

RESOLUTION NO. 25-16

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 2 TO THE MESA GATEWAY AIRPORT AUTHORITY AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT, THE MESA GATEWAY AIRPORT AUTHORITY AMENDED AND RESTATED JOINT POWERS AIRPORT AUTHORITY AGREEMENT AND THE MESA GATEWAY AIRPORT AUTHORITY BYLAWS; AND AUTHORIZING CITY STAFF TO IMPLEMENT ALL NECESSARY ACTIONS TO FULFILL THE AGREEMENT OBLIGATIONS.

WHEREAS, the United States Air Force ("U.S.A.F.") announced its intent to close Williams Air Force Base ("Williams AFB") located at Power and Williams Field Roads, Mesa, Arizona, as an operating location of the U.S.A.F no later than September 30, 1993; and

WHEREAS, upon closure, Williams AFB had existing aviation facilities suited to be acquired, developed and operated as a civilian airport facility pursuant to Arizona Revised Statutes ("A.R.S.") § 28-8521, *et seq.*; and

WHEREAS, Maricopa County and the cities and towns of Apache Junction, Queen Creek, Mesa, Gilbert and Chandler were interested in the redevelopment of the base as a civilian passenger and cargo airport; and

WHEREAS, in 1992, these public entities entered into two intergovernmental agreements setting forth the purpose and goal statement for the reuse of Williams AFB and a transitional management plan, operating agreement and ownership structure of the facility; and

WHEREAS, the original Joint Powers Airport Authority Agreement ("JPAAA") was created and entered into as of May 19, 1994, by and among the cities and towns of Gilbert, Mesa and Queen Creek; and

WHEREAS, pursuant to an Amended and Restated Agreement dated May 22, 2006 the Gila River Indian Community and City of Phoenix were added as members of the JPAAA; and

WHEREAS, in 2009, the 2006 members entered into an amended agreement establishing the Mesa Gateway Airport Authority (the "Authority" or "MGAA"); and

WHEREAS, the City of Apache Junction became a proprietor and member of the airport authority along with the other members in 2013; and

WHEREAS, in June 2024, the City of Phoenix terminated its membership in the MGAA; and

WHEREAS, in December 2024, the then Phoenix-Mesa Gateway Airport Authority Board voted to rename itself the "Mesa Gateway Airport Authority" and to rename the airport "Mesa Gateway Airport".

WHEREAS, the Authority desires to amend and restate the agreement to acknowledge and account for the departure of the City of Phoenix from the MGAA and the renaming of Phoenix-Mesa Gateway Airport to Mesa-Gateway Airport, to change the mandated budget introduction from April to June, and to make technical corrections.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

- 1) The mayor is authorized to execute Amendment No. 2 to the Mesa Gateway Airport Authority Amended and Restated Joint Powers Airport Authority Agreement, Amendment No. 2 to the Mesa Gateway Airport Authority Amended and Restated Intergovernmental Agreement and the Mesa Gateway Airport Authority Bylaws, the forms of which are attached to this resolution, under exhibits A, B, and C.
- 2) City staff is authorized to take any and all necessary steps to effectuate the purpose, intent and obligations of the partnering agreements referenced herein.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS _____ DAY OF _____, 2025.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2025.

WALTER "CHIP" WILSON
Mayor

ATTEST:

EVIE MCKINNEY
City Clerk

APPROVED AS TO FORM:

RICHARD J. STERN
City Attorney

Exhibit A

DO NOT REMOVE

This is part of the official document

MESA GATEWAY AIRPORT AUTHORITY

SECOND AMENDED AND RESTATED JOINT POWERS AIRPORT AUTHORITY AGREEMENT

This Second Amended and Restated Joint Powers Airport Authority Agreement (the "Agreement") establishing and continuing the Mesa Gateway Airport Authority (the "Airport Authority"), is made and entered into as of ____ day of _____, 2025, pursuant to Arizona Revised Statutes ("A.R.S.") Section 28-8521, et seq., by and among the Town of Gilbert, an Arizona municipal corporation ("Gilbert"), the City of Mesa, an Arizona municipal corporation ("Mesa"), the Town of Queen Creek, an Arizona municipal corporation ("Queen Creek"), the Gila River Indian Community, a federally recognized Indian tribe ("Community"), and the City of Apache Junction, an Arizona municipal corporation ("Apache Junction") (collectively "Members" or "parties" and individually "Member" or "party").

The parties to this Agreement agree as follows:

Recitals.

The United States closed Williams Air Force Base ("Williams") as an operating location of the United States Air Force ("USAF").

Williams had existing aviation facilities that are suited to be operated and developed as an airport facility pursuant to the joint powers airport authority powers found in A.R.S. Section 28-8521, et seq.

The original joint powers airport authority agreement was made and entered into as of 19th day of May, 1994, by and among Gilbert, Mesa, and Queen Creek and recorded on May 19, 1994, as Instrument No. 94-0400695, official records of Maricopa County, Arizona.

Through the original joint powers airport authority agreement, it was the desire of Gilbert, Mesa, and Queen Creek that the joint powers airport authority agreement take the place of and cancel the Intergovernmental Agreement (Williams Air Force Base - Management and Operation) that was recorded on December 14, 1992 at Recorder's No. 92-0712408 in the records of Maricopa County, Arizona, the substance of which was incorporated in the original joint powers airport authority agreement.

By entering into the original joint powers airport authority agreement, the parties to that agreement desired to establish a joint powers airport authority to develop, reuse, operate, and maintain the existing Williams aviation facilities. Upon establishment of the joint powers airport authority, the new facilities were known as the Williams Gateway Airport Authority.

Via 1995 and 2006 Amendments to the original joint powers airport authority agreement, the Community and the City of Phoenix ("Phoenix") were added as Members of the Airport Authority, respectively.

Via 2009 Amendment, the legal name of the entity was changed to the Phoenix-Mesa Gateway Airport Authority.

Apache Junction also became a Member of the Airport Authority effective July 1, 2013.

