preliminary Injunction, Case No.: V1300CV2017-80201.

Exhibit 26. November 27, 2018, Partial Transcript, Case No. V1300CV201780201, Transcript of Hearing on Pending Matters.

Exhibit 27. December 4, 2017, Order Granting Sedona-Oak Creek Airport Authority's Motion to Lift Preliminary Injunction; Case No.: V1300CV2017-80201.

Exhibit 28. December 28, 2017, Order Denying Stay and Declining Jurisdiction, Court of Appeals, State of Arizona, No. 1 CA-SA 17-0316; Yavapai County Superior Court, No. V1300CV201780201.

Exhibit 29. January 1, 2018, Case No. V1300CV201780201, Oral Argument on Pending Motions Filed.

Exhibit 30. May 30, 2017, Dakota Territory Tours, Statement as an Existing Commercial Operator.

Exhibit 31. August 21, 2017, Email from tyrone.gilliard@faa.gov to amanda@sedonaairport.org.

Exhibit 32. January 15, 2010, DOT/FAA Operations Specifications, Solid Edge Aviation, L.L.C. EOGA155J.

Exhibit 33. August 28, 2017, SOCAA Letter to Scottsdale FSDO, Scottsdale, Arizona.

Exhibit 34. September 6, 2017, DOT/FAA Scottsdale, Arizona, Flight Standards District Office, Letter from D. Henley, Aviation Safety Inspector to SOCAA/Amanda Shankland.

**Item 7.** On February 7, 2018, Dakota Territory Tours A.A.C., and Solid Edge Aviation, LLC, filed Stipulation to Extend Time for Complainant's Reply to Respondent's Combined Motion to Dismiss and Motion for Summary Judgment.

**Item 8.** On February 21, 2018, Dakota Territory Tours A.A.C., and Solid Edge Aviation, LLC, filed Complainant's Motion to Strike and Combined Reply to Respondent's Combined Motion to

Dismiss and Motion for Summary Judgment.

- Item 9.** On March 8, 2018, Yavapai County, Arizona, filed Response to Complainants' Motion to Strike.
- Item 10.** On May 15, 2018, Yavapai County, Arizona, emailed and certified mail Jessie DiGregory, FAA attorney, a Request for Extension of Time to File Answer to Complaint until May 25, 2018.
- Item 11.** On May 18, 2018, Dakota Territory Tours A.A.C., and Solid Edge Aviation, LLC, filed Objection to Yavapai County's Request for Extension of Time for Answer.
- Item 12.** On May 21, 2018, Yavapai County, Arizona filed Yavapai County's Reply in Support of Motion for Extension of Time until May 25, 2018.
- Item 13.** On May 23, 2018, FAA issued Order granting Extension of Time to File an Answer until June 22, 2018.
- Item 14.** On June 22, 2018, Yavapai County filed Respondent's Yavapai County's Answer, Statement of Facts and Affirmative Defenses.
- Exhibit A. Complainant's Motion to Strike and Combined Reply to Respondent's Combined Motion to Dismiss and Motion for Summary Judgment, dated February 21, 2018.
- Exhibit B. Declaration of Amanda Shankland, dated January 22, 2018. Includes Exhibits from Item 6.
- Exhibit C. Tony Garcia, FAA Western Pacific Region Airport Compliance Specialist email exchange with Eric Brunner, Sedona Air Tours, dated May 15, 2017, concerning no FAA comments about RFP.
- Exhibit D. Tony Garcia, FAA Western Pacific Region Airport Compliance Specialist email exchange with Amanda Shankland, Authority General Manager, dated May 15, 2017, about draft RFP.
- Item 15.** On June 27, 2018, Yavapai County filed Notice of Errata Regarding Yavapai County's Answer, Statement of Facts and Affirmative Defenses. Attached correct Exhibit A. Yavapai County's Combined Motion to Dismiss and Motion for Summary Judgment dated January 22, 2018.
- Item 16.** On July 10, 2018, Dakota filed Motion for an Extension of Time to File a Reply until July 30, 2018.
- Item 17.** On July 10, 2018, Dakota filed Notice of Appearance of Counsel.
- Item 18.** On July 13, 2018, FAA issued Order granting Motion for Complainant to file a response to the Answer, Statement of Facts & Affirmative Defenses until July 20, 2018.

