

PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS

Date: July 13, 2021

9:00 a.m.

Place: Commissioners Room, Courthouse, Caledonia, MN

Members Present:

Dewey Severson, Eric Johnson, Robert Burns, Teresa Walter, and Greg Myhre

Others Present:

Auditor/Treasurer Donna Trehus, Reporter Craig Moorhead, Reporter Charlene Selbee, Finance Director Carol Lapham, Human Resources Director Theresa Arrick-Kruger, Public Health and Human Services Director John Puleasa, Zoning Administrator/Interim Environmental Services Director Amelia Meiners Board Clerk/EDA Director Allison Wagner, Engineer Brian Pogodzinski, Interim Recorder Mary Betz, Sheriff Mark Inglett, Yvonne Krogstad

Presiding: Chairperson Burns

Call to order.

Pledge of Allegiance.

Motion was made by Commissioner Walter, seconded by Commissioner Myhre, motion unanimously carried to approve the agenda.

Motion was made by Commissioner Walter, seconded by Commissioner Johnson, motion unanimously carried to approve the board meeting minutes from July 6, 2021.

Public Comment: No public comments were made.

CONSENT AGENDA

Commissioner Johnson moved, Commissioner Severson seconded, motion unanimously carried to approve the consent agenda. Items approved are listed below.

- 1) Hire Darlene Peter as probationary Deputy Recorder, Clerk Tech I, Step 4, effective July 26, 2021.
- 2) Hire Isaiah Bunke as probationary Deputy Sheriff, C42, Step 1, effective August 3, 2021, conditioned upon satisfactory completion of the medical and psychological examinations.

ACTION ITEMS

File No. 1 – Commissioner Johnson moved, Commissioner Myhre seconded, motion unanimously carried to approve Change Order Request No. 11 for the Highway Facility Project, less the ten percent construction management fee (typically paid with change orders). The change order request included the cost to connect to the new electrical gas service to the new building and install a clean agent fire suppression system in the records room. Engineer Pogodzinski said that a dry sprinkler system was needed in the storage room because of paper being stored in that room, and that the matter had been discussed at a meeting back on September 25, 2020. Commissioners agreed to withhold the construction management fee because they believed Wieser Brothers had made a mistake regarding the dry sprinkler system.

File No. 2 – Commissioner Severson moved, Commissioner Myhre seconded, motion unanimously carried to end the County’s Emergency Declaration due to the COVID-19 pandemic that had been put in place the previous year.

DISCUSSION ITEMS

Commissioners discussed the solid waste and recycling program. Commissioner Myhre suggested that a former director of the department, Rick Frank, be brought back to help discuss possible changes to the solid waste department that would make the department more efficient and save money. Commissioner Walter shared some cost figures from the department she had been keeping track of. Commissioners discussed possible ways to save money for the department. Some ideas including renegotiating contracts and possibly having only one hazardous waste drop off day in Houston County. To reduce costs, a second hazardous waste drop off day could be held in La Crosse County. Houston County Residents could use the service on a set weekend day, yet would need to drive their waste to La Crosse County.

Commissioners discussed the past, current, and possible future structuring of the Zoning and Planning office with Zoning Administrator/Interim Environmental Services Director Meiners and Human Resources Director Kruger. Meiners gave the board an overview of her experience with the department, her past and current role, and how the structure of the department had evolved as employees retired or changed over time. Commissioners brainstormed different ways the department could be structured going forward. One idea was to fill the vacant environmental specialist positions within the department and continue the structure as it had been prior to the latest vacancy. Another idea was to possibly contract with the local Root River Soil and Water Conservation District (SWCD) for feedlot and sewer inspections rather than hiring two environmental specialists in house. No final decisions were made on the structure of the department. Commissioners also discussed the future need to permanently fill the Environmental Services Director position. Commissioners debated whether to begin advertising for the director position or wait until the structure of the department was more certain. Kruger was asked by a majority of the Commissions to have the request to search for a director for the department ready for the next regular board meeting.

Commissioner Severson suggested having a “meet your County Commissioner” table at the Houston County Fair where Commissioners could take turns visiting with County residents. Commissioners were open to the idea. Chairperson Burns said he would check with the fair board and report back at the next meeting.

Commissioners reported on recent meetings they had attended including a Land Use Meeting, union negotiations, and an Economic Development Authority (EDA) Meeting. Commissioners said the EDA was searching for another EDA board member.

Public Comment: Yvonne Krogstad asked the Commissioners where the County was at with updating the County's Comprehensive Land Use Plan. Commissioners said the updating of the plan had been put on hold due to the COVID-19 pandemic.

There being no further business at 10:56 a.m., a motion was made by Commissioner Myhre, seconded by Commissioner Severson, motion unanimously carried to adjourn the meeting. The next meeting would be a workgroup session on July 20, 2021.

BOARD OF COUNTY COMMISSIONERS

HOUSTON COUNTY, MINNESOTA

By: _____
Robert Burns, Chairperson

Attest: _____
Donna Trehus, Auditor/Treasurer

PROCEEDINGS OF THE BOARD OF COUNTY COMMISSIONERS

Date: June 20, 2021

9:04 a.m.

Place: Commissioners Room, Courthouse, Caledonia, MN

Members Present:

Dewey Severson (joined at 10:22 a.m.), Robert Burns, Teresa Walter and Greg Myhre

Others Present:

Auditor/Treasurer Donna Trehus, Finance Director Carol Lapham, EDA Director/Board Clerk Allison Wagner, Human Resources Director Theresa Arrick-Kruger, Public Health and Human Services Director John Pugleasa, Interim Recorder Mary Betz, Assessor Luas Onstad, Executive Director Southeast Service Cooperative Steve Sallee, and Southeast Service Cooperative Benefits Consultant Bill Colopoulos

Board Workgroup Session

Call to order.

Commissioners discussed County Staff Appreciation Day that would take place on Tuesday, July 27, 2021. Commissioners discussed possibly having a picnic for County staff and other options to show appreciation. Commissioner Walter suggested the Commissioners use American Rescue Plan dollars to reward County employees with a \$50.00 payment or gift card since all County staff were considered essential workers, and worked throughout the COVID-19 pandemic. It was decided that this consideration should be an action item at the next regular board meeting.

Commissioners discussed the possibility of having a “meet your Commissioner” booth at the County fair. It was the general consensus of the board members at the meeting that they would already be attending the Houston County Fair, and be involved with the fair in various ways. It was decided that they may not have enough time to be at the booth and participate in already committed activities. They decided to reconsider having a booth in 2022, and possibly share the booth with other County departments at that time.

Visitors Steve Sallee, Executive Director from Southeast Service Cooperative, and Bill Colopoulos Benefits Consultant and Health Care Economist from Southeast Service Cooperative gave a presentation to Commissioners and County staff on 2022 employee health benefits. The presentation was recorded so County staff could go back and watch it at a later date.

Commissioners discussed possible uses of American Rescue Plan (ARP) dollars the County was receiving.

The meeting was adjured at 11:44 a.m.

BOARD OF COUNTY COMMISSIONERS

HOUSTON COUNTY, MINNESOTA

By: _____
Robert Burns, Chairperson

Attest: _____
Donna Trehus, Auditor/Treasurer

Historical Society appt.

Donna Trehus

Wed 7/7/2021 10:13 AM

To: Houston County BOC <BOC@co.houston.mn.us>;

Hi Allison,

Shirley Johnson would like an appointment with the Houston County Board for 9:15 a.m. on July 27th. She will bring down information to be provided in the packet on Wednesday or Thursday, July 21st or July 22nd-morning.

I think she will bring it to me. I will get it up to you right away. Thanks.

Sincerely,
Donna Trehus
Houston County Auditor/Treasurer
304 S. Marshall Street, Room 112
Caledonia, MN 55921
507-725-5815 Ext. 1215
507-725-2647 (FAX)

Houston County

HISTORICAL SOCIETY



Houston County Historical Society
Projected Budget
October 1, 2021 – September 30, 2022

Projected Operating Revenue

Houston County levy and matching funds	\$42,500	
Memberships, memorials, donations, rummage sale	\$18,000	
		\$60,500

Projected Operating Expenses

Maintenance, general expenses, supplies	\$26,000	
Advertising, dues, brochures, newsletter	\$ 2,000	
Telephone, Internet, web page, etc.	\$ 3,000	
		\$31,000

Building and Grounds Expenses

Insurance	\$ 7,500	
Utilities	\$12,500	
Lawn mowing and snow removal	\$ 2,000	
Security Services	\$ 800	
		\$22,800

Archives and Artifacts

Purchases – artifacts	\$ 500	
Restoration	\$ 1,000	
Reference Books	\$ 100	
Exhibit supplies	\$ 1,000	
Archival materials	<u>\$ 4,100</u>	\$ 6,700

Total Projected Expenses	\$60,500
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Submitted by the Houston County Historical Society
Board of Directors July 27, 2021

Tentative Projects: Restore Barnyard Friends building – \$84,000 to \$100,000+
Tear down Barnyard Friends building - \$10,000

HOUSTON COUNTY HISTORICAL SOCIETY
PRELIMINARY - CASH BASIS
STATEMENT OF INCOME & EXPENSES
SEPTEMBER 30, 2020

	CURRENT PERIOD	RATIO	TWELVE MONTHS	RATIO
INCOME				
MEMBERSHIPS	\$ 311.00	6.91	\$ 2,931.00	1.03
DONATIONS	100.00	2.22	234,827.43	82.48
DONATIONS-BLDG FD	600.00	13.33	8,105.00	2.85
MEMORIALS	80.00	1.78	7,146.00	2.51
MEMORIALS-BLDG FD	0.00	0.00	260.00	0.09
MEMORIALS-PALEN PHOTO COLLECTI	10.00	0.22	85.00	0.03
HO CO APPROPRIATIONS	0.00	0.00	23,750.00	8.34
THRIVENT-CHOICE DOLLARS	30.00	0.67	3,218.00	1.13
SALES	14.95	0.33	14.95	0.01
SALES-FETZNER PRINTS	0.00	0.00	375.00	0.13
RUMMAGE SALES	20.00	0.44	486.00	0.17
INTEREST INCOME-CHECKING	2.74	0.06	57.70	0.02
INTEREST INCOME-ENDOWMENT FD	3,332.65	74.04	3,340.50	1.17
MISCELLANEOUS INCOME	0.00	0.00	108.00	0.04
SALES TAX IN & OUT	0.00	0.00	12.03	0.00
TOTAL INCOME	\$ 4,501.34	100.00	\$ 284,716.61	100.00
DIRECT EXPENSES				
ARCHIVES/SUPPLIES	0.00	0.00	3,395.27	1.19
NEWSLETTER-PRINTING	0.00	0.00	418.53	0.15
NEWSLETTER-POSTAGE	0.00	0.00	410.36	0.14
ADVERTISING	0.00	0.00	407.60	0.14
COMMUNITY PROMOTION	0.00	0.00	572.69	0.20
VOLUNTEER APPRECIATION	0.00	0.00	962.16	0.34
SUBSCRIPTIONS/PUBLICATIONS	0.00	0.00	<61.52>	0.02
ANNUAL MEETING	0.00	0.00	48.38	0.02
RESALE PURCHASES	14.95	0.33	164.95	0.06
TIME LINE GRANT EXPENSE	0.00	0.00	700.00	0.25
TOTAL DIRECT EXPENSES	\$ 14.95	0.33	\$ 7,018.42	2.47