Phoenix withdrew from the Airport Authority effective June 30, 2024.

The legal name of the Airport Authority was changed to Mesa Gateway Airport Authority effective as of December 17, 2024.

Formation of Airport Authority.

Upon approval and execution of this Agreement by all the parties, a joint powers airport authority called the Mesa Gateway Airport Authority is formed with all parties as Members pursuant to A.R.S. Section 28-8521, with all powers granted to it under Arizona law.

Board of Directors and Officers.

Upon execution of this Agreement, each Member shall appoint one representative to act with the authority of the appointing Member for the purpose of implementing this Agreement. Each Member shall also designate at least one alternate representative to act with the authority of the appointing Member in the absence of the representative. The appointed representative and all alternates shall be duly elected or appointed members of the governing body of the appointing Member. Notice of such appointment and of any subsequent replacement appointment shall be delivered in writing to the other Members of the Airport Authority.

The appointing authority as to each Member shall be each Member's respective governing body.

Each representative so appointed shall be a Director on the Board of Directors of the Airport Authority. The Board of Directors shall consist of only the representatives appointed by the Members of the Airport Authority. In the absence of the representative or alternate representatives, any representative of the Member governing body attending Board meetings or otherwise implementing this Agreement is presumed to act with the authority of the Member governing body.

The Board of Directors may establish a fixed time, date and place for regularly scheduled meetings. Special meetings of the Board may be called by the Chair on no less than 24-hours' notice to the public, and each Director, either personally, by mail, by email, by text message, or by telephone. Notice of meetings of the Board shall be provided and meetings shall be conducted in accordance with the Arizona open meeting law, A.R.S. Section 38-431, *et seq.* Nothing herein shall prohibit the holding of an emergency session on less than 24-hours' notice in accordance with the provisions of the Arizona open meeting law. A Board Member may attend a Board meeting via electronic means, including telephonic conference. The Board may conduct a telephonic Board meeting so long as such telephonic meeting is conducted in accordance with the provisions of the Arizona open meeting law.

A majority of the membership of the Board of Directors shall constitute a quorum. A quorum shall be necessary to conduct the business of the Board. If a quorum is lost at any meeting of the Board of Directors, the remaining Directors present at the meeting may recess the meeting from time to time, without notice other than an announcement at the meeting, until a quorum shall be present.

The Board of Directors shall annually choose from its Directors a Chair, a Vice Chair and a Secretary, each of whom shall serve at the pleasure of the Board of Directors. The Board of Directors at any time may appoint such other officers and agents as it shall deem necessary who shall hold their offices at the pleasure of the Board of Directors and who shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

The Chair, or in the Chair's absence, the Vice Chair, shall preside at all meetings of the Board of Directors. In the absence of the Chair and Vice Chair, the Secretary shall preside at the meeting of the Board of Directors.

The Secretary shall see that the minutes of all meetings of the Board of Directors are kept.

Airport Authority Staff.

The Board of Directors shall employ an Executive Director and approve an annual budget for such other managers and staff as the Executive Director shall deem necessary to manage and conduct the

operations, maintenance and development of the airport facilities in accordance with the provisions of this Agreement and policies and procedures approved by the Board of Directors. The Executive Director shall report directly to the Board of Directors and shall supervise the Airport Authority Staff.

Ownership of Airport Facilities.

Upon conveyance by the USAF to the Airport Authority, title to all or a portion of the certain aviation facilities, both real and personal property, formerly owned and operated by the USAF at Williams situated in the County of Maricopa, State of Arizona ("Airport Facilities"), shall be held by the Airport Authority.

The Airport Authority may acquire or convey real and personal property from time to time.

Development, reuse, operation, and maintenance of the Airport Facilities shall be overseen by the Board of Directors and shall be conducted in accordance with the provisions of this Agreement and policies and procedures developed hereunder.

Each Member agrees that should said Member withdraw from the Airport Authority pursuant to Section 10, effective upon such withdrawal, any ownership rights of said Member in the Airport Facilities shall also terminate. A Member shall not be deemed to have withdrawn from the Airport Authority simply by virtue of the termination of this Agreement pursuant to Section 13. Each Member hereto also agrees to execute upon withdrawal any and all documents necessary to evidence and effectuate such withdrawal.

Recharacterization of Members' Loans to Airport Authority.

Effective July 1, 2014, the Members deemed all of the Members' respective prior loans as appropriations (or contributions) to the Airport Authority in accordance with A.R.S. § 28-8521(B)(4). The precise amount of each Member's cumulative contributions (since becoming a Member of the Airport Authority) is set forth in **Exhibit A**.

Members shall continue to make annual appropriations to the Airport Authority as required in this Agreement, particularly Section 9.

Notwithstanding anything to the contrary in this Section 6, each Member shall exercise its voting rights (related to the administration and management of the Airport Authority) in accordance with Section 8.

Each Member agrees that should said Member withdraw from the Airport Authority pursuant to Section 10, effective upon such withdrawal, all rights and interests of said Member in the Airport Authority shall also terminate. Each Member also agrees to execute upon withdrawal any and all documents necessary to evidence and effectuate such withdrawal.

Powers of the Mesa Gateway Airport Authority.

The Mesa Gateway Airport Authority, acting through the Board of Directors, may:

Own, operate, and maintain property and facilities related to aviation, air navigation, and aerospace.

Own and lease property and facilities that are not related to aviation, air navigation, and aerospace.

Prescribe user fees and charges.

Operate facilities and construct improvements.

If authorized by the Members, exercise the right of eminent domain in the names of the Members.

Engage employees and consultants.

Enter into contracts, leases, and development agreements.

Enter into agreements with the State of Arizona, any political subdivision of the State, or the federal government.

Prepare and receive annual operating budgets.

Borrow money and issue revenue bonds, and issue other financial obligations incurred for the purposes of this Section and authorized under A.R.S. Section 28-8521, *et seq.*

Sue and be sued.