- Item 19.** On December 11, 2018, FAA issued Order for Extension to Issue the Director's Determination until April 8, 2019.
- Item 20.** On March 15, 2019, Dakota filed a Motion for A Cease and Desist Order.
- Item 21.** On March 28, 2019, FAA issued Order for Extension to Issue Director's Determination until July 8, 2019.
- Item 22.** On April 5, 2019, Dakota filed Motion for Leave to Submit New Evidence and Request to Expedite.
- Exhibit A.State of Arizona Court of Appeals Decision Appeal from the Superior Court in Yavapai County No. V1300CV201780201, dated April 4, 2019.
- Item 23.** On April 17, 2019, Dakota filed Motion for Leave to Submit New Evidence.
- Exhibit A.Tony S. Cullum, Sedona-Oak Creek Airport Authority letter to Bradley D. Weech, Dakota attorney, dated April 12, 2019, Notice to Vacate Airport Property.
- Item 24.** Link to FAA Airport Improvement Program Grant Assurances (2/20)  
[https://www.faa.gov/airports/aip/grant\\_assurances/media/airport-sponsor-assurances-aip-2020.pdf](https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip-2020.pdf), dated June 2, 2021.
- Item 25.** Updated Sedona-Oak Creek Airport FAA grant history, dated June 11, 2021.
- Item 26.** On June 28, 2019, Yavapai County filed Notice of Decision in Related Case.
- Exhibit A.United States District Court for the District of Arizona Dismissal Order on Case No. CV-17-08162-PCT-DWL, dated April 10, 2019.
- Item 27.** On June 28, 2019, FAA issued Notice of Extension of Time to Issue Director's Determination until October 9, 2019.
- Item 28.** On September 30, 2019, Yavapai County filed via email Motion for Extension of Time to Supplement Administrative Record from October 9, 2019, to December 9, 2019.
- Item 29.** On October 7, 2019, FAA issued Notice of Extension of Time to issue Director's Determination until January 9, 2020.
- Item 30.** On March 18, 2020, Dakota filed Notice of Appearance.
- Item 31.** On March 18, 2020, Dakota filed Combined Motion to Submit New Evidence and for Emergency Interim Cease and Desist Order.
- Exhibit 1. Declaration of Eric Brunner, dated March 18, 2020.
- Exhibit A. State of Arizona Yavapai County Superior Court Under Advisement Ruling on Anti-Head Tax Act in Case Number V1300CV201780272, dated November 22, 2019.

Exhibit B.State of Arizona Yavapai County Superior Court Summary Judgment for SOCAA, dated March 6, 2020.

**Item 32.** On April 13, 2020, Dakota filed Reply in Support of Complainants' Combined Motion to Submit New Evidence and for Emergency Interim Case and Desist Order.

Exhibit 1.Timothy McCulloch, Hinshaw attorney, letter to Eric Brunner, Dakota owner, dated November 17, 2015.

Exhibit 2.Edward McCall, Sedona-Oak Creek Airport Authority General Manager, letter to Larry Brunner, Dakota, dated October 19, 2000.

Exhibit 3.State of Arizona Yavapai County Superior Court Case No. V1300CV201780272, Order Denying New Trial for Sedona-Oak Creek Airport Authority on AHTA, dated April 9, 2020.

**Item 33.** On March 30, 2020, Yavapai County filed Yavapai County's Opposition to Complainant Dakota Territory Tours, ACC's Combined Motion to Submit New Evidence and for Emergency Interim Cease and Desist Order.

**Item 34.** On April 22, 2020, Yavapai County filed Request for Leave to File Sur-Reply and Sur-Reply In Opposition To Complainant Dakota Territory Tours, A.C.C.'s Combined Motion to Submit New Evidence and For Emergency Interim Cease and Desist Order.