INTERNAL USE ONLY

HOUSTON COUNTY HISTORICAL SOCIETY
PRELIMINARY - CASH BASIS
STATEMENT OF INCOME & EXPENSES
SEPTEMBER 30, 2020

	CURRENT PERIOD	RATIO	TWELVE MONTHS	RATIO
GENERAL & ADMIN EXPENSES				
FIRE PROTECTION	\$ 0.00	0.00	\$ 1,330.95	0.47
ELEVATOR EXPENSE	0.00	0.00	1,368.82	0.48
CLEANING SERVICES	0.00	0.00	420.00	0.15
LAWN/SNOW REMOVAL	0.00	0.00	1,645.00	0.58
BUILDING MAINTENANCE	27.50	0.61	590.93	0.21
EQUIPMENT MAINTENANCE	0.00	0.00	13.50	0.00
SECURITY SYSTEM	19.95	0.44	309.40	0.11
WEBSITE MAINTENANCE	0.00	0.00	570.00	0.20
UTILITIES	775.71	17.23	9,028.29	3.17
UTILITIES-CITIZEN	90.80	2.02	2,633.70	0.93
TELEPHONE	170.34	3.78	2,039.65	0.72
INSURANCE	0.00	0.00	6,478.94	2.28
COMPUTER/INTERNET EXPENSE	53.43	1.19	351.43	0.12
OFFICE SUPPLIES & POSTAGE	37.94	0.84	843.14	0.30
SUPPLIES	0.00	0.00	699.01	0.25
MEMBERSHIP DUES	0.00	0.00	490.00	.17
ACCOUNTING	0.00	0.00	468.00	0.16
TOTAL GENERAL & ADMIN EXPENS	\$ 1,175.67	26.12	\$ 29,280.76	10.28
NET INCOME (LOSS)	\$ 3,310.72	73.55	\$ 248,417.43	87.25

INTERNAL USE ONLY

HOUSTON COUNTY HISTORICAL SOCIETY
PRELIMINARY - CASH BASIS
BALANCE SHEET
SEPTEMBER 30, 2020

A S S E T S

CURRENT ASSETS

GENERAL CHECKING	\$	33,914.81	
MM NEW ALBIN-ENDOWMENT		73,598.48	
CD NEW ALBIN-ENDOWMENT		28,635.34	
CD ESB BANK-ENDOWMENT		76,794.37	
CD RUSHFORD-ENDOWMENT		250,000.00	
BERKSHIRE HATH STOCK <i>Endowment</i>		311,832.00	
TOTAL CURRENT ASSETS	\$		774,775.00

PROPERTY & EQUIPMENT

LAND		10,000.00	
BUILDING		1,373,187.00	
BUILDING - EITZEN		40,309.00	
EQUIPMENT-PRIOR YEAR		66,142.00	
EQUIPMENT-CURRENT YEAR		10,478.71	
FURN & FIXTURES-CURR YEAR		2,202.35	
PURCHASED ARTIFACTS		51,784.00	
DONATED ARTIFACTS		185,966.00	
HO CO TIME LINE		1,227.00	
TOTAL PROPERTY & EQUIP	\$		1,741,296.06

TOTAL ASSETS	\$		2,516,071.06
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E Q U I T Y

EQUITY

RETAINED EARNINGS		2,267,653.63	
NET INCOME (LOSS)		248,417.43	
TOTAL EQUITY	\$		2,516,071.06

INTERNAL USE ONLY

RE: Agenda item for the upcoming Commissioner meeting

Jennifer M. Burrichter

Thu 7/8/2021 8:08 AM

To: Theresa Arrick-Kruger <Theresa.Arrick-Kruger@co.houston.mn.us>;

Cc: Houston County BOC <BOC@co.houston.mn.us>; mjcruse@umn.edu <mjcruse@umn.edu>; walde205@umn.edu <walde205@umn.edu>;

Tess and Allison,

Looking at schedules more would the 27th work?

Kendra Waldenberger will present on the AFNR Extension Ag Internship for Houston County and what she has been doing for Houston County.

Thanks

From: Theresa Arrick-Kruger

Sent: Wednesday, July 7, 2021 4:17 PM

To: Jennifer M. Burrichter <Jennifer.Burrichter@co.houston.mn.us>

Cc: Houston County BOC <BOC@co.houston.mn.us>

Subject: RE: Agenda item for the upcoming Commissioner meeting

Hi Jennifer,

Either date should be fine. Email the name of the Intern along with a general topic to be addressed and an estimate of the length of time for the presentation to Allison at the email address cc'd above. Allison will put the matter on the agenda and let you know the board appointment time.

Let me know if there is anything else I can do to help.

Tess

Theresa Arrick-Kruger

Human Resource Director|Facilities Manager

Houston County |304. Marshall St. Suite 208 |Caledonia, MN 55921

O: 507-725-5822 | M: 507-459-0125



From: Jennifer M. Burrichter

Sent: Wednesday, July 7, 2021 12:44 PM

To: Theresa Arrick-Kruger <Theresa.Arrick-Kruger@co.houston.mn.us>

Subject: Agenda item for the upcoming Commissioner meeting

Hi Tess

Michael was wondering if our Ag Intern could present to the Commissioners Board at either their meeting on August 3rd or 10th? Please let me know which works better for you to have Kendra added to the Agenda and any details that you may need to know. If there is anything else you would need from me let me know!

Thanks

**HOUSTON COUNTY
AGENDA REQUEST FORM**

Date Submitted: 07.27.2021

By: Donna Trehus, Auditor/Treasurer

CONSENT AGENDA REQUEST:

Review Annual Disclosure of Tax Increment Districts for the Year Ended December 31, 2020 for the City of Caledonia presented by David Drown Associates, Inc. Public Finance Advisors

ACTION ITEM:

<u>Reviewed by:</u>	<input type="checkbox"/> HR Director	<input type="checkbox"/> County Sheriff	
	<input checked="" type="checkbox"/> Finance Director	<input type="checkbox"/> County Engineer	
	<input type="checkbox"/> IS Director	<input type="checkbox"/> PHHS	
	<input type="checkbox"/> County Attorney	<input checked="" type="checkbox"/> Other (indicate dept)	<u>Auditor/Treasurer</u>
	<input type="checkbox"/> Environmental Svcs		
<u>Recommendation:</u>			
<u>Decision:</u>			



DDA

David Drown Associates, Inc.
Public Finance Advisors

Minneapolis Office:
5029 Upton Avenue South
Minneapolis, MN 55410-2244
(612)920-3320 xtn 107 | fax (612) 605-2375
www.daviddrown.com

July 14, 2021

Houston County Commissioners
Houston County Courthouse
304 South Marshall Street
Caledonia MN 55921

**RE: City of Caledonia
2020 TIF Reports**

Dear County Board Members:

Enclosed please find one completed copy of Caledonia's Annual Disclosure Report as it pertains to their 2020 TIF reports. Please direct any questions or concerns to this office.

On behalf of the City,

Sonya Bubany
David Drown Associates, Inc.
sonya@daviddrown.com

CITY OF CALEDONIA, MINNESOTA

Annual Disclosure of Tax Increment Districts for the Year Ended December 31, 2020

Name of TIF District:	TIF 2 - 1 Townhomes	TIF 2 - 2 Housing
Current net tax capacity	7,344	7,160
Original net tax capacity	32	350
Captured net tax capacity	7,312	6,810
Principal and interest payment due in 2021	8,000	4,039
Tax increment received in 2020	9,238	8,558
Tax increment expended in 2020	3,623	1,157
First tax increment receipt	June, 1998	June, 1998
Date of required decertification	Dec. 31, 2023	Dec. 31, 2023
Increased property taxes on other properties due to Fiscal Disparities	0	0

Additional information regarding each district may be obtained from:

Stephanie Mann
City of Caledonia
PO Box 232
Caledonia MN 55921
Phone: 507-725-3450

**HOUSTON COUNTY
AGENDA REQUEST FORM
July 27, 2021**

Date Submitted: 07.21.2021

By: Tess Kruger, HRD/Facilities Mgr.

ACTION REQUEST

None

APPOINTMENT REQUEST

None

HR CONSENT AGENDA REQUEST

Environmental Services

- **Initiate a competitive search for an Environmental Services Director, D-61**

Highway Dept

- **Accept the resignation of Dustin Rask, Maintenance Specialist, effective July 23, 2021**
- **Initiate a competitive search for a Maintenance Specialist, B-23**
- **Change the employment status of Adam Heberlein, Highway Sign Specialist, from probationary to regular, effective August 3, 2021**

Public Health & Human Services

- **Initiate a competitive search for a Lead Social Worker – Children's Service, C-42 (No increase to Social Services unit staff FTE)**

Sheriff's Office

- **Change Lauren Felten's, B-21, Step placement to Step 2 effective August 1, 2021 (Note, Ms. Felten was hired as a 67 day employee and is not on a pay grid. Ms. Felten has been employed since 4/01/2019.)**

Reviewed by:

<input checked="" type="checkbox"/> HR Director	<input checked="" type="checkbox"/> Sheriff
<input checked="" type="checkbox"/> Finance Director	<input checked="" type="checkbox"/> Engineer
<input type="checkbox"/> IS Director	<input checked="" type="checkbox"/> PHHS
<input type="checkbox"/> County Attorney	(indicate other dept)
<input checked="" type="checkbox"/> Environmental Svcs	

Recommendation:

Houston County Agenda Request Form

Date Submitted: 7/22/2021

Person requesting appointment with County Board: John Pogleasa, Director Public Health & Human Services

Will you be doing a power point or video presentation: Yes X NO

Issue:

ABC Woodland contract amendment - This amendment will correct an error on the original rate sheet, and also recognize a corporate name change

Attachments/Documentation for the Board's Review:

Soft copy for review and hard copies for signature.

Justification:

Action Requested:

For County Use Only			
<u>Reviewed by:</u>	<u> </u> County Auditor	<u> </u> County Attorney	<u> </u> Zoning/Environmental Service
	<u> </u> Finance Director	<u> </u> County Engineer	<u> </u> HR/Personnel
	<u> </u> IS Director	<u> </u> Other (indicate dept)	<u> </u>
<u>Recommendation:</u>			
<u>Decision:</u>			

All agenda request forms must be submitted to the County Auditor by 4:00 p.m. on Monday in order to be considered for inclusion on the following week's agenda. The Board will review all requests and schedule appointments as appropriate.

PURCHASE OF SERVICE AGREEMENT

The Houston County Board of Commissioners, 304 South Marshall Street, Room 104, Caledonia, MN 55921 (Houston County), through its local social services agency, the Human Services Department hereafter referred to as the "County", and **Ability Building Community**, 1911 14th Street NW, Rochester, MN 55901 doing business as **ABC Woodland**, 521 Old Highway Drive, Caledonia, MN 55921, hereafter referred to as the "Provider", enter into this Agreement for the period from January 1, 2021 to December 31, 2021, and/or shall remain in effect until a new contract is signed by both parties or terminated under provisions of Section 24, Termination, paragraph a.