Exercise incidental powers as may be necessary to the exercise of the powers prescribed in this Section and under A.R.S. Sections 28-8527 and 28-8529, and to implement the responsibilities, goals, and purpose of the Airport Authority.

Voting Rights.

Each member of the Board of Directors is entitled to one vote, and a motion will carry if supported by a majority of the quorum unless a Member requests that a weighted vote be taken. If a weighted vote is requested, then the following terms and conditions apply.

Subject to Section 8.1.2, each member of the Board of Directors is entitled to cast a weighted vote equal to that Member's cumulative appropriations to the Airport Authority as a percentage of the total appropriations made by all current Members to the Airport Authority since 1993 when the initial Intergovernmental Agreement Group was formed. For purposes of this Section 8.1.1, and in accordance with Section IV(4)(d) of the Memorandum of Understanding (MOU) (effective March 21, 2011) among the Airport Authority, City of Mesa, and Able Engineering and Components, Inc., Mesa's cumulative contributions to the Airport Authority include the City Rent (as defined in the MOU) paid by Mesa to the Airport Authority to service the debt on the Airport Authority's Series 2012 Bond Issue in the amount of \$19,220,000 (to finance the FAA-certified maintenance, repair, and overhaul facility subleased to others).

The percentage calculated under Section 8.1.1 is then adjusted so that no Member's vote will exceed 50% of the total weighted votes. If any Member's percentage as calculated exceeds 50%, then the excess percentage (over 50%) is allocated proportionally to the remaining Members so that the weighted vote of all Members combined equals 100% (or 100 votes). Under this formula, the weighted votes for all Members as of July 1, 2024 are:

<u>Member</u>	<u>Votes</u>
City of Mesa	50.00
Gila River Indian Community	22.23
Town of Gilbert	18.90
Town of Queen Creek	5.61
Apache Junction	3.26

All matters on which a weighted vote is taken must be decided by a simple majority of all Members' weighted votes, not just the weighted votes represented at the meeting.

The number of weighted votes of each Member will be adjusted annually before the start of each Fiscal Year based on the Airport Authority's adopted operating budget for the Fiscal Year.

If a Member withdraws from the Airport Authority, the weighted votes of remaining Members must be recalculated at the beginning of the next fiscal year. In recalculating the weighted votes, all appropriations of the withdrawing Member will be disregarded.

No Member may invoke weighted voting for matters related to modifications to the approved airport layout plan and airport master plan, or for adjustments to the percentage contributions or the amounts of each Member contribution to the annual budget.

Operating Budget.

The fiscal year of the Airport Authority shall run from July 1 to June 30.

The Board of Directors shall, by June 1 of each fiscal year, recommend to the Members of the Airport Authority an annual operating budget for the Airport Authority for the next fiscal year and shall state the amounts of each Member contribution or proportion of the Airport Authority's annual operating budget to be provided by each Member. At least thirty (30) days before the annual budget is recommended to the Members of the Airport Authority by the Board of Directors, the Board may consider adjustments to the amounts of each Member contribution or percentage contributions of each Member. Adjustments to the amounts of each Member contribution or percentage contributions of any Member must be approved by a unanimous vote.

By June 15 of each year, the Board of Directors shall, if necessary due to the addition or withdrawal of Members, have decided by a unanimous vote on the amounts of each Member contribution or a reallocation of the percentage contributions among the Members or have assigned each Member its pro rata increase or decrease in contribution.

The governing bodies of the Airport Authority's Members, including any new Members admitted pursuant to Section 11 shall approve and adopt the operating budget recommended by the Board, as may be revised pursuant to Section 9.3, by June 30 of each year or withdraw from the Airport Authority pursuant to Section 10.

The Board of Directors may from time to time recommend to the Members of the Airport Authority amendments to the approved and adopted operating budget. The governing bodies of the Members shall approve amendments to the operating budget or withdraw from the Airport Authority pursuant to Section 10.

The Airport Authority shall adopt and periodically amend a Strategic Business plan and a Capital Improvements Plan. Expenditures for or by the Airport Authority shall be consistent with these plans. In addition, expenditures by the Airport Authority shall be limited to those items that directly relate to or benefit the operation and development of the Airport Facilities and the Airport Authority.

Withdrawal From Airport Authority.

No Member shall have the right to withdraw from the Airport Authority during the term of this Agreement except as provided in this Section.

At least one hundred twenty (120) days prior to the withdrawal deadline, a Member that intends to withdraw from the Airport Authority must provide a written notice of intent to withdraw to the Members of the Airport Authority, but if a Member provides a notice of intent to withdraw between one hundred twenty (120) and one hundred fifty (150) days prior to the withdrawal deadline, then other Members may submit notices of intent to withdraw up to sixty (60) days prior to the withdrawal deadline. The withdrawal deadline shall be February 28 of each fiscal year.

The withdrawing Member shall pay its pro rata annual budget contribution for the current fiscal year and its pro rata share of any outstanding obligations to which the withdrawing Member has obligated itself.

Any obligations of the withdrawing Member to the Airport Authority shall remain outstanding until fully paid and satisfied.

Admission To Airport Authority.

A city, town, county or American Indian Community may be admitted to the Airport Authority upon: (1) written request to the existing Members of the Airport Authority prior to February 1 of each fiscal year; (2) the unanimous approval of the existing Members of the Airport Authority no later than June 30 of each fiscal year but after recommendation of the annual budget to the Members of the Airport Authority; and (3) execution, acknowledgement, and deliverance to the Airport Authority of such instruments as the Members may deem necessary or advisable to effect the admission of such city, town, or county as an additional Member, including (without limitation) the written acceptance and adoption by such city, town, county or American Indian Community of the provisions of this Agreement.

The fiscal obligations of a new Member are not effective until the beginning of the new fiscal year.

The parties acknowledge that Gilbert, Mesa, and Queen Creek waived all notice and procedural requirements for admission of the Community when it became a Member of the Airport Authority effective July 1, 1995.