Exhibit A.USDOT/FAA, A. 008. Operations Control for Solid Edge, HQ Control 10/19/2009.

Exhibit B.FAA FSDO Inspector Darren Henley email exchange with Eric Walberg, Founder, dated April 4, 2018

**Item 35.** On May 12, 2020, Dakota filed Supplemental Statement in Support of Motion for Emergency Cease and Desist Order.

**Item 36.** On January 15, 2020, FAA issued Notice of Extension of Time to Issue Director's Determination until April 9, 2020.

**Item 37.** On January 9, 2020, Yavapai County/Sedona-Oak Creek Airport Authority filed Supplement to Part 16 Administrative Record.

Exhibit 1. U.S. Court of Appeals Sixth Circuit decision, Flamingo Express, Inc., v. Federal Aviation Administration, 536 F.3d 561 (2008).

Exhibit 2. Declaration of Eric Brunner dated July 23, 2018.

Exhibit 3. Solid Edge Motion to Dismiss Yavapai County Solid Eviction Action in State of Arizona Yavapai Superior Court case CV2018-80211, dated August 7, 2018.



Exhibit 4. Yavapai County Superior Court transcript of Eviction Action No. V1300CV201880211, dated August 9, 2018.

Exhibit 5. Report and opinion of Yavapai County expert witness, Daniel W. Allison, dated August 15, 2019.

Exhibit 6. State of Arizona Yavapai County Superior Court case V1300CV201780201 Deposition of Jacob Andrew Hansen, dated October 11, 2019.

Exhibit 7. State of Arizona Yavapai County Superior Court case V1300CV201780201 Deposition of Ann-Marie Brunner, dated September 12, 2018.

Exhibit 8. State of Arizona Yavapai County Superior Court case V1300CV201780201 Deposition of Eric Brunner, dated September 18, 2018.

**Item 38.** On January 10, 2020, Dakota filed Motion for Leave to Submit New Evidence.

Exhibit A. State of Arizona Yavapai County Superior Court Under Advisement Ruling on Anti-Head Tax Act in Case Number V1300CV201780272, dated November 22, 2019, against Sedona-Oak Creek Airport Authority.

Exhibit B. State of Arizona Yavapai County Superior Court Case Number V1300CV201780201 Deposition of Harold Idell, dated December 5, 2019.

Exhibit C. State of Arizona Yavapai County Superior Court Case Number V1300CV201780201 Deposition of Nelson E. Durkee, dated December 11, 2019.

**Item 39.** On July 16, 2020, FAA issued Notice of Extension of Time to Issue Director's Determination until September 9, 2020.

**Item 40.** On September 10, 2020, Yavapai County filed Yavapai Second Supplement to Part 16 Administrative Record.

Exhibit A. State of Arizona Yavapai County Superior Court Case Number V1300CV201780201 Videotape Deposition of Steven Shattuck, dated July 10, 2020.

Exhibit B. Steven Shattuck email to FAA Flight Standards District Office Inspector Darren Henley requesting Solid Edge Aviation FAR 135 Basic Day VFR PA31-350 Proficiency Check, dated November 30, 2017.

**Item 41.** On September 24, 2020, FAA issued Notice of Extension of Time to Issue Director's Determination until November 6, 2020.

**Item 42.** On September 30, 2020, Dakota filed Complainants Motion to Submit New Evidence of a 14 CFR Part 13 Informal Complaint and Exhibits sent to Raquel Girvin, Regional Administrator of FAA Western Pacific Region on September 29, 2020. The exhibits included.

Exhibit 1. Letter from Authority General Manager Edward Rose to Dakota stopping Dakota self-fueling activity, dated September 16, 2020

Exhibit 2. Stinson LLP attorney Roy Goldberg letter to Authority General Manager Edward Rose, dated September 18, 2020.