WITNESSETH

WHEREAS, the Provider is an approved vendor according to the Minnesota Statutes, Section 256.0112 to provide services as specified under Section 1, paragraph a; and

WHEREAS, the County and the Provider, according to Minnesota Statutes, Section 256.0112, subd. 6, understand and agree that this contract shall serve as a lead county contract for services purchased from financially responsible agencies of other counties; and

WHEREAS, Houston County, pursuant to MN Statutes, section 373.01, 373.02, 245.465 and 256M.60, wishes to purchase such program services from the Provider; and

WHEREAS, the Provider represents that it is duly qualified and willing to perform such services;

NOW, THEREFORE, in consideration of the mutual understanding and agreements set forth, Houston County and Provider agree as follows:

1. Purchase of Service:

- a. Pursuant to MN Statutes 256M (Vulnerable Children and Adults Act) and as further detailed in Attachment A to this Agreement, Houston County agrees to purchase, and the Provider agrees to furnish the following services:

BRASS CODES

SERVICE DESCRIPTION

4370/5380

Community Based Supported Employment

4370/5380

Center Based Supported Employment

4160/5160

Transportation

- b. Purchased Services will be provided at Provider's office and/or at locations as approved by the County.

2. Cost and Delivery of Purchased Services:

- a. The total amount to be paid for such Purchased Services shall not exceed amount listed in Attachment A. The unit cost for providing the services to reimbursement eligible clients is found in **Attachment A**. Reimbursement shall be made on the basis of 100% of the full cost of service to eligible clients.

- b. The Provider certifies that the services to be provided under this Agreement are not otherwise available without cost to eligible clients. The Provider further certifies that payment claims for Purchased Services will be in accordance with rates of payment which do not exceed amounts reasonable and necessary to assure quality of service. The Provider further certifies that rates of payment for Purchased Services do not reflect any administrative or program cost assignable to private pay or third-party pay service recipients.
 - c. The Provider shall, when applicable, make every effort to collect fees from clients deemed able to pay (partial or full) and further will submit claims for all types of eligible insurance reimbursements (M.A., Private, Group, etc.). It is understood and agreed that, for fee eligible recipients, fees shall be charged and collected in accordance with fee policy and schedules adopted by the Houston County Board of Commissioners and approved by the Commissioner of Human Services in accordance with the provisions of Minnesota Statutes 256M.60 Subd.6.
 - d. The Provider shall not charge any program or service fee to social service eligible clients except in accordance with paragraph c above. If the collection of social service fees is delegated to the Provider, the Provider shall provide Human Services Department with information about fees collected and the fee source.
3. Eligibility for Services:
- a. Preliminary eligibility for clients will be determined either:
 - 1) By the County, or
 - 2) By the Provider. When the Provider has been delegated to make the preliminary determination of the client's eligibility for Purchased Services, the Provider shall complete and send to Houston County, Human Services Department, within five (5) working days of the date of application, an Application for Purchased Services.
 - b. Final eligibility will be determined by Houston County. Houston County will, within five (5) calendar days of receipt of the application for Purchase Services, certify in writing to the Provider the client's final eligibility for Purchased Services, and prescribe the amount, disposition, and method of collection of any fees for said Purchased Services.
 - c. When Houston County has determined that a client is no longer eligible for Purchased Services, Houston County shall, within ten (10) days of that determination, notify Provider of such determination.
 - d. The Provider must notify the County and the client in writing whenever the Provider proposes to discharge or terminate service(s) to a client. The notice must be sent at least sixty (60) days prior to the proposed date of discharge or termination and must include the specific grounds for discharge or termination of service(s). The Provider

must not discharge or terminate services to a client prior to the proposed date unless delay would seriously endanger the health, safety, or well-being of other residents or service recipients.

- e. If the County has sufficient reason to believe that the safety or well-being of a person receiving services may be endangered by the actions of the Provider, its agents and/or employees, the County may require that the Provider immediately terminate providing services to the person. No payments shall be made for the period in which services are suspended or terminated.
- f. The Provider shall, within thirty (30) days, notify the Human Service Department, whenever it is unable to, or going to be unable to provide the required quality or quantity of Purchased Services. Upon such notification, Houston County and Provider shall determine whether such inability will require a modification or cancellation of the contract.
- g. The Provider must establish written procedures for discharging a client or terminating services to a client. The written procedures must include preparation of a summary of findings, processes, and plans to be transmitted with the client.

4. Delivery of Care Services: (If Applicable)

Except as noted the Provider retains control over:

- a. Intake procedures and program requirements.
- b. The methods, times, means and personnel for providing Purchased Services to eligible clients.
- c. When to end Purchased Services to an eligible client. Exception: when the client has a service plan which is monitored by a County case manager.
- d. Nothing in the agreement requires the Provider to serve eligible clients, but all clients must be given the right to apply. If services are denied, the client must be informed of the reason for denial and the process for appealing the denial.

5. Service Plan (If Applicable)

- a. The parties understand and agree that all services provided to eligible recipients under the terms of this Agreement must be in accordance with the service plan developed for the individual client in collaboration with the client's case manager.
- b. Performance of the Provider will be monitored in accordance with client outcomes, goals, and indicators as specified in the service plan.
- c. The County may delegate the development of service plans to the Provider. If the responsibility is being delegated, the Provider must ensure development of the service plans.

6. Payment for Purchased Services:

a. Certification of Expenditures:

The Provider shall, within five (5) working days, following the receipt of the billing register, submit a standard invoice for Purchased Services to Houston County. The invoice shall show: (1) total program and administrative expenditures for the month; and/or (2) an itemized amount by eligible individuals served, identifying the service(s) provided, number of units provided, cost per unit, and administrative costs allocated to the provision of Purchased Services.

b. Payment for Purchased Services:

Houston County shall, within thirty-five (35) days of the receipt of the invoice, make payment for all units of service billed for eligible clients that are correct and complete. It is understood and agreed that total payment under this contract shall not exceed the amount specified in Section 2(a) above.

7. Standards and Licenses:

a. The Provider agrees to comply with all federal, state, county and local laws, regulations, ordinances, rules and certifications as pertaining to the facilities, programs and staff for which the Provider in the performance of its obligations under the Agreement is responsible during the term of this Agreement. This will include, but not be limited to, current health, fire marshal, and program licenses, meeting zoning standards, certification of staff when required, insurance coverage, background check requirements, and all other applicable laws, regulations, ordinances, rules and certifications which are effective, or will become effective, during the period of this Agreement. Further, the Provider agrees to the following:

- 1) During the term of this Agreement, the Provider agrees to comply with all applicable state licensing standards, all applicable accrediting standards, and any other standards or criteria, including insurance coverage, established by the County to assure quality service.
- 2) Failure to meet such standards may be cause for cancellation of this Agreement. Notwithstanding any other provision of this Agreement, such cancellation may be effective as of the date of such failure.

b. Provider agrees to maintain a process where all employees and volunteers will receive Fraud, Waste and Abuse training upon starting work with Provider and on an annual basis as outlined in 42 Code of Federal Regulations (CFR) Section 422.503(b)(4)(vi)(C) and 42 CFR Section 423.504(b)(4)(vi)(C). Provider shall submit documentation of completed training upon request by the County.

c. The Provider shall supply copies of such licenses, certifications or registrations to the County upon request by the County.

d. The Provider agrees to inform the County, in writing, of the following related to it or its employees immediately upon:

- 1) Any changes in licensure status and/or any reported warning to suspend or

revoke licensure status.

- 2) Any allegations and/or investigation by a governmental agency of fraud or criminal wrongdoing
- 3) Any federal exclusion of an individual or entity of this Agreement, or any conviction that could result in federal exclusion.

- e. In the event that licensure or certification of any employee of the Provider requiring licensure, certifications, or registrations is suspended, revoked, or terminated, or expires, said employee shall cease the provision of services under this Agreement immediately.
- f. Provider shall ensure that all services delivered by staff are within their scope of licensure and practice. Provider shall ensure that all personnel, including any subcontractors performing services under this Agreement, receive appropriate training and supervision. Provider shall also maintain appropriate levels of staffing at all times when performing services under this Agreement.
- g. This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota. All proceedings related to this Agreement shall venue in the State of Minnesota.

8. Audit and Record Disclosures:

- a. The Provider agrees to maintain, and upon request, furnish the County with all program and financial information including evaluation and performance criteria and reports which are reasonably required for effective administration and evaluation of services. The Provider shall maintain a bookkeeping system which sufficiently and properly documents all revenue received from the County and all direct and indirect costs incurred in the performance of this Agreement.
- b. The Provider agrees to maintain all records pertaining to this Agreement at ABC, 1911 13th Street NW, Rochester, MN 55903, for ten (10) years for audit purposes. All books, documents and accounting procedures and practices of the Provider that are relevant to this Agreement are subject to examination by the County, MNDHS, applicable health plans the US Dept. of Human Services, and either the Legislative Auditor or State Auditor, as appropriate, for a minimum of ten (10) years. The Provider shall promptly notify the County in accordance with Section 9 of any changes in the location where its records related to this Agreement are stored or maintained. The ten (10) year record retention requirement shall survive the termination of this Agreement.
- c. Provider shall provide the County with reports as the County may from time to time reasonably require, including, but not limited to the following:
 - ☒ A written Program and Statistical Report, including a list of clients and projected costs for the year in a form approved or provided by the Lead County within thirty (30) days after the end of each quarter.

- ☒ ☒ Quarterly ☐ Monthly line item expense and revenue reports within thirty (30) days after the end of each quarter/month unless otherwise indicated in writing by the County.
- ☒ ☒ Revenue and Expense Statement and Balance Sheet on an annual basis
- ☒ Annual certified audit and the audit's management letter within one hundred twenty (120) days of the end of any of Provider's fiscal year(s) which covers all or a portion of the Agreement term.
- ☒ Provider shall comply with the audit standards as set forth in the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156 and Office of Management Budget Circular No. A-128, A-110, or A-133, as applicable.
- ☒ As requested by the County, Provider shall cooperate with County's efforts related to the development of outcomes measures and indicators or other evaluation or Quality Improvement (QI) initiatives.
- ☐ (Other) _____

- d. The Provider shall request client consent for the release of information to be used for billing and individual record audit purposes. The Provider shall document the request in the client's record. If the Provider is unable to obtain consent for the release of private data, the Provider shall report client's activities to the County by way of non-identifying case numbers which must remain constant over the term of the Agreement.
- e. Upon request by the County, Provider shall provide the County with such information regarding the qualifications of its staff, including professionals, volunteers, and others, as is required by the County to verify that present and subsequent services are being rendered by competent, trained, and properly licensed or certified personnel.
- f. Provider shall notify the County within five (5) days of any changes in location, ownership, organizational structure, board of director membership, chief operating officers, or other key staff identified by the County to be integral to the performance of this Agreement.
- g. The County reserves the right to withhold payments under this Agreement pending the timely receipt of any information required in this Section 8.
- h. The County's procedures for monitoring and evaluating the Provider's performance under this contract may include, but are not limited to, on-site visits to the Provider's premise(s) or job site(s), review of client files, review of Provider's financial, statistical, and program records, a review of reports and data supplied by the Provider at the County's request. In order to assist the County in its obligation to evaluate and monitor Provider's performance, Provider shall allow authorized personnel of the County access to the Provider's premises or the job site and

records.