The parties waived all notice and procedural requirements in this Agreement for admission of Apache Junction when it became a Member effective July 1, 2013.

Effective Date.

This Agreement shall become effective (the "Effective Date") on the later of its filing with the Arizona Secretary of State and the Maricopa County Recorder in accordance with Section 19 hereof.

Termination of Airport Authority.

This Agreement shall remain in full force and effect unless modified or terminated by written agreement of a majority of the Members of the Airport Authority. This Agreement shall also be deemed terminated should all parties hereto have exercised their right to withdraw from the Airport Authority in accordance with Section 10 of this Agreement.

Notwithstanding the right to withdraw set forth in Section 10, each party hereto agrees to remain a Member of the Airport Authority and to be bound by this Agreement until the end of the current fiscal year.

Unless otherwise agreed to by a majority of the Members of the Airport Authority, upon termination of this Agreement:

If one Member agrees to assume ownership of the Airport Facilities and agrees to assume the financial obligations of all Members, then the Airport Authority shall transfer title of the Airport Facilities to such Member.

If no Member agrees to assume ownership of the Airport Facilities and the financial obligations of all Members, and if the State of Arizona agrees to assume such ownership and financial obligations, then the Airport Facilities shall be transferred to the State of Arizona.

If the State of Arizona refuses to assume ownership of the Airport Facilities, then the Airport Facilities shall revert to the United States of America.

Annual Report to Legislature.

If invited, the Chair of the Board of Directors of the Airport Authority shall annually present a report of the activities of the Airport Authority to the State House of Representatives, Ways and Means Committee, and the State Senate Finance Committee.

Governing Law.

This Agreement and the obligations of the Members hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of Arizona. The court with the original jurisdiction for causes of action arising under this Agreement is the United States District Court for the District of Arizona.

Sovereign Immunity. The Community expressly and irrevocably waives its sovereign immunity from suit solely for the limited purpose of allowing the Airport Authority to commence arbitration proceedings and enforce arbitration decisions or awards that involve a dispute or claim arising out of this Agreement. This limited waiver of sovereign immunity does not extend to any person or entity other than the Airport Authority. Except as provided in Section 15.2.1 through Section 15.2.6, nothing in this Agreement, or in the Commercial Arbitration Rules of the American Arbitration Association ("AAA") (referred to below), or in any related agreement, exhibit, document or undertaking, shall be construed as waiving, qualifying, diminishing, impairing or otherwise adversely affecting the sovereign immunity of the Community or any of its entities, enterprises, affiliates or subdivisions. Further, except as specified in Section 15.2.1 through Section 15.2.6, and unless explicitly stated within this Agreement, nothing in this Agreement, or in the AAA rules, or in any related agreement, exhibit, document or undertaking, shall be construed as a waiver of such sovereign immunity or as consent or agreement by the Community to the jurisdiction of any governmental authority, or any state or municipal court.

Mediation. Any dispute that may arise under this Agreement shall be submitted to a mediator agreed to by both parties as soon as practicable after the dispute arises, but in any event prior to the commencement of arbitration. The mediator's fees and expenses shall be shared equally by the parties, who agree to exercise their best efforts in good faith to resolve all disputes in mediation. Mediation will begin on the date one party sends written notice to the other requesting mediation and presenting in the notice the matter to be mediated. The mediation will conclude when both parties sign an agreement that resolves the subject of the mediation. If no agreement is reached within sixty (60) calendar days after the date of the original written notice, the mediation will be considered unsuccessful, and either party may invoke its arbitration rights under this Agreement.

Binding Arbitration. Any claim or dispute arising under this Agreement between the Airport Authority and the Community ("dispute" or "disputes"), including, without limitation, whether a dispute is subject to arbitration, not resolved by negotiation between the parties, shall be resolved through binding arbitration conducted in Maricopa County, Arizona as provided in this Section 15. Either party may initiate the arbitration by giving written demand for arbitration to the other party in accordance with the notice provisions of this Agreement, setting forth the nature of the claim or dispute, the amount involved, if any, and the remedy sought.

Conduct of Arbitration. The arbitration shall be subject to Public Law No. 107-159 (116 Stat. 122 (2002)) and shall be conducted in accordance with the then-current AAA rules (but not under the administration of the AAA) except as otherwise provided in this Section 15. A single arbitrator shall be selected by agreement of both parties. If the parties cannot agree upon a single arbitrator within 30 days of receipt of a written demand for arbitration, either party may submit a request to the federal district court for an appointment of an arbitrator. No arbitrator shall have or previously have had any significant relationship with any of the parties hereto. The single arbitrator shall be knowledgeable in the subject matter of the dispute. The arbitration decision shall be rendered within 45 days after the arbitration hearing or the time period, if any, required by the AAA rules, whichever is sooner. The award of the arbitrator shall be supported by written findings of fact, conclusions of law, and a calculation of how damages, if any, were determined. The arbitrator also may grant provisional or ancillary remedies (e.g., the appointment of a receiver, injunctive relief, etc.) either during the pendency of the arbitration proceeding or as part of an

arbitration award. Upon written request and after notice to the other party, the arbitrator may modify the applicable arbitration rules in the interests of justice. The award of the arbitrator shall be final and binding upon the parties, including any party refusing to submit to arbitration under this Section 15, and a judgment thereon may be entered in the United States District Court, District of Arizona as provided by Public Law 107-159. Any refusal to submit to arbitration hereunder, any exercise of a right under the Federal Arbitration Act (9 USC § 1, *et seq.*), which shall apply to the construction and interpretation of this Section 15, or any enforcement of an award rendered in the arbitration shall be in and subject to the jurisdiction of the United States District Court, District of Arizona.

In deciding any matter submitted to arbitration pursuant to this Section 15, federal law shall apply. If there is no applicable federal law, the arbitrator shall be guided by the laws of the State of Arizona. The statute of limitations, estoppel, waiver, laches and similar doctrines that would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding.