Exhibit 3. Buchalter attorney Barbara Lichman response letter to Stinson LLP attorney Roy Goldberg, dated September 23, 2020.

Unnumbered copy of Exhibit 8, State of Arizona Yavapai County Superior Court Under Advisement Ruling in Case Number V1300CV201780272, dated November 22, 2019, against Sedona-Oak Creek Airport Authority.

Exhibit 4. Stinson LLP response letter attorney Roy Goldberg to Buchalter attorney Barbara Lichman, dated September 23, 2020.

Exhibit 5. Sedona Airport Minimum Standards, § 4.18(Z), dated March 19, 2014.

Exhibit 6. Sedona Airport Operations Policies and Procedures, dated March 19, 2014.

Exhibit 7. Copy of Part 16-17-18 Formal Complaint filed on November 27, 2017.

Exhibit 8. State of Arizona Yavapai County Superior Court Under Advisement Ruling in Case Number V1300CV201780272, dated November 22, 2019, against Sedona-Oak Creek Airport Authority.

Exhibit 9. State of Arizona Yavapai County Superior Court Order Denying Authority's Motion for New Trial in Case No. V1300CV201780272, dated April 9, 2020.

Exhibit 10. General Manager Edward Rose email to Dakota, dated August 24, 2020.

Exhibit 11. Eric Brunner (Dakota) email to General Manager Rose, dated September 3, 2020.

Exhibit 12. General Manager Edward Rose emails to Dakota (Eric Brunner), dated September 3, 2020.

Exhibit 13. General Manager Edward Rose letter to Dakota (Eric Brunner), dated September 3, 2020.

Exhibit 14. Eric Brunner (Dakota) email to General Manager Rose, dated September 4, 2020.

Exhibit 15. Eric Brunner (Dakota) email between General Manager Edward Rose, dated September 8, 2020.

Exhibit 16. Eric Brunner (Dakota) between General Manager Edward Rose, dated September 9, 2020.

Exhibit 17. Eric Brunner (Dakota) email to General Manager Edward Rose, dated September 13, 2020.

- Item 43.** U.S. DOT/FAA Deed Section 16 dated October 31, 1956.
- Item 44.** U.S. DOT/FAA Deed Section 16 dated December 10, 1969.
- Item 45.** On January 29, 2021, FAA issued Notice of Extension of Time to Issue Director's Determination until April 15, 2021.
- Item 46.** On January 13, 2021, Dakota filed Complainants' Submission of New Material in Support of Its Pending Motion for Emergency Interim Cease and Desist Order. Attached is the Arizona Court of Appeals memorandum of law concerning Dakota's appeal of the State of Arizona Superior Court finding that Dakota was in violation of the state law on unlawful detainer of its leased property at the Airport.
- Item 47.** Barbara Lichman, Buchalter attorney for Yavapai County, Notification that Dakota Territory Tours, ACC is no Longer in Lawful Possession of Property on Sedona-Oak Creek Airport, dated January 14, 2021. Attached is the Arizona Court of Appeals memorandum of law concerning Dakota's appeal of the State of Arizona Superior Court finding that Dakota was in violation of the state law on unlawful detainer of its leased property at the Airport.
- Item 48.** On January 19, 2021, Roy Goldberg, Dakota attorney, filed Dakota response to Sedona-Oak Creek Airport Authority Letter of January 14, 2021.
- Item 49.** On December 16, 2020, FAA issued Notice of Extension of Time for Issuing Director's Determination until January 15, 2021.
- Item 50.** On April 15, 2021, FAA issued Notice of Extension of Time for Issuing Director's Determination until June 15, 2021.
- Item 51.** U.S. DOT/FAA Sedona Oak Creek Airport Grant History.
- Item 52.** On June 16, 2021, Yavapai County filed Yavapai County's Third Supplement to Part 16 Administrative Record.

Exhibit A. Sedona Oak Creek Airport Authority's Motion for Sanctions, State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Defendant SOCAA's Motion for Sanctions Due to Dakota's Violation of this Court's Orders, Discovery and Disclosure Obligations, dated October 20, 2020.