- i. Where applicable, the Provider shall comply with all policies of the Minnesota Department of Human Services regarding social services recording and monitoring procedures, and maintenance of health service records for services rendered to persons receiving services under this Agreement.
- j. If the County discovers any practice, procedure, or policy of the Provider which deviates from the requirements of this Agreement, violates federal or state law, threatens the success of the program conducted pursuant to this Agreement, jeopardizes the fiscal integrity of such program, or compromises the health or safety of recipients of the service, the County may require corrective action, withhold payment in whole or in part, suspend referrals, or terminate this Agreement immediately. If the County notifies Provider that corrective action is required, Provider shall promptly initiate and correct any and all discrepancies, violations or deficiencies to the satisfaction of the County within thirty (30) days, unless the County notifies the Provider that it is necessary to make corrections at an earlier date in order to protect the health and safety of recipients of service.

9. Notices

All notices, certificates or other communications shall be sufficiently given when delivered via email or postal mail to the parties at their respective places of business as set forth below:

- a. The County: John Pogleasa
Houston County Human Services Director
304 South Marshall Street
Caledonia, MN 55921
john.pogleasa@co.Houston.mn.us
- b. The Provider: Wayne Stenberg
ABC Executive Director
1911 14th Street NW, PO Box 6938
Rochester, MN 55903
Wayne.stenberg@abcinc.org

10. Reports of Death, Injury, Damage, or Abuse

- a. If death, serious personal injury, or substantial property damage occur in connection with the performance of this Agreement, the Provider shall immediately give notice in accordance with Section 9. In addition, Provider shall promptly submit to County, a written report including: (1) the name and address of the injured/deceased person; (2) the time and location of the incident; (3) the names and addresses of the Provider's employees or agents who were involved with the incident; (4) the names of County employees, if any, involved in the incident; and (5) a detailed description of the incident.

- b. Providers who provide services to persons under the age of 18 must comply with the Maltreatment of Minors reporting requirements as defined in Minnesota Statutes, section 626.556.
- c. All persons 18 years and older under this current contract categorically fall under the definition of Vulnerable Adults as defined in Minnesota Statutes, section 626.5572. Providers must follow all reporting requirements as defined in Minnesota Statutes, section 626.557.

11. Safeguard of Client Information:

- a. The County and the Provider must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the County under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Provider under this Agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either the Provider or the County.
- b. The use or disclosure by any party of information concerning an eligible client in violation of any rule of confidentiality provided for in Minnesota Statutes, Chapter 13, or for any purpose not directly connected with the administration of Houston County's or Provider's responsibility with respect to the Purchased Services hereunder is prohibited except on written consent of such eligible client, the client's attorney or the client's responsible parent or guardian.
- c. The individual employed by the Provider who is designated to assure compliance with the Minnesota Government Data Practices Act, in accordance with Minnesota Statutes, Section 13.46, subdivision 10, paragraph (d) shall be Wayne Stenberg.
- d. The Provider agrees to defend, indemnify, and save and hold the County, its agents, officers, and employees harmless from all claims arising out of, resulting from, or in any manner attributable to any violation or any provision of the Minnesota Government Data Practices Act, including any legal fees or disbursements paid or incurred to enforce the provisions of this article of the Agreement.
- e. To the extent that Provider performs a function or activity involving the use of "protected health information" (45 CFR 164.501), **on behalf of** Houston County Human Services Department (GCHHS), including, but not limited to: providing health care services; health care claims processing or administration; data analysis, processing or administration; utilization review; quality assurance; billing; benefit management; practice management; re- pricing; or otherwise as provided by 45 CFR § 160.103, provider/contractor is a business associate of GCHHS for purposes of the Health Insurance Portability and Accountability Act of 1996. Provider agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. Part 160-

164), (collectively referred to as "HIPAA"), and has executed an addendum to this Agreement for purposes of compliance with HIPAA, which addendum is incorporated herein by this reference.

12. Equal Employment Opportunity and Civil Rights and Nondiscrimination:

- a. The Provider agrees to comply with the Civil Rights Act of 1964 and 1991 as amended; Title VII, 42 U.S.C. 2000e et seq as amended, including Executive Order No. 13672; Title VI, 42 U.S.C. 2000d et seq as amended; Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, et seq. and 28 C.F.R. § 35.101-35.190 as amended; Title IX of the Education Amendments of 1972 as amended; and Sections 503 and 504 of the Rehabilitation Act of 1973 as amended and all other Federal regulations which prohibit discrimination in any program receiving federal financial assistance and the Minnesota Human Rights Act, Minnesota Statutes, 363A.01 et seq.
- b. It is Houston County's policy that all providers desiring to do business with the County adhere to the principles of Equal Employment Opportunity and Affirmative Action. This requires not only that providers do not unlawfully discriminate in any condition of employment on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation or age but that they also take affirmative action to insure positive progress in Equal Opportunity Employment. To the extent applicable, the Provider certifies that it has received a certificate of compliance from the Commissioner of Human Rights pursuant to Minnesota Statutes, section 363A.36. This section only applies if the Agreement is for more than \$100,000.00 and the Provider has employed 40 or more employees within the State of Minnesota on a single working day during the previous 12 months.

13. Conflict of Interest:

Provider agrees that it will neither contract for nor accept employment for the performance of any work or services with any individual, business, partnership, corporation, government, governmental unit, or any other organization that would create a conflict of interest in the performance of its obligations under this Agreement.

14. Contract Disputes:

- a. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement shall be subject to negotiation and agreement by a Human Services Program Manager and a Region 10 Contract Manager. A written copy of the determination will be provided to the Provider and will be deemed final copy and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Provider furnishes to the Human Services Department a written appeal. The decision of Houston County for the determination of such appeals, shall be through the Director of Houston County Human Services and shall be final and conclusive unless determined by a court of competent jurisdiction to have been

fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith or not supported by substantial evidence. In conjunction with any appeal proceeding under this clause, the Provider shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Provider shall proceed diligently with the performance of the Agreement.

b. This disputes clause does not preclude consideration of questions of law.

15. Fair Hearing and Grievance Procedures:

The Provider agrees to provide for a fair hearing and grievance procedure in conformance with and in conjunction with the Fair Hearing and Grievance Procedures established by administrative rules of the State Department of Human Services and Minnesota Statutes, Section 256.045, which are incorporated by reference into this Agreement.

16. Indemnification:

a. The Provider does hereby agree that it will defend, indemnify, and hold harmless, the Department and the County against any and all liability, loss, damages, costs and expenses which the Department or County may hereafter sustain, incur, or be required to pay:

- 1) By reason of any applicant or eligible recipient suffering bodily or personal injury, death, or property loss or damage either while participating in or receiving the care and services to be furnished under this Agreement, or while on premises owned, leased, or operated by the Provider, or while being transported to or from said premises in any vehicle owned, operated, leased, chartered, or otherwise contracted for by the Provider or any officer, agent, or employee thereof; or
- 2) By reason of any applicant or eligible recipient causing injury to, or damage to, the property of another person, during any time when the Provider or any officer, agent, or employee thereof has undertaken or is furnishing the care and services called for under this Agreement; or
- 3) By reason of any negligent act or omission or intentional act of the Provider, its agents, officers, or employees which causes bodily injury, death, personal injury, property loss, or damage to another during the performance of purchased services under this Agreement.

b. This indemnity provision shall survive the termination or expiration of this Agreement. The County does not intend to waive any immunity it may have by statute or common law.

17. Insurance and Bonding:

a. In order to protect itself and the County under the indemnity provisions set forth above, Provider shall, at the Provider's expense, procure and maintain the following insurance coverage at all times during the term of the Agreement:

- ☒ A general liability insurance policy in the amount of \$1,500,000 for bodily injury or property damage to any one person and for total injuries or damages arising from any one incident. The County must be named an additional insured and shall be sent a certificate of insurance on an annual basis.
- ☒ Worker's compensation insurance per Minnesota Statute, section 176.181.
- ☒ Professional liability insurance policy for licensed professionals with a minimum aggregate amount of \$1,000,000.
- ☒ Fidelity Bond or insurance coverage for theft/dishonesty that covers theft of a client's funds or belongings with a minimum amount of \$15,000; when the provider and/or provider employees handle clients' funds or have direct access to clients' belongings.

- b. By signing this Agreement, the Provider certifies that they are in compliance with this Section.
- c. The Provider at all times is solely responsible to maintain in force the insurance coverage required under this Agreement and shall provide, without demand by County, annual certificates and/or pertinent documentation regarding insurance renewal or termination to a Region 10 Contract Manager. If the certificate is not received by the expiration date, County shall notify Provider and Provider shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim.
- d. A Region 10 Contract Manager reserves the right to request and obtain all insurance information pertinent to this Agreement, directly from the Provider's insurance agent(s).
- e. Failure by the Provider to maintain insurance coverage as set forth in this Section 17 is a default of this Agreement, which entitles the County, at its sole discretion, to terminate this Agreement immediately.

18. Contractor Debarment, Suspension, and Responsibility Certification

- a. Federal Regulation 45 CFR 92.35 prohibits Houston County from purchasing goods or services with federal money from vendors who have been suspended or debarred by the federal government. Similarly, Minnesota Statutes, Section 16C.03, subd. 2 provides the Commissioner of Administration with the authority to debar and suspend vendors who seek to contract with the State of Minnesota or Houston County. Vendors may be suspended or debarred when it is determined, through a duly authorized hearing process, that they have abused the public trust in a serious manner. By signing this Agreement, the Provider certifies that they are in compliance with these regulations.
- b. By signing this Agreement, the Provider certifies that it and its principals and employees:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transacting business by or with any federal, state or local governmental County or agency; and
 - 2) Have not within a three (3) year period preceding this Agreement:
 - a) Been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract;
 - b) Violated any federal or state antitrust statutes; or
 - c) Committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
 - 3) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity for:
 - a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction;
 - b) Violating any federal or state antitrust statutes; or
 - c) Committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; and
 - 4) Are not aware of any information and possess no knowledge that any subcontractor(s) that will perform work pursuant to this Agreement are in violation of any of the certifications set forth above.
 - 5) Shall immediately give written notice as per Section 9 of this Agreement should Provider come under investigation for allegations of fraud or a criminal offense in connection with obtaining, or performing: a public (federal, state or local government) transaction; violating any federal or state antitrust statutes; or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- c. "Principals" for the purpose of this certification means officers; directors; owners; partners; and persons having primary management or supervisor responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment and similar positions).
- d. Directions for on-line access to excluded providers:
- 1) To ensure compliance with this regulation, identification of excluded entities and individuals can be found on the Office of Inspector General (OIG) website at <http://oig.hhs.gov/>
 - 2) If you do not have access to the website, and/or need the information in an alternative format, contact: Houston County Human Services Director, at (507) 725-5811.

19. Conditions of the Parties' Obligations:

- a. Before the termination date specified in the first paragraph of this Agreement, Houston County may evaluate the contract performance of the Provider and determine whether such performance merits renewal of this Agreement.