Discovery. The parties may conduct discovery in advance of the arbitration hearing in accordance with the AAA rules. Based on the nature and amount of the dispute, the arbitrator may establish a discovery schedule or discovery cutoff date or may limit discovery.

Costs of Arbitration and Attorney's Fees. Each party shall bear its own attorney's fees and expenses. The fees and all other expenses of the arbitrator, witness fees, and other reasonable fees and costs, other than attorney's fees and expenses, incurred by the prevailing party shall be assessed against the non-prevailing party by the arbitrator and included in any award or decision.

Amendments.

This Agreement may be amended only by an instrument in writing approved and signed by all of the Members.

Legal Counsel Review.

This Agreement shall be submitted to the legal counsel for each party hereto prior to its execution by said party, in order to determine whether this Agreement is in proper form and is within the powers and authority granted under the laws applicable to said party. Attached hereto and incorporated herein by reference is a copy of said written determination of each party's legal counsel.

Notices.

All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail as follows:

Town of Gilbert
50 East Civic Center Drive
Gilbert, Arizona 85296
Attention: Town Manager

City of Mesa
20 E. Main Street
Mesa, Arizona 85201
Attention: City Manager

Town of Queen Creek
22358 South Ellsworth Road
Queen Creek, Arizona 85142
Attention: Town Manager

Gila River Indian Community
Administrative Offices
P.O. Box 97
Sacaton, Arizona 85147
Attention: Lieutenant Governor

City of Apache Junction
300 E. Superstition Blvd.
Apache Junction, AZ 85119
Attention: City Manager

Filing.

A completely executed copy of this Agreement shall be filed with the Arizona Secretary of State, the Maricopa County Recorder, and the City Clerk, or the Town Clerk, as appropriate, of each other party hereto.

Remedies.

In the event of any violation or threatened violation by any party to this Agreement, of any of the terms, restrictions, acknowledgements, covenants or conditions of this Agreement, the other parties hereto shall be entitled to full and adequate relief by injunction and all other legal and equitable remedies.

Cancellation.

This Agreement may be canceled pursuant to A.R.S. Section 38-511.

Approving Action.

Copies of appropriate action by ordinance, resolution or otherwise authorizing the respective parties to enter into this Agreement are attached hereto as **Exhibit B**. The Agreement may be signed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, but all of which taken together shall constitute one of the same instrument.

Federal Aviation Administration.

Nothing herein requires any Member to contribute funding contrary to the Federal Aviation Administration's policies and procedures.

Bond Ordinances.

Notwithstanding any of the provisions in this Agreement, no Member assumes any obligation in connection with this Agreement that will have priority over or parity with any bond issued by each Member in its individual capacity.

Audit Records.

The parties, the Federal Aviation Administration, the Comptroller of the United States, or any duly authorized representative reserves the right, at reasonable times, to audit and/or copy the Airport Authority's books and records directly pertinent to this Agreement. Nothing herein requires the Airport Authority to create or maintain any records that the Airport Authority does not maintain in the ordinary course of business or pursuant to a provision of law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as provided in Section 12.

Attest:

CITY OF APACHE JUNCTION

By: _____
City Clerk

By: _____
Walter Wilson, Mayor

Attest:

GILA RIVER INDIAN COMMUNITY

By: _____

By: _____
Stephen Roe Lewis, Governor

Attest:

TOWN OF GILBERT

By: _____
Town Clerk

By: _____
Scott Anderson, Mayor

Attest:

CITY OF MESA

By: _____
City Clerk

By: _____
Mark Freeman, Mayor

Attest:

TOWN OF QUEEN CREEK

By: _____
Town Clerk

By: _____
Julia Wheatley, Mayor

DETERMINATION OF LEGAL COUNSEL

The Second Amended and Restated Joint Powers Airport Authority Agreement has been reviewed by the undersigned attorneys who have determined that it is in proper form and within the power and authority granted under the applicable laws of each party.

Date

Apache Junction City Attorney

Date

Gila River Indian Community Attorney

Date

Gilbert Town Attorney

Date

Mesa City Attorney

Date

Queen Creek Town Attorney

Exhibit A

**Mesa Gateway Airport Authority Members' Cumulative Contributions
as of December 10, 2024**

Member Agency	Cumulative Total
City of Mesa	\$103,756,406
Gila River Indian Community	\$13,159,550
Town of Gilbert	\$11,199,250
Town of Queen Creek	\$3,310,070
City of Apache Junction	\$1,895,000
Total	\$133,320,276

Exhibit B

[Ordinance, Resolution or Minutes Approving Second Amended and Restated JPAA Agreement]

(Attached)

Mesa Gateway Airport

RESOLUTION NO. _____

Exhibit B

SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT

This Second Amended and Restated Intergovernmental Agreement (“Agreement”) is made and entered into pursuant to Arizona Revised Statutes Section 11-951 *et. seq.* as of the [REDACTED] day of [REDACTED], 2025 by and between the MESA GATEWAY AIRPORT AUTHORITY, a municipal corporation (the “Authority”), the TOWN OF GILBERT, a municipal corporation, as a member of the Authority (“Gilbert”), the CITY OF MESA, a municipal corporation, as a member of the Authority and individually with respect to Section 5 of this Agreement (“Mesa”), the TOWN OF QUEEN CREEK, a municipal corporation, as a member of the Authority (“Queen Creek”), the GILA RIVER INDIAN COMMUNITY as a member of the Authority, (the “Community”), and the CITY OF APACHE JUNCTION, an Arizona municipal corporation (“Apache Junction”), recite, consent and agree as provided herein.

Recitals.

A. Pursuant to the Intergovernmental Agreement dated December 14, 1992, Gilbert, Mesa and Queen Creek established the Authority pursuant to the Joint Powers Airport Authority Agreement (“JPAA”) dated May 19, 1994, recorded on May 19, 1994, as Instrument No. 94-0400695, official records of Maricopa County, Arizona. The First Amendment to the JPAA was signed on May 19, 1995 to include the Community as a member of the Authority. The Authority, Gilbert, Mesa, Queen Creek, the Community and the City of Phoenix, an Arizona municipal corporation (“Phoenix”) entered into the Amended and Restated Intergovernmental Agreement, dated May 22, 2006, and filed with the Arizona Secretary of State on July 20, 2006 to add Phoenix as a Member of the Authority. The Members entered into the Amended and Restated JPAA dated July 19, 2013 to add Apache Junction as a Member of the Authority.