Exhibit 1. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Status Conference, dated July 28, 2020.

Exhibit 2. May 31, 2017, Dakota Territory Tours A.C.C. Financial Data.

Exhibit 3. May 31, 2017, emails between M. Sterling, eric@sdeona air tours.com, A. Brunner.

Exhibit 4. November 11, 2017, emails between D.Henley, World Wide Helicopter Service, S.Shattuck, A. Rager.

Exhibit 5. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Transcript Re: Hearing Regarding Pending Scheduling Orders, Discovery and Disputes, dated May 21, 2019.

Exhibit 6. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Plaintiff's Responses to Defendant's First Set of Non-uniform Interrogatories, dated June 28, 2019.

Exhibit 7. May 22, 2017, May 24, 2017, and May 23, 2017 emails between Klein-Brunner/S. Shattuck.

Exhibit 8. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Plaintiff's Response to Defendant's First Request for Production of Documents, dated June 28, 2019.

Exhibit 9. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Responses to Non-Uniform Interrogatories, dated June 11, 2018.

Exhibit 10. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Deposition of A. Brunner, dated September 12, 2018.

Exhibit 11. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Deposition of A. Brunner, dated October 4, 2019.

Exhibit 12. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Deposition of A. Brunner, dated October 4, 2019.

Exhibit 13. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Deposition of L. Acciavatti, dated October 4, 2019.

Exhibit 14. Verde Valley Bookkeeping document, dated April 12, 2019.

Exhibit 15. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Response to Requests for Production, dated June 11, 2017.

Exhibit 16. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Transcript of Motions Hearing, dated February 12, 2019.

Exhibit 17. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Plaintiff's Seventh Supplemental Disclosure Statement, dated August 21, 2020.

Exhibit B. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Dakota's Response to Motion for Sanctions, dated November 13, 2020.

Exhibit 1. Declaration of A. Brunner, dated November 13, 2020.

Exhibit 2. Declaration of E. Brunner, dated November 13, 2020.

Exhibit 3. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Transcript of Motions Hearing, dated February 12, 2019.

Exhibit 4. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Transcript, Hearing Regarding Pending Scheduling Orders, Discovery and Disputes, dated May 21, 2019.

Exhibit 5. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Plaintiff's Supplemental Responses to Defendant's First Request for Production of Documents, dated July 30, 2019.

Exhibit 6. Sedona-Oak Creek Airport Authority Request for Proposals, dated May 1, 2017.

Exhibit 7. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Transcript, Oral Argument, dated June 13, 2019.

Exhibit 8. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Declaration of M. Sterling, dated June 10, 2019.

Exhibit 9. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Deposition of L. Acciavatti, dated October 4, 2019.

Exhibit 10. Profit and Loss Statement, dated August 19, 2019.

Exhibit 11. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Counterclaim Sedona Oak Creek Airport Authority, Inc.'s First Requests for Production of Documents to Plaintiffs, dated April 29, 2019.

Exhibit 12. June 28, 2019 email from A. Bruner to A. Barnard.

Exhibit 13. July 9, 2010, email from D. Mestaz to E. Davis.

Exhibit 14. May 21, 2017, email from M. Sterling to A. Brunner.

Exhibit 15. July 22, 2020, email from E. Davis to D. Mestaz.

Exhibit 16. July 28, 2020, email from D. Mestaz to E. Davis.

Exhibit 17. August 31, 2020, email from D. Mestaz to E. Dvais.

Exhibit 18. September 17, 2020, email from D. Mestaz to E. Davis.

Exhibit 19. November 2, 2020, email from D. Mestaz to E. Davis.

Exhibit 20. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Plaintiff's Eight Supplemental Disclosure Statement, dated November 2, 2020.

Exhibit 21. May 31, 2019, email from B. Weech to World Wide Helicopter Services Inc., and C. Harshman.

Exhibit 22. June 18, 2019, email from A. Brunner to B. Weech.