- b. The County will only reimburse for services specified in this Agreement. Amendments to the contract must be signed by both parties and prepared according to Section 22 of this Agreement.
- c. No claim for services furnished by the Provider not specifically provided in the agreement will be allowed by the County, nor must the Provider do any work or furnish any material not covered by the agreement, unless this is approved in writing by the County. Such approval must be considered a modification of the agreement.
- d. If there is a revision of Federal regulations which might make this Agreement ineligible for Federal financial participation, all parties will review this Agreement and renegotiate those items necessary to bring the Agreement into compliance with the new Federal regulations.
- e. If there should be any change in mode of delivery of service, type of client being served or change in policy regarding services being purchased, the Human Services Department must be notified, in writing, prior to action taking place.
- f. In accordance with Minnesota Statutes, Section 245.466, subdivision 3 (1), the Commissioner of the Minnesota Department of Human Services is a third party beneficiary to this contract. The Provider specifically acknowledges and agrees that the MN Department of Human Services has standing to and may take any appropriate administrative action or may sue the Provider for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance, of all or any part of the agreement between the County and the Provider. The Provider specifically acknowledges that the County and the MN Department of Human Services are entitled to and may recover from the Provider reasonable attorney's fees and costs and disbursements associated with any action taken under this section that is successfully maintained. This provision shall not be construed to limit the rights of any party to the agreement or any other third- party beneficiary, nor shall it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity.

20. Independent Contractor:

- a. Provider is to be and shall remain an independent contractor with respect to any and all work and/or services performed under this Agreement. It is agreed that nothing herein contained in this Agreement is intended or should be construed in any manner as creating the relationship of co-partners, joint ventures, or an association with the County and the Provider, nor shall the Provider, its employees, agents, and representatives be considered employees, agents, and representatives of the County.
- b. The Provider represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of the Provider or other persons, while engaged in the performance of any work or services

required by the Provider under this Agreement, shall have no contractual relationship with the County and shall not be considered employees of the County, and any and all claims that may or might arise under the Unemployment Compensation Act or the Workers' Compensation Act of the State of Minnesota on behalf of said personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Provider, its officers, agents, contractors, or employees shall in no way be the responsibility of the County. The Provider and its personnel shall neither require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from the County, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability, severance pay and PERA.

- c. Provider shall defend, indemnify, and hold the County, its officers, agents, and employees harmless from any and all such claims irrespective of any determination of any pertinent tribunal, agency, board, commission, or court. Such personnel or other persons shall neither require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from the County, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Insurance, disability, severance pay and PERA

21. Subcontracting and Assignment:

The Provider shall neither enter into subcontracts for performance of this Agreement nor assign this Agreement without prior written approval of the County and then only subject to such conditions that the County may deem necessary.

22. Modification of Agreement:

Any material alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed, and attached to the original of this agreement.

23. Default:

- a. Force Majeure: Neither party shall be liable to the other party for any loss or damage resulting from a delay or failure to perform due to unforeseeable acts or events outside the defaulting party's reasonable control, providing the defaulting party gives notice to the other party as soon as possible. Acts and events may include fire, flood, epidemic, strikes, acts of God, unusually severe weather, acts of civil or military authority, acts of terrorism, delays or defaults caused by public carriers, or natural disasters which cannot reasonably be forecast or provided against.
- b. Inability to Perform: Provider shall make every reasonable effort to maintain staff, facilities, and equipment to deliver the services to be purchased by the County. The Provider shall immediately notify the County, according to Section 9, whenever it is unable to, or reasonably believes it is going to be unable to provide the agreed upon quality or quantity of Purchased Services. Upon such notification, Houston County and Provider shall determine whether such inability will require a suspension of

referrals and/or modification/cancellation of the Agreement.

- c. Changes in Policies or Staff: The County reserves the right to suspend or terminate this contract on ten (10) days written notice if the County, in its sole discretion, does not approve of significant proposed or actual changes in Provider's policies or staff.
 - d. Default by Provider: Unless cured or excused by the Force Majeure provision in Section 23(a) or County default, each of the following shall constitute default on the part of the Provider:
 - 1) Fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
 - 2) Provider is in such financial condition so as to endanger the performance of this Agreement;
 - 3) Makes material misrepresentations either in the attached exhibits and documents or in any other material provision or condition relied upon in the making of this Agreement;
 - 4) Persistently disregards laws, ordinances, rules, regulations or orders of any public authority, including the County;
 - 5) Failing to perform any other material provision of this Agreement.
 - e. Default by County Unless cured or excused by the Force Majeure provision in Section 23(a) or Provider default, each of the following shall constitute default on the part of the County:
 - 1) Making material misrepresentations either in the Agreement or Attachments or in any other material provision or condition relied upon in the making of this Agreement
 - 2) Failing to perform any other material provision of this Agreement.
 - f. Written Notice of Default: Unless a different procedure and/or effective date is provided within the specific article or paragraph of this Agreement under which default, failure or breach occurs, no event shall constitute a default giving rise to the right to terminate unless and until a written Notice of Default is provided to the defaulting party, via certified mail, specifying the particular event, series of events or failure constituting the default and cure period.
 - g. Cure Period: if the party in default fails to cure the specified circumstances as described by the Notice of Default within ten (10) days, or such additional time as may be authorized by the County, then the whole or any part of this Agreement may be terminated by Written Notice of Termination.
24. Termination:
- a. Termination without Cause: Either party may terminate this Agreement at any time without cause by providing thirty (30) days advance written notice to the other party via certified mail. The notice shall state the effective date of the termination. Written notice of terminate by the Provider shall be addressed to Houston County, Human

Services Department, 304 South Marshall Street, Room 104, Caledonia, MN 55921.

- b. Termination with Cause: The County may suspend and/or terminate this Agreement for good cause immediately upon written notice to the Provider. "Good cause" includes, but is not limited to, failure of the Provider to perform a material requirement of the Agreement. "Good cause" shall also include Provider's failure to implement corrective action in a timely fashion pursuant to Section 23(g) of this Agreement.
- c. Reduction and/or Termination of Government Funding: Notwithstanding any other provision of this Agreement, if the state or federal government terminates or reduces its funding to the County for services that are to be provided under this Agreement, then the County may, by amendment, reduce funding or terminate the Agreement as appropriate. The County will notify the Provider as soon as it receives confirmation of reduction from the funding source(s). Furthermore, the County shall not be assessed any penalty or damages if the Agreement is terminated due to lack of funding.
- d. Written Notice of Termination: Notice of Termination shall be made by certified mail or personal delivery to the authorized agent of the party. Notice is deemed effective upon deposit of written notice in the United States Mail and addressed to the party authorized to receive notice as specified in Section 9.
- e. Duties of Provider upon Termination: Upon delivery of the Notice of Termination, and where applicable, Provider shall:
 - 1) Discontinue performance of this Agreement on the date and to the extent specified in the Notice of Termination;
 - 2) Immediately notify all clients of the Notice of Termination who are receiving services pursuant to this Agreement;
 - 3) Cancel all service agreements and subcontracts to the extent that they relate to the performances cancelled by the Notice of Termination;
 - 4) Complete performance of such terms that have not been cancelled by the Notice of Termination;
 - 5) Submit a final invoice for services provided prior to termination, within thirty (30) days of the date of termination.
- f. Duties of County upon Termination: Upon delivery of the Notice of Termination, and except as otherwise provided, County:
 - 1) Shall make final payment within thirty (30) days for any services satisfactorily provided up through the date of termination in accordance with the terms of the Agreement.
 - 2) Shall not be liable for any services provided after Notice of Termination, except as stated above or as authorized by the County in writing.
- g. Survival of Obligations after Termination: Upon Termination of this Agreement, County will no longer refer clients to the Provider under this Agreement, and the

rights and duties of the parties shall be terminated, except that the following obligations shall survive termination:

- 1) Provider shall, pursuant to the Notice of Termination and/or upon written approval of the Human Services Director, continue services/care to clients receiving services/care from Provider until completion of services/care or continuation of services/care by another provider can be arranged by the County.
- 2) County shall arrange for such transfer of services/care no later than thirty (30) days after Agreement termination if the clients' care is not by then completed.
- 3) County, any payer, and Provider will continue to remain obligated under this Agreement with regard to payment for services rendered prior to termination or required to be rendered after termination as provided above.
- 4) Provider will continue to remain obligated with respect to the confidentiality, auditing, client file maintenance, other requirement outlined in this Agreement, and transfer of the client's files to the County or the client's new provider of services.

25. Contract Rights, Remedies, and Waiver:

- a. The rights and remedies of the County provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- b. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement unless stated to be such in writing, signed by an authorized representative of the County, and attached to the original Agreement.

26. Damages:

- a. Duty to Mitigate: Both parties shall use their best efforts to mitigate any damages which might be suffered by reason of any event giving rise to a remedy hereunder.
- b. Damages for Breach: Notwithstanding any other provision of this Agreement to the contrary, upon breach of this Agreement by the Provider, the County may withhold final payment due to Provider until such time as the exact amount of damages due is determined.

27. Merger:

- a. Entire Agreement: It is understood and agreed that the entire agreement of the parties is contained in Sections 1-27, Attachment A and Exhibits A - F. This Agreement supersedes all oral agreements and negotiations relating to this contract including any previous agreements pertinent to the services described in this contract. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

IN WITNESS WHEREOF, Houston County and the Provider have executed this Agreement as of the day and year first written above.

Provider, having signed this contract, and the Houston County Board of Commissioners having duly approved this contract on _____, and pursuant to such approval and the proper County officials having signed this contract, the parties hereto agree to be bound by the provisions herein set forth.

ABILITY BUILDING COMMUNITY (ABC)

BY: Wayne Stenberg DATED: 7.13.2021
Wayne Stenberg
Director

HOUSTON COUNTY

BY: _____ DATED: _____
Chairperson
Houston County Board of Commissioners

BY: [Signature] DATED: 7/6/2021
Director
Houston County Human Services

APPROVED AS TO FORM AND EXECUTION:

BY: [Signature] DATED: 7-19-21
Houston County Attorney

**Attachment A
2021**

AGENCY NAME: Ability Building Community

CONTRACT TYPE: POS – Employment

INVOICES: Houston County Human Services
Attn: Susan Tostenson
304 S Marshall Street
Caledonia, MN 55921

SERVICE DESCRIPTION	BRASS CODE	FUND	DEPT	# OF UNITS	UNIT RATE	UNIT TYPE	SERVICE TOTAL
Community Based Supported Employment - MH for Houston County clients	4370	11	741	1	\$22.40	day	PER SERVICE AGREEMENT
Community Based Supported Employment - MH for Houston County clients	4370	11	741	1	\$8.00	per 15 min unit	PER SERVICE AGREEMENT
Community Based Supported Employment - County Services for Houston County clients	5380	11	750/760	1	\$8.00	per 15 min unit	PER SERVICE AGREEMENT
Center Based Employment - MH for Houston County clients	4370	11	741	1	\$9.21	partial day	PER SERVICE AGREEMENT
Center Based Employment - County Services for Houston County clients	5380	11	750/760	1	\$9.21	partial day	PER SERVICE AGREEMENT
Center Based Employment - MH for Houston County clients	4370	11	741	1	\$10.35	day	PER SERVICE AGREEMENT
Center Based Employment - County Services for Houston County clients	5380	11	750/760	1	\$10.35	day	PER SERVICE AGREEMENT
Community Based Supported Employment - MH for Houston County clients	4370	11	741	1	\$15.34	day	PER SERVICE AGREEMENT
Community Based Supported Employment - County Services for Houston County clients	5380	11	750/760	1	\$15.34	day	PER SERVICE AGREEMENT
Transportation - MH	4160	11	741	1	1	1	PER SERVICE AGREEMENT
Transportation - County Services	5160	11	750/760	1	1	1	PER SERVICE AGREEMENT

Services may not be provided without prior authorization from a Houston County Case Manager.