B. The Authority was established pursuant to Arizona Revised Statutes, Section 28-8521 (previously found in Arizona Revised Statutes, Section 2-351 *et. seq.*) for the purposes of acquiring, developing and operating an airport and related facilities located on a portion of the property formerly known as the Williams Air Force Base and subsequently re-named the Phoenix-Mesa Gateway Airport.

C. Phoenix withdrew from the Authority effective July 1, 2024.

D. The name of Phoenix-Mesa Gateway Airport was changed to Mesa Gateway Airport and the name of the Authority was changed from Phoenix-Mesa Gateway Airport Authority to Mesa Gateway Airport Authority effective December 17, 2024. The Authority owns and operates Mesa Gateway Airport.

E. Concurrently herewith, the Authority, Gilbert, Mesa, Queen Creek, Community and Apache Junction are entering into a second amended and restated JPAA (“2025 Second Amended and Restated JPAA”) that reflects the changed membership and name.

F. The Authority, Gilbert, Mesa, Queen Creek, Community and Apache Junction are committed to meeting the long-term aviation capacity needs of the metropolitan area.

G. By entering into this Agreement, the parties to this Agreement desire to continue to jointly exercise common powers with regard to the ownership, development, reuse, operation and

maintenance of the Mesa Gateway Airport pursuant to Arizona Revised Statutes, Chapter 25, Article 8.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and for other good and valuable considerations, the receipt and adequacy of which are hereby acknowledged by all the parties hereto, the parties hereto agree as follows:

Agreement

Section 1. Purpose and Goals.

1.1 The Authority, Mesa, Gilbert, Queen Creek, the Community and Apache Junction agree to work together to establish an airport to serve the long-term aviation needs of the region.

1.2 It is not the intention of the parties to restrict the marketing or service of Mesa Gateway Airport. It is the intention of the Authority to market Mesa Gateway Airport as a domestic and international commercial passenger and cargo airport.

Section 2. Development of Authority's Budget.

2.1 Each Member shall contribute funds for the Authority annual (operating and capital) budget as approved by the Authority's Board of Directors pursuant to Sections 8 and 9 of the 2025 Second Amended and Restated JPAA.

Section 3. Archaeological Issues.

3.1 It is Authority's intent to negotiate in good faith a separate agreement with the Community regarding archaeological issues that complies with federal and state law, including, but not limited to, Section 10E of the National Historic Preservation Act and the Programmatic Agreement Among The United States Air Force, the Arizona State Historic Preservation Officer and the Advisory Council on Historic Preservation Concerning Disposal of Williams Air Force Base, Mesa, Arizona, February 1995.

To the extent allowed by federal and state law, the Authority acknowledges that the Community has rights to and ownership of all Native American data and artifacts recovered on property owned or controlled by the Authority. "A partial listing of Native American data and artifacts which might be recovered on property at Williams AFB includes, but is not limited to: whole or fragmentary tools, implements, containers, weapons, weapon projectiles, clothing, ornaments, containers, pottery, and other ceramics, basketry, cordage, weavings, coins, bullets, bottles, and other glassware, flaked stone, ground stone, pecked stone, worked bone, metal wood hide, feathers, and pigments." Further, to the extent allowed by federal and state law and Authority procurement requirements, and to the extent it meets the requirements of the Programmatic Agreement, the Authority that the Community may provide all Data Recovery Plans, data recovery, and mitigation required in association with the development on the Airport Facility.

Section 4. Governing Law; Jurisdiction.

4.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Arizona. The court with the original jurisdiction for causes of action arising under this Agreement is the United States District Court for the State of Arizona. The Community agrees to, and does hereby, waive its sovereign immunity from the jurisdiction of the United States District Court for the State of Arizona in any action arising under this Agreement brought by or against the Community. The Community further agrees to accept and be bound by, thereby waiving its sovereign immunity from, a judgment or order which is final (because either the time for appeal thereof has expired or the judgment or order is issued by a court or other entity having final appellate jurisdiction over the matter is not subject to collateral attack) by any such

court or any court or entity having appellate jurisdiction over any such court in any such action. The Community waives its sovereign immunity to the enforcement of any such final judgment against it without limitation. The Community hereby designates the Community's Governor as the appropriate party for the purposes of service of process. If the United States District Court for the State of Arizona finds that it does not have jurisdiction in any action arising under this Agreement brought by or against the Community, then the Parties agree that the action shall be adjudicated through arbitration in the State of Arizona as follows:

i.) the parties shall attempt to agree upon one (1) arbitrator with expertise on the subject matter of the dispute;

ii.) if the parties are unable to agree on an arbitrator, each party shall select an arbitrator within ten (10) days of the commencement of the arbitration and the two (2) arbitrators shall mutually appoint a third arbitrator within twenty (20) days of their appointment. If the two (2) arbitrators are unable to agree on the appointment of a third arbitrator within twenty (20) days, the third arbitrator shall be appointed by the American Arbitration Association; and

iii.) the arbitrator(s) shall confer with the parties immediately after appointment to determine an arbitration schedule including whether and to what extent discovery is required. The arbitrator(s) may set the matter for an evidentiary hearing or oral argument, or may dispose of the dispute based upon written submissions only. The decision of the majority of the arbitrator(s) shall be final, binding, and unappealable. Such decision shall be enforceable in United States District Court for the State of Arizona. The cost of arbitration shall be borne equally by the parties. The parties shall bear their own costs and attorney's fees associated with their participation in the arbitration unless the decision of the arbitrator shall specify otherwise.

Section 5. Incorporation of Recitals.