Exhibit 23. June 25, 2019, email from A. Brunner to A. Barnard.

Exhibit 24. June 27, 2019, email from B. Weech to World Wide Helicopter, and Gohelisedona@outlook.com.

Exhibit 25. June 27, 2019, email from World Wide Helicopter Service Inc. to B. Weech.

Exhibit 26. June 28, 2019, email from A. Brunner to A. Barnard.

Exhibit 27. June 28, 2019, email from A. Barnard to A. Brunner.

Exhibit 28. June 28, 2019, email from A. Barnard to A. Brunner, and World Wide Helicopter Service Inc.

Exhibit 29. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Response to Requests for Production, dated June 11, 2017.

Exhibit 30. June 20, 2019, email from A. Brunner to Madduck@hotmail.com.

Exhibit 31. May 31, 2017, email from World Wide Helicopters Inc. to Arielair1@aol.com.

Exhibit 32. May 21, 2017, email from S. Shattuck to E. Brunner and A. Brunner.

Exhibit 33. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Video Conference Deposition of Steven Shattuck, dated July 10, 2020.

Exhibit C. SOCAA's Reply in Support of its Motion for Sanctions. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Defendant SOCCA's Reply In Support of Its Motion for Sanctions Due to Dakota's violation of this Court's Orders, Discovery and Disclosure Obligations, dated December 7, 2020.

Exhibit 1. November 25, 2020, email from D. Mestaz to E. Davis.

Exhibit 2. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Declaration of E. Brunner, dated February 12, 2020.

Exhibit 3. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Declaration of M. Sterling, dated June 10, 2019.

Exhibit 4. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Transcript Continued Evidentiary Hearing, dated August 23, 2019.

Exhibit 5. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Transcript of Evidentiary Hearing Day One, dated August 18, 2017.

Exhibit 6. September 6, 2017 letter from D. Henley, FAA Scottsdale, Arizona, Flight Standards District Office to A. Shankland, Sedona Oak Creek Airport Authority.

Exhibit 7. June 9, 2019, email from World Wide Helicopter Service Inc. to Darren.Henley@faa.gov.

Exhibit 8. May 10, 2018, email from Terry Tyner to Darren.Henley@faa.gov, and eric@sedonairetours.com.

Exhibit 9. March 27, 2014, email from info@sedonairetours.com to Jacob.A.Hansen@faa.gov.

Exhibit 10. September 14, 2018, E. Brunner, Videotaped Transcript, In the Matter of Dakota Territory Tours vs. Sedona-Oak Creek Airport.

Exhibit 11. September 18, 2018, A. Brunner, Transcript, In the Matter of Dakota Territory Tours v. Sedona-Oak Creek Airport.

Exhibit 12. Solid Edge Aviation, LLC, Management and Operational Control, General Operations Manual, dated April 24, 2011.

Exhibit 13. August 25, 2017, email from Kurt.Skultin@faa.gov to gohelisedona@outlook.com.

Exhibit 14. November 3, 2017, email from Darren.Henley@faa.gov to mad\_duck@hotmail.com.

Exhibit 15. June 27, 2019 email from B. Weech to World Wide Helicopter Service Inc.

Exhibit 16. June 18, 2019, email from A. Barnard to World Wide Helicopter Service Inc.

Exhibit 17. June 20, 2019, email from A. Brunner to Madduck@hotmail.com.

Exhibit 18. June 25, 2019, email from A. Brunner to A. Barnard.

Exhibit 19. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Plaintiff's Responses to Defendant's First Request for Production of Documents, dated June 28, 2019.

Exhibit 20. State of Arizona, Yavapai County Superior Court, Case No. V1300CV201780201, Plaintiff's Responses to Defendant's First Set of Non-Uniform Interrogatories, dated June 28, 2019.

Exhibit D. Court of Appeals Decision Regarding Forcible Entry and Detainer, Arizona Court of Appeals, Sedona-Oak Creek Airport Authority, Inc. v Dakota Territory Tours ACC, No. 1 CA-CV-20-0158, filed January 12, 2021.