¹ Not to exceed amounts indicated on Individual Service Agreements with Houston County Service Total not to exceed \$49,605.00.

HOUSTON COUNTY AGENDA REQUEST FORM

Date Submitted: 07.27.2021

By: Donna Trehus, Auditor/Treasurer

CONSENT AGENDA REQUEST:

Approve Airport Ground Lease Agreements effective 7-1-21 for the period of five years ending 7-1-26.

Attached: Complete Listing of Agreements executed by Lessee and County Auditor. All Agreements have been paid and all criteria has been met as required.

ACTION ITEM:

<u>Reviewed by:</u>	<input type="checkbox"/> HR Director	<input type="checkbox"/> County Sheriff	<input type="text"/>
	<input type="checkbox"/> Finance Director	<input checked="" type="checkbox"/> County Engineer	<input type="text"/>
	<input type="checkbox"/> IS Director	<input type="checkbox"/> PHHS	<input type="text"/>
	<input type="checkbox"/> County Attorney	<input checked="" type="checkbox"/> Other (indicate dept)	<input type="text"/>
	<input type="checkbox"/> Environmental Svcs		<input type="text"/>
<u>Recommendation:</u>			
<u>Decision:</u>			

AIRPORT LEASE AGREEMENTS

Name	Address	City & State	Lot No.
Red Baron Flyers c/o Arnie Beneke	P.O. Box 46	Caledonia, MN 55921	1,2,3,5
Royal Flying Club Inc c/o Glenn Kinneberg	14824 Cty 17	Spring Grove, MN 55974	4
Roger Bender Estate	523 S Winnebago St	Caledonia, MN 55921	6
Blaine Benzing	124 E. Hackney Dr.	Caledonia, MN 55921	6a
Sandra Christopher	101 N Maple St.	Mabel, MN 55954	7
Porteous Olson	14061 Benson Dr.	Houston, MN 55943	8
Greg Wennes	17701 Nine Oaks Dr.	Spring Grove, MN 55974	10
Leonard Myrah	17925 Stage Rd	Spring Grove, MN 55974	11
Arne Beneke	121 W. Main St.	Caledonia, MN 55921	12
Alvin Hein	14147 Cty 28	Mabel, MN 55954	14

LOT 14
Alvin Hein

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Merilee Hein (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 14 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. Term.** The initial term of this Agreement (the "Initial Lease Term") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("Extended Term"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$224.44 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("Rent Adjustment Date"), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessees operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

15. **Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. **Lessor's Reserved Rights.**

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. **Rights of Leasehold Mortgages.**

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgagee" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing, the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. Maintenance. Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.

19. Allowable Storage within Hangar. Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:

- a) Storage of active aircraft.
- b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: Cessna
Model: 172 H
Type: Serial No. 17255829
Year: 1967
N-Number: N 2629L

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Merilee Hein
Owner
14147 County 28
Address, City, State, Zip
Mabel, Mn 55954
Home Phone Number: (507) 493-5642
Cell Phone Number: (507) 259-8372
E-Mail: merileeh2000@yahoo.com

With a copy to:

Name

Address, City, State, Zip

Home Phone Number: _____
Cell Phone Number: _____
E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

- (d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.
- (e) This Agreement is construed in accordance with the laws of the State of Minnesota.
- (f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.
- (g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.
- (h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.
- (i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE

Merilee Wren

FOR THE COUNTY:

State of Minnesota)

) ss.:

County of Houston)

On this ____ day of _____, 20____, before me, a Notary Public within and for said county, personally appeared _____ and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

FOR THE LESSEE:

Merilee Hein

State of Minnesota)

) ss:

County of Houston)

On this 22 day of June, 2021, before me a Notary Public within and for said county, personally appeared Merilee Hein and NA, to me personally known, who being each by me duly sworn, did say that they are respectively the _____ and the _____ of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

Joel Alan Kaase
Notary Public



FOR INDIVIDUALS:

State of Minnesota)

) ss:

County of Houston)

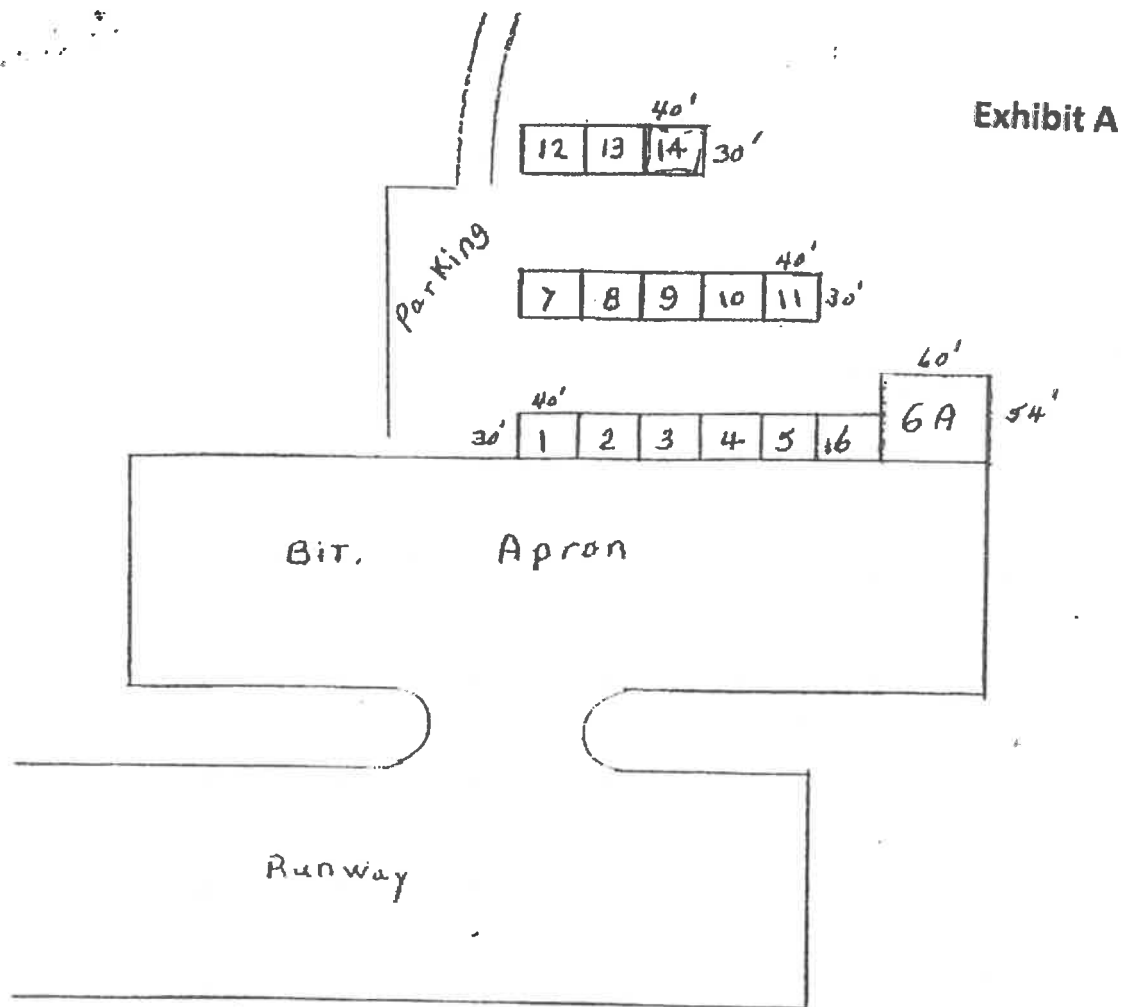
On this _____ day of _____, 20____, before me a Notary Public within and for said county, personally appeared _____ to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft. wide, 30 ft deep

except lot 6A 60 ft x 54 ft



NOT TO SCALE

GROUND LEASE AGREEMENT

LOT 11
Leonard Mgrah

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Hiawatha Flyers (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 11 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

- 1. **Leased Premises.**
 - (a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.
- 2. **Term.** The initial term of this Agreement (the "**Initial Lease Term**") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("Extended Term"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

- (a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$224.44 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.
- (b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.
- (c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("Rent Adjustment Date"), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

- (d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

- (a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

(i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.

(ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days' after receipt of notice from Lessee to remedy same.

(iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.

(iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

(i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.

(ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessees operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

15. **Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. **Lessor's Reserved Rights.**

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. **Rights of Leasehold Mortgages.**

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgagee" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing, the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. **Maintenance.** Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.

19. **Allowable Storage within Hangar.** Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:

- a) Storage of active aircraft.
- b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: Belonca/Citabria
Model: TECA
Type: Airplane single engine land
Year: 1979
N-Number: 5060 N

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Hiawatha Flyans (Hadar Peters)
Owner
21967 Peters Dr, Spring Grove MN 55974
Address, City, State, Zip

Home Phone Number: 507-498-3993

Cell Phone Number: 507-429-9664

E-Mail: mhdeters@springgrove.coop

With a copy to:

Name

Address, City, State, Zip

Home Phone Number: _____

Cell Phone Number: _____

E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

- (d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.
- (e) This Agreement is construed in accordance with the laws of the State of Minnesota.
- (f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.
- (g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.
- (h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.
- (i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE

Howard Detens

[Signature]

Hiawatha Flyers Treasurer

FOR THE COUNTY:

State of Minnesota)

) ss.:

County of Houston)

On this ____ day of _____, 20____, before me, a Notary Public within and for said county, personally appeared _____ and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

FOR THE LESSEE:

State of Minnesota)

) ss:

County of Houston)

On this 11 day of June, 2021, before me a Notary Public within and for said county, personally appeared _____ and _____, to me personally known, who being each by me duly sworn, did say that they are respectively the _____ and the _____ of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

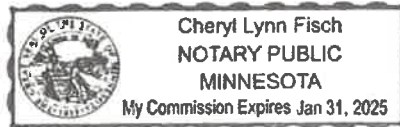
Cheryl Lynn Fisch
Notary Public

FOR INDIVIDUALS:

State of Minnesota)

) ss:

County of Houston)