5.1 All of the recitals set forth above are hereby incorporated into this Agreement by this reference and made a part hereof.

Section 6. Attorneys' Fees.

6.1 If any action is brought to enforce this Agreement or to recover damages or equitable relief for a breach of this Agreement, the prevailing party shall be entitled to recover costs and attorneys' fees incurred in such action.

Section 7. Entire Agreement.

7.1 There are no oral agreements between the Authority and the Community with respect to those matters and transactions that are the subject of this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understands, written or oral, if any, between the Authority and the Community with respect to those matters and transactions that are the subject of this Agreement.

Section 8. Severability.

8.1 If any provision of this Agreement shall be determined to be void by a court of competent jurisdiction, then such determine shall not affect any other provision of this Agreement and all such other provisions shall remain in force and effect.

Section 9. Termination of Airport Authority.

9.1 This Second Amended and Restated Intergovernmental Agreement shall remain in full force and effect unless modified or terminated by written agreement of a majority of the members of the Authority. This Agreement shall also be deemed terminated should all parties hereto have exercised their

right to withdraw from the Authority in accordance with Section 10 of the Second Amended and Restated JPAA.

9.2 Notwithstanding the right to withdraw set forth in Section 10 of the Second Amended and Restated JPAA, each party hereto agrees to remain a member of the Authority and to be bound by this Intergovernmental Agreement for at least one year after the Effective Date.

9.3 Unless otherwise agreed to by a majority of the members of the Authority, upon termination of this Agreement:

9.3.1 If one (1) member agrees to assume ownership of the Airport Facilities and agrees to assume the financial obligations of all members, then the Authority shall transfer title of the Airport Facilities to such member.

9.3.2 If no member agrees to assume ownership of the Airport Facilities and the financial obligations of all members, and if the State of Arizona agrees to assume such ownership and financial obligations, then the Airport Facilities shall be transferred to the State of Arizona.

9.3.3 If the State of Arizona refuses to assume ownership of the Airport Facilities, then the Airport Facilities shall revert to the United States of America.

Section 10. Term.

10.1 This Second Amended and Restated Intergovernmental Agreement shall remain in full force and effect until a date that is ninety-nine (99) years after the Effective Date unless modified or terminated by written agreement of all parties hereto.

Section 11. Notices.

11.1 All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail as follows:

Town of Gilbert
50 East Civic Center Drive
Gilbert, Arizona 85296
Attention: Town Manager
City of Mesa
20 E. Main Street
Mesa, Arizona 85201
Attention: City Manager
Town of Queen Creek
22350 South Ellsworth Road
Queen Creek, Arizona 85242-0650
Attention: Town Administrator
Gila River Indian Community
Administrative Offices
P.O. Box 97
Sacaton, Arizona 85247
Attention: Lieutenant Governor

City of Apache Junction
300 East Superstition Boulevard
Apache Junction, Arizona 85119
Attention: City Manager

Section 12. Cancellation.

12.1 This Agreement may be canceled pursuant to Arizona Revised Statutes, Section 38-511.

Section 13. Approving Action.

13.1 Copies of appropriate action by ordinance, resolution or otherwise authorizing the respective parties to enter into this Agreement are attached hereto as Exhibit A.

Section 14. Audit Records.

14.1 The parties, the Federal Aviation Administration, the Comptroller of the United States, or any duly authorized representative reserves the right, at reasonable times, to audit and/or copy the Authority's books and records directly pertinent to this Agreement. Nothing herein requires the Authority to create or maintain any records that the Authority does not maintain in the ordinary course of business or pursuant to a provision of law.

Section 15. Counterparts.

15.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one in the same instrument, which instrument shall be deemed fully executed when one or more counterparts have been executed by each of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

Attest:

CITY OF APACHE JUNCTION

By: _____
City Clerk

By: _____
Walter Wilson, Mayor

Attest:

GILA RIVER INDIAN COMMUNITY

By: _____

By: _____
Stephen Roe Lewis, Governor

Attest:

TOWN OF GILBERT

By: _____
Town Clerk

By: _____
Scott Anderson, Mayor

Attest:

CITY OF MESA

By: _____
City Clerk

By: _____
Mark Freeman, Mayor

Attest:

MESA GATEWAY AIRPORT AUTHORITY

By: _____

By: _____
Its Chair

Attest:

TOWN OF QUEEN CREEK

By: _____
Town Clerk

By: _____
Julia Wheatley, Mayor

DETERMINATION OF LEGAL COUNSEL

The foregoing Second Amended and Restated Intergovernmental Agreement has been reviewed by the undersigned attorneys who have determined that it is in proper form and within the power and authority granted under the applicable laws of each party.

Date

Apache Junction City Attorney

Date

Gila River Indian Community Attorney

Date

Gilbert Town Attorney

Date

Mesa City Attorney

Date

Mesa Gateway Airport Authority Attorney

Date

Queen Creek Town Attorney

Exhibit A
[Ordinance, Resolution or Minutes Approving Second Amended and Restated IGA]
(Attached)

Exhibit C

RESOLUTION NO. 25-04

MESA GATEWAY AIRPORT AUTHORITY

BYLAWS

Adopted September 28, 1995

Revised June 2007; [MONTH] 2025

Composition of Board of Directors and Officers.

Directors and alternates. The Board of Directors ("Board") shall consist of one representative from each member of the Mesa Gateway Airport Authority ("Authority"). The governing body of each Authority member shall select its representative to the Board, which representative shall act with the authority of the appointing Authority member, as well as at least one alternate representative to act with the authority of the Authority member in the absence of the representative. Notice of such appointments and any subsequent replacement appointments shall be delivered in writing to the other members of the Authority. In the absence of an Authority member's representative or alternate representative at a Board meeting, any member of the Authority member's governing body attending a Board meeting is presumed to act with the authority of the Authority member.