Exhibit E. August 12, 2020, email from Mike N. Williams, Manager, Phoenix Airports District Office, FAA, Western-Pacific Region, to Christopher@ds4law.com, Dan.Cherry@yavapai.us, and pam.fazzini@sedonaairport.org.

Exhibit F. February 25, 2021, email from Mike N. Williams, Manager, Phoenix Airports District Office, FAA, Western-Pacific Region, to Roy Goldberg/roy.goldberg@stinson.com.

**Item 53.** On June 16, 2021, FAA issued Notice of Extension of Time for Issuing Director's Determination until July 29, 2021.

## **FAA EXHIBIT 2**

**Item 1.** Director's Determination, July 29, 2021.

**Item 2.** Motion to Suspend Submission of Corrective Action Plan Pending Outcome of Appeal, August 27, 2021.

**Item 3.** Complainants' Reply Brief In Opposition To Respondents' Appeal of the Director's Determination, September 15, 2021.

**Item 4.** Respondent Yavapai County's Petition Under 14 CFR § 16.33 to Enlarge the Record, September 22, 2021.

**Item 5.** Respondents' Brief In Response to Complainants' Reply, September 23, 2021.

**Item 6.** Complainants' Surreply In Support of Director's Determination, September 29, 2021.



- Item 7.** Complainants' Response to County's September 22, 2021 Petition to Enlarge Record, September 29, 2021.
- Item 8.** Respondents' Objections to Complainants' Surreply In Support of Director's Determination, October 8, 2021.
- Item 9.** Complainants' Motion to Strike Yavapai County's September 22, 2021 Petition to Enlarge Record or Alternatively for 14 Days to Respond to Petition, September 24, 2021.
- Item 10.** Complainants' Reply Brief in Opposition to Respondents' Objections to Complainants' Surreply in Support of the Director's Determination, October 20, 2021.
- Item 11.** Complainants' Reply In Support of Request for Order Requiring Compliance with Requirement for a Corrective Action Plan, December 2, 2021.
- Item 12.** Surreply In Response To Complainants' Reply In Support of Request For Order Requiring Compliance With Requirement for Corrective Action Plan, December 13, 2021.
- Item 13.** Respondent Yavapai County's Motion to Enlarge the Part 16 Administrative Record, December 22, 2021.
- Exhibit 1. Video-Recorded Videoconference Rule 2004 Examination of Dakota Territory Tours A.C.C., Testimony of Eric James Brunner and Ann-Marie Brunner, November 12, 2021.
- Exhibit 2. Letter from Mr. Eric Brunner to Mr. Ed Rose, November 30, 2021.
- Exhibit 3. Letter from Mr. Ed. Rose to Mr. Eric Brunner, December 14, 2021.
- Exhibit 4. Appellee's Response to Appellant's Request for a Stay of Mandate and Eviction, Supreme Court State of Arizona, Case No. CV-21-0037-PR.
- Exhibit A. Petition For Review, Arizona Court of Appeals, Case No. 1 CA-CV 20-0158.
- Exhibit B. United States Bankruptcy Court, District Of Arizona, Chapter 11 Proceedings, Dakota Territory Tours A.C.C., Case No.: 3:21-bk-05729-EPB. (Declaration in Support of Response and Cross-Motion Regarding Motion for Order Confirming the Absence of Stay with Respect to Certain Pre-Petition Eviction Litigation).
- Exhibit C. Invoice, December 1, 2021.
- Item 14.** Complainants' Response to Respondent Yavapai County's Motion to Enlarge the Part 16 Administrative Record, December 29, 2021.
- Exhibit 1. Letter from Dakota Territory Tours to Mr. Ed Rose, December 28, 2021.
- Item 15.** Complainants' Time-Sensitive Motion for Cease and Desist Order, February 15, 2021.
- Exhibit. Eviction Action, February 14, 2022.