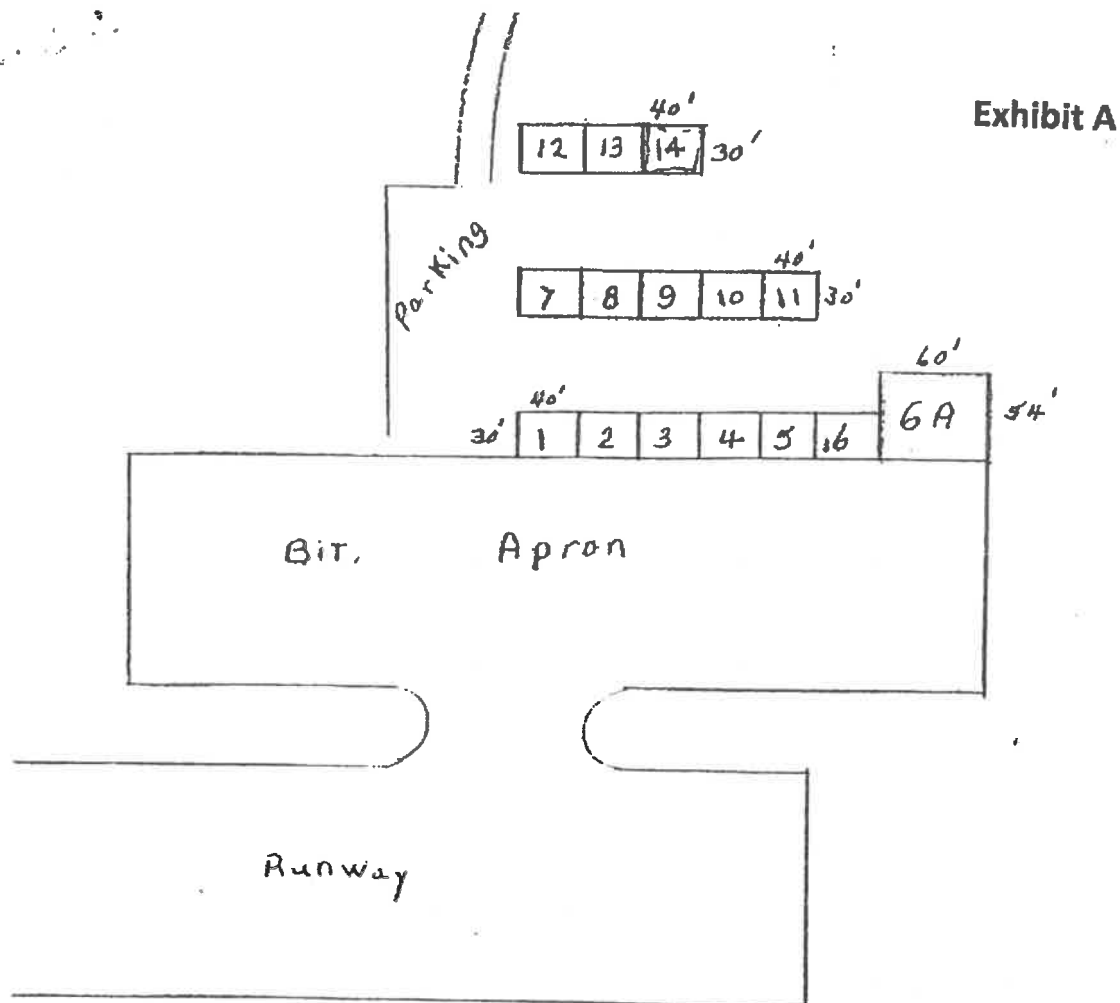
On this 11 day of June, 2021, before me a Notary Public within and for said county, personally appeared Howard Buters to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Cheryl Lynn Fisch
Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft wide, 30 ft deep

except lot 6A 60 ft x 54 ft.

NOT TO SCALE

LOT 10
Greg Wennes

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Greg Wennes (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 10 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. Term.** The initial term of this Agreement (the "Initial Lease Term") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("Extended Term"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

DONNA TREHUS
HOUSTON COUNTY AUDITOR/TREASURER

304 South Marshall Street - Room 116
Caledonia, Minnesota 55921

Ph. (507) 725-5815
FAX (507) 725-2647

May 14, 2021

RE: Ground Lease Agreement - Houston County Airport

Dear Lessee,

Enclosed, you will find your 5 Year Ground Lease Agreement. Please complete all required information (pages 12 & 13), sign on page 17 and have your signature notarized (page 19) before returning the packet to the Houston County Auditor-Treasurers Office by July 1, 2021.

Also enclosed is your annual invoice for the airport hangar rent from 7/1/21 thru 6/30/22. Full payment is due by 7-1-21.

Please ensure your insurance limits and policy expiration dates are compatible with the requirements found within the Lease.

Thank you.



Donna Trehus
Houston County Auditor/Treasurer

Encl.

HOUSTON COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$224.44 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("Rent Adjustment Date")), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessees operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

- 15. Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. Lessor's Reserved Rights.

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. Rights of Leasehold Mortgages.

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgage" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing, the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. **Maintenance.** Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.
19. **Allowable Storage within Hangar.** Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:
- a) Storage of active aircraft.
 - b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: CESNA
Model: 172 SKYHAWK
Type: SINGLE ENGINE
Year: 1964
N-Number: 39105

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Greg Winnie
Owner
17901 Alvin Oaks Dr Spring Grove Mn
Address, City, State, Zip 55974

Home Phone Number: N/A
Cell Phone Number: 563-380-1268
E-Mail: winnie@ael.com

With a copy to:

Name

Address, City, State, Zip
Home Phone Number: _____
Cell Phone Number: _____
E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

- (d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.
- (e) This Agreement is construed in accordance with the laws of the State of Minnesota.
- (f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.
- (g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.
- (h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.
- (i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE



FOR THE COUNTY:

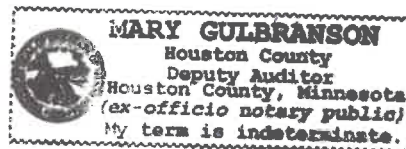
State of Minnesota)

) ss.:

County of Houston)

On this 19th day of May, 2021, before me, a Notary Public within and for said county, personally appeared Greg Wrenner and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

Mary Gulbranson
Notary Public



FOR THE LESSEE:

State of Minnesota)
) ss:
County of Houston)

On this ____ day of _____, 20 __, before me a Notary Public within and for said county, personally appeared _____ and _____, to me personally known, who being each by me duly sworn, did say that they are respectively the _____ and the _____ of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

FOR INDIVIDUALS:

State of Minnesota)
) ss:
County of Houston)

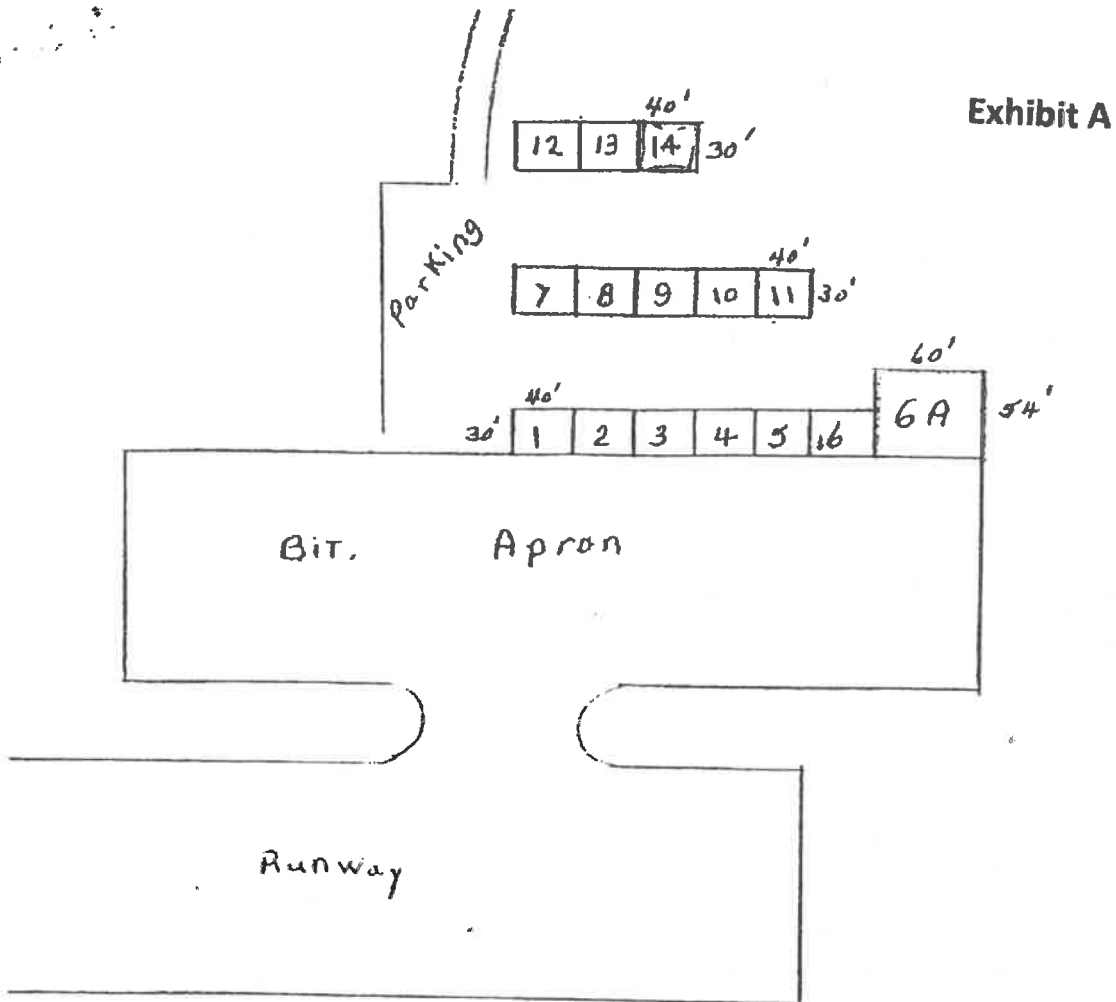
On this ____ day of _____, 20 __, before me a Notary Public within and for said county, personally appeared _____ to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft. wide, 30 ft. deep

except lot 6A 60 ft x 54 ft.



NOT TO SCALE

GROUND LEASE AGREEMENT

LOT 8
Porteous Olson

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Porteous Olson (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 8 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. Term.** The initial term of this Agreement (the "Initial Lease Term") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("Extended Term"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$224.44 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("**Rent Adjustment Date**"), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 V.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 u.s.c. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.c. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessee's operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

- 15. Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. Lessor's Reserved Rights.

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. Rights of Leasehold Mortgages.

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgagee" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. **Maintenance.** Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.