Officers. The Board shall annually choose from its Directors, at the Board meeting immediately following the start of each fiscal year, a Chair, a Vice Chair, a Secretary, and a Treasurer, each of whom shall serve at the pleasure of the Board. The Board at any time may appoint such other officers and agents as it shall deem necessary who shall hold their offices at the pleasure of the Board and who shall exercise such powers and perform such duties as shall be determined from time to time by the Board. In particular, the Board shall appoint a Clerk of the Board.

Chair. The Chair shall preside at and set the agenda for all meetings of the Board, shall authorize meeting notices to be issued by the Executive Director as required by Section 3.2 herein, present to the Arizona legislature an annual report of the activities of the Authority, and represent the interests of the Board when it is not in session.

Vice Chair. The Vice Chair shall perform all duties as may be assigned to him or her by the Board. In the case of the death, disability or absence of the Chair, the Vice Chair shall perform and be vested with all of the duties and powers of the Chair.

Secretary. The Secretary shall review and sign the minutes of meetings of the Board and perform such other duties as may be required by the Board.

Treasurer. The Treasurer shall be familiar with the financial affairs of the Authority. The financial records will be in the custody of the Executive Director and all records will be maintained at the corporate office of the Authority.

Appointment of Committees and Advisory Councils. The Board may establish such Committees as the Board may from time to time find necessary, which shall consist of less than a quorum of Directors. The Board also may establish Advisory Councils, which may consist of one or more Directors, the Executive Director, Authority staff, or such other persons as the Board may designate, and which shall act in an advisory capacity to the Board.

Compensation and Indemnification of Directors.

Compensation. The Directors shall not receive any salary or compensation for their services, but may be reimbursed for their actual expenses paid or obligated to be paid in connection with service

rendered solely for the benefit of the Authority, if such expenses are submitted to the Board for reimbursement.

Indemnification and Advancement of Costs. The Authority may indemnify and agree to save harmless the Directors and the Executive Director any of whom were or are in the future a party or are threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a Director or Executive Director or is or was serving at the request of the Authority, from any damages, costs, expenses, attorney fees, fines, judgments, claims and amounts paid in settlement, actually and reasonably incurred. The Authority may also advance fees and costs associated with any such threatened or pending suit or proceeding.

Meetings of the Board of Directors.

Monthly meetings. The Board shall meet monthly at the time, date and place established by the Board, provided however that the Board may cancel or reschedule any monthly meeting. All meetings of the Board shall be conducted in accordance with the Open Meeting Law, Arizona Revised Statutes, Section 38-431 et seq.

Notice and Agendas. Public notice and an agenda of all meetings of the Board shall be posted by the respective Clerk of each member of the Authority at the official posting location of such jurisdiction in compliance with the Open Meeting Law. A meeting agenda may be amended after posting, so long as the amended agenda is posted at least 24 hours prior to the meeting.

Telephonic Attendance and Meetings. A Director may attend a Board meeting via telephonic conference. The Board may conduct a telephonic Board meeting so long as such telephonic meeting is conducted in accordance with the provisions of the Open Meeting Law.

Special Meetings. Special meetings of the Board may be called by the Chair or a majority of the total number of Board members on no less than 24 hours' notice to each Director, either personally or by mail or by facsimile or by telephone, so long as such special meeting is conducted in accordance with the provisions of the Open Meeting Law.

Emergency Meetings. Nothing herein shall prohibit the holding of an emergency session on less than 24 hours' notice in accordance with the provisions of the Open Meeting Law.

Quorum. A majority of the membership of the Board shall constitute a quorum. A quorum shall be necessary to conduct the business of the Board. If a quorum is not present at any meeting of the Board, the Directors present at the meeting may recess the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Conduct of Meetings. The conduct of all Board meetings shall be governed by Robert's Rules of Order, unless waived by the Chair.

Voting.

Each member of the Board is entitled to one vote, and, except as provided in Sections 3.4 and 6, a motion will carry if supported by a majority of the quorum unless a member requests that a weighted vote be taken. If a weighted vote is requested, then the following shall apply:

Each member of the Board of Directors is entitled to a weighted vote equal to that member's cumulative investment as a percentage of the total investment made by all current members beginning in 1993 when the initial Intergovernmental Agreement group was formed.

A simple majority is required for a motion to carry.

Weighted voting may not be invoked for votes being taken regarding modifications to the approved airport layout plan and airport master plan, or for adjustments to the percentage contributions of members.

Duties of Board.

General Duties. The Board shall be the governing body of the Authority.

Specific Duties. The Board's duties include the following:

- Select the Executive Director;
- Approve leases and lease cancellations;
- Approve procurement policy and periodic updates to the procurement policy;
- Approve contracts and purchases in accordance with the procurement policy;
- Approve personnel policy and periodic updates to the personnel policy;
- Approve marketing plan and periodic updates to marketing plan;
- Approve annual budget for recommendation to the Authority members;
- Approve airport rules and regulations and airport minimum standards.

Duties of the Executive Director.

General Duties. The Executive Director shall be the Chief Executive Officer of the Authority and shall serve at the pleasure of the Board. During recess of the Board, the Executive Director shall work closely with the Chair to ensure that the business and affairs of the Authority are conducted within the framework of Board-approved objectives and policies.

Specific Duties. The Executive Director's duties shall include the following:

- Approve contracts and purchases in accordance with the procurement policy;
- Negotiate leases and recommend approval and cancellation of leases to Board;
- Hire, terminate, and supervise Authority staff;
- Prepare and periodically update procurement policy;
- Prepare and periodically update personnel policy;

Prepare and periodically update marketing plan;

Contract for and oversee annual audit;

Prepare annual budget;

Prepare agendas and meeting notices for Board Meetings; and

If requested, prepare an annual written report for submittal to the Arizona legislature.

Prepare airport rules and regulations and airport minimum standards.

Establish policies and procedures for the safe, secure, efficient, and orderly operation of the airport.

Prepare any required statutory or informational reports.

Amendment of Bylaws.

Any of these Bylaws may be altered, amended, or repealed by majority vote of the total number of Board members, rather than a quorum of those present, at any regular or special meeting of the Board.