- Item 16.** FAA Order Shortening Time for Response, February 17, 2022.
- Item 17.** Response to Complainants' Time-Sensitive Renewed Motion for Cease-And-Desist Order, February 18, 2022.
- Exhibit 1. Superior Court Of Arizona, Case No. V-1300-CV-201780201, Reporter's Transcript of Proceedings, June 3, 2021.
- Exhibit 2. Document entitled The Eighteen (18) Times That Courts Have Rejected Dakota's Request to Stay on Sedona Airport.
- Exhibit 3. United States Bankruptcy Court the District Of Arizona, Case No. 3:21-bk-05729-EPB, Order Confirming the Absence of Stay With Respect To Certain Pre-Petition Eviction Litigation, November 16, 2021.
- Exhibit 4. Submittal Acknowledgement of Receipt for Sedona-Oak Creek Airport Request for Proposals for the Operation of a Commercial 135 Operation (Commuter and On Demand Operations) at Sedona, Arizona (KSEZ) AIRPORT, May 31, 2017.
- Item 18.** Complainants' Reply Brief In Support of Its Time-Sensitive Renewed Motion for Cease and Desist Order, February 19, 2022.
- Item 18A.** Respondents' Supplemental Citation of Authority, February 22, 2022.
- Item 19.** Extension of Time, May 17, 2022.
- Item 20.** Extension of Time, July 14, 2022.
- Item 21.** Extension of Time, October 3, 2022.
- Item 22.** Request for FAA Notice RE: Status of Complainants, November 14, 2022.
- Item 23.** Response to SOCAA Request for FAA Notice RE: Status of Complainants, November 14, 2022.
- Item 24.** Motion for Reconsideration Due to Subsequent Events, Lack of Standing, and Mootness, December 12, 2022.
- Item 25.** Parties' Joint Notice of Bankruptcy Court Orders & Request to Dismiss Part 16 Complaint, December 28, 2022.
- Item 26.** Response of Co-Complainant Solid Edge Aviation, LLC TO "Parties' Joint Notice of Bankruptcy Court Orders and Request to Dismiss Part 16 Complaint," December 30, 2022.
- Item 27.** Reply In Support of Parties' Joint Notice of Bankruptcy Court Orders & Request to Dismiss Part 16 Complaint, January 5, 2023.

- Item 28.** Complainant Solid Edge Aviation, LLC'S Motion to Strike Respondents' Motion for Reconsideration Or, In The Alternative, To Grant Solid Edge Additional Time To Respond To The Motion For Reconsideration, January, 5, 2023.
- Item 29.** Notice of Errata RE: Reply In Support Of Parties' Joint Notice of Bankruptcy Court Orders & Request to Dismiss Part 16 Complaint, January 5, 2023.
- Item 30.** Yavapai County's Response to Complainant Solid Edge Aviation LLC's Motion to Strike Respondent's Motion for Reconsideration, Or in the Alternative Grant of Additional Time, January 5, 2023.
- Item 31.** Complainant Solid Edge Aviation, LLC'S Opposition to Respondents' Motion for Reconsideration of the Director's Determination, January 17, 2023.
- Item 32.** Extension of Time, January 19, 2023.
- Item 33.** Reply In Support Of Motion For Reconsideration Based Upon Subsequent Events, January 26, 2023.
- Item 34.** Complainant Solid Edge Aviation, LLC's Response to Respondents' "Notice of Subsequent Events Material to Review of Director's Determination," March 8, 2023.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 9, 2023, I caused to be emailed and/or to be placed in the Federal Express a true copy of this Final Agency Decision for FAA Docket No. 16-17-18 addressed to:

**For the Complainant**

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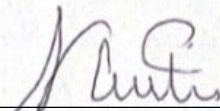
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**Copy to:**

FAA Part 16 Airport Proceedings Docket (AGC-600)  
FAA Office of Airport Compliance and Management Analysis (ACO-100)



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Natalie Curtis  
Office of Airport Compliance  
and Management Analysis