19. **Allowable Storage within Hangar.** Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:

a) Storage of active aircraft.

b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: C E S S A
Model: 172
Type: S I N G L E E N G I N E
Year: 1956
N-Number: N 5900A

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

PORTER OLSON
Owner

1401 BENSON DR.
Address, City, State, Zip

Home Phone Number: 507-896-3519

Cell Phone Number: 507-259-9257

E-Mail: PORTER@ALEGROUP.CO

With a copy to:

Name

Address, City, State, Zip

Home Phone Number: _____

Cell Phone Number: _____

E-Mail: _____

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE

Porter Allen

FOR THE COUNTY:

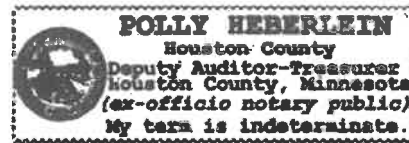
State of Minnesota)

) ss.:

County of Houston)

On this 28th day of June, 2021, before me, a Notary Public within and for said county, personally appeared Porteous Olson and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

Polly Heberlein
Notary Public



FOR THE LESSEE:

State of Minnesota)
) ss:
County of Houston)

On this ____ day of _____, 20 __, before me a Notary Public within and for said county, personally appeared _____ and _____, to me personally known, who being each by me duly sworn, did say that they are respectively the _____ and the _____ of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

FOR INDIVIDUALS:

State of Minnesota)
) ss:
County of Houston)

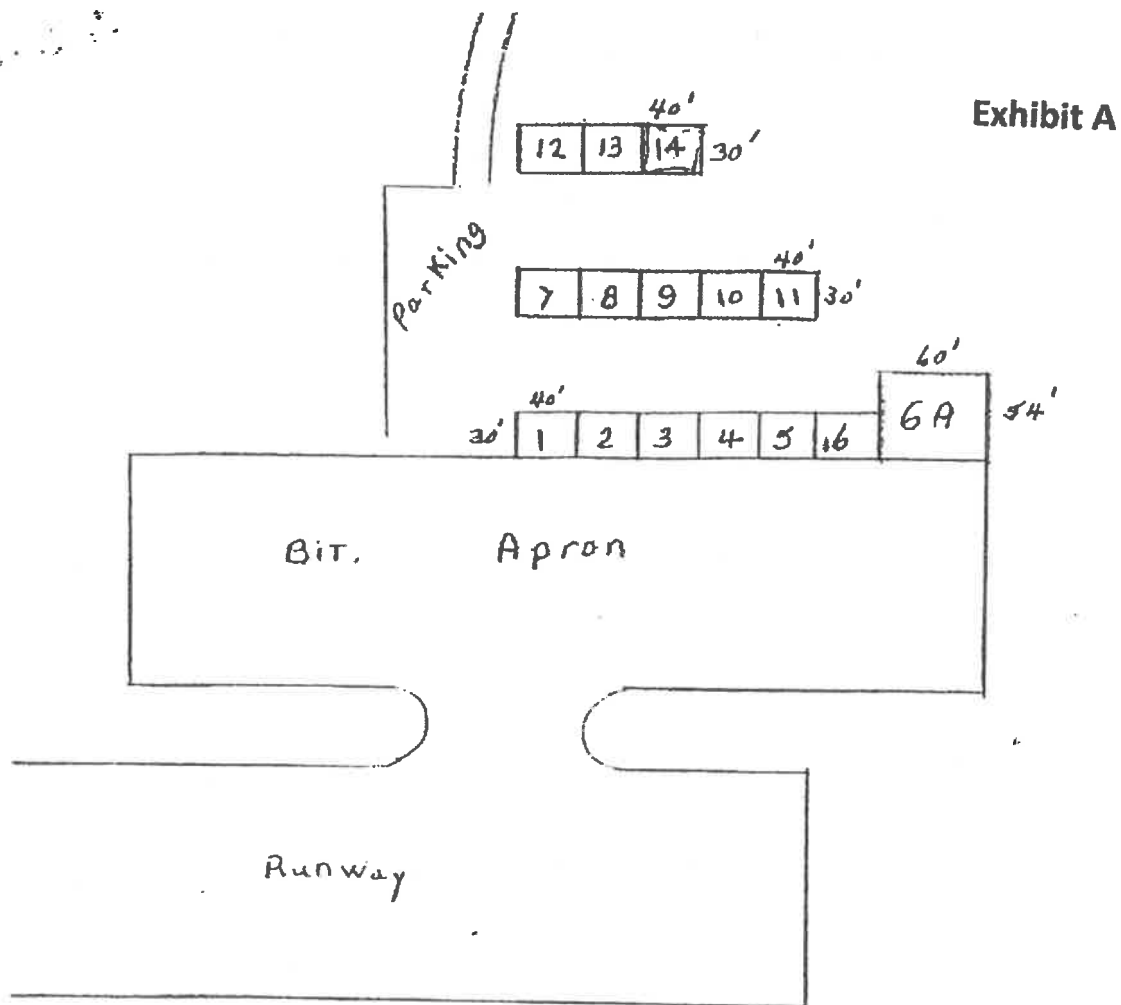
On this ____ day of _____, 20 __, before me a Notary Public within and for said county, personally appeared _____ to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft. wide, 30 ft. deep

except lot 6A 60 ft x 54 ft.



NOT TO SCALE

GROUND LEASE AGREEMENT

LOT 7
Sandra Christopher

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Sandra Christopher (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 7 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. Term.** The initial term of this Agreement (the "**Initial Lease Term**") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("**Extended Term**"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$224.44 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("**Rent Adjustment Date**")), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessee's operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

15. **Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. **Lessor's Reserved Rights.**

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. **Rights of Leasehold Mortgages.**

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgagee" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing, the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. Maintenance. Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.

19. Allowable Storage within Hangar. Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:

- a) Storage of active aircraft.
- b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: Cessna
Model: 172
Type: M
Year: 1973
N-Number: 20178

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Sandra A. Christopher
Owner
101 N. Maple St. Mabel, MN 55954
Address, City, State, Zip

Home Phone Number: 507-493-5251
Cell Phone Number: 507-421-3270
E-Mail: sachrist@mabeltel.coop

With a copy to:

Name

Address, City, State, Zip
Home Phone Number: _____
Cell Phone Number: _____
E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

- (d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.
- (e) This Agreement is construed in accordance with the laws of the State of Minnesota.
- (f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.
- (g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.
- (h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.
- (i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

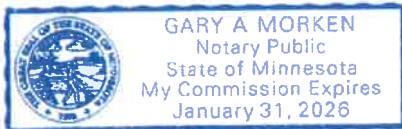
Houston County Auditor-Treasurer

In the presence of:

LESSEE

[Signature]

Sandra Christopher



FOR THE COUNTY:

State of Minnesota)

) ss.:

County of Houston)

On this ____ day of _____, 20____, before me, a Notary Public within and for said county, personally appeared _____ and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

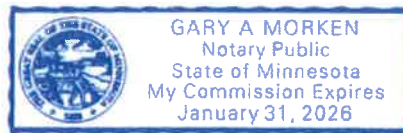
Notary Public

FOR THE LESSEE:

State of Minnesota)
) ss:
County of Houston)

On this 29th day of June, 2021, before me a Notary Public within and for said county, personally appeared Sandra Christopher and _____, to me personally known, who being each by me duly sworn, did say that they are respectively the lessee and the _____ of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said lessee and _____ acknowledged said instrument to be the free act and deed of said corporation.

Gary Morken
Notary Public



FOR INDIVIDUALS:

State of Minnesota)
) ss:
County of Houston)

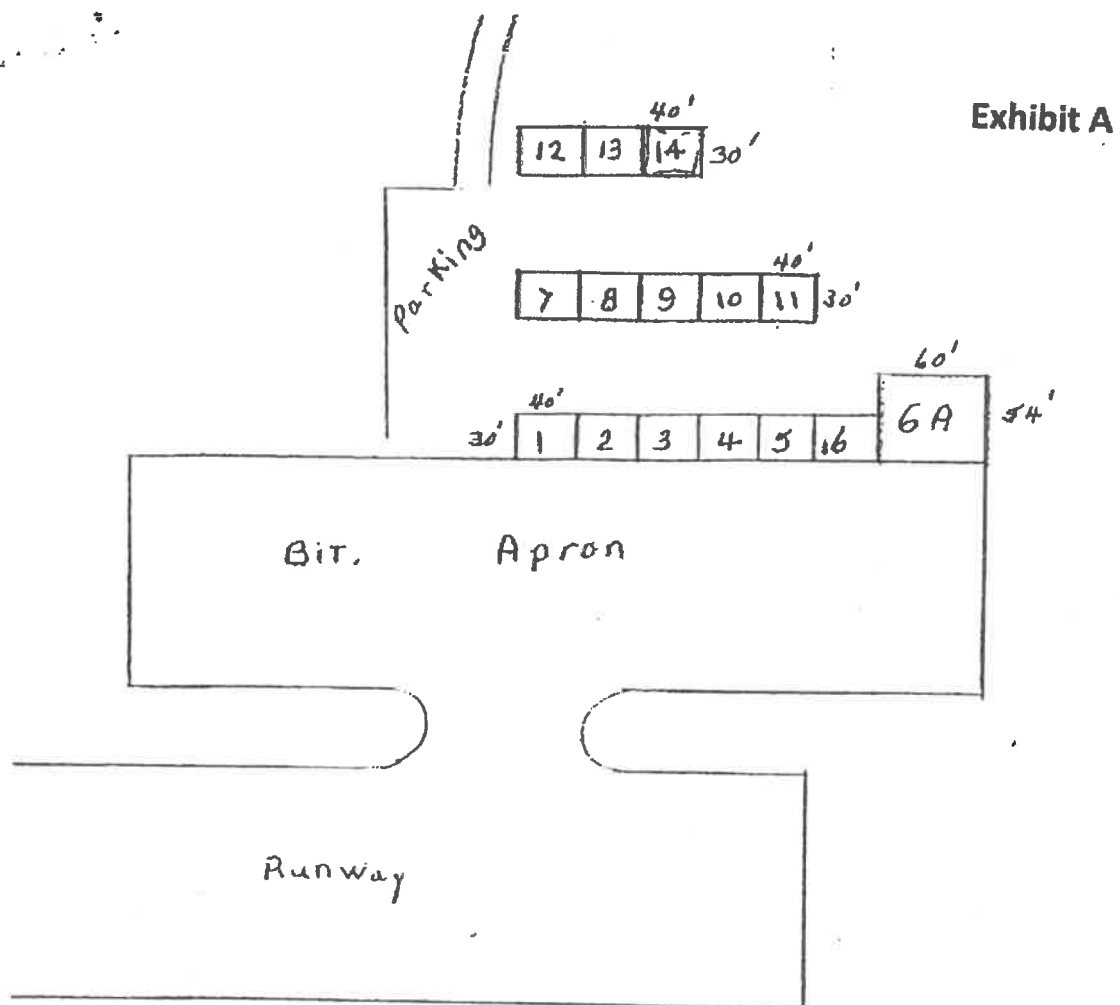
On this _____ day of _____, 20____, before me a Notary Public within and for said county, personally appeared _____ to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft. wide, 30 ft. deep

except lot 6A 60 ft x 54 ft.



NOT TO SCALE

LOT 6A
Blaine Benzling

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Blaine Benzling (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 6A and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. Term.** The initial term of this Agreement (the "**Initial Lease Term**") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("Extended Term"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$876.15 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("Rent Adjustment Date"), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessees operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

- 15. Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. Lessor's Reserved Rights.

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. Rights of Leasehold Mortgages.

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgagee" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. **Maintenance.** Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.
19. **Allowable Storage within Hangar.** Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:
 - a) Storage of active aircraft.
 - b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: Mooney
Model: M20C
Type: Fixed Wing Single-engine
Year: 1965
N-Number: N5852Q

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Blaine Benzing
Owner
124 Harkney Drive Caledonia, MN 55921
Address, City, State, Zip

Home Phone Number: 612-916-4134

Cell Phone Number: 612-916-4134

E-Mail: blbenzing@yahoo.com

With a copy to:

Name

Address, City, State, Zip

Home Phone Number: _____

Cell Phone Number: _____

E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

(d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.

(e) This Agreement is construed in accordance with the laws of the State of Minnesota.

(f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.

(g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.

(h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.

(i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE

Blaine Benzinger

Blaine Benzinger

FOR THE COUNTY:

State of Minnesota)

) ss.:

County of Houston)

On this ____ day of _____, 20 ____, before me, a Notary Public within and for said county, personally appeared _____ and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

FOR THE LESSEE:

State of Minnesota)
) ss:
County of Houston)

On this 17 day of June, 2021, before me a Notary Public within and for said county, personally appeared Blaine Benzling and _____, to me personally known, who being each by me duly sworn, did say that they are respectively the _____ and the _____ of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

Melissa Niccum
Notary Public



FOR INDIVIDUALS:

State of Minnesota)
) ss:
County of Houston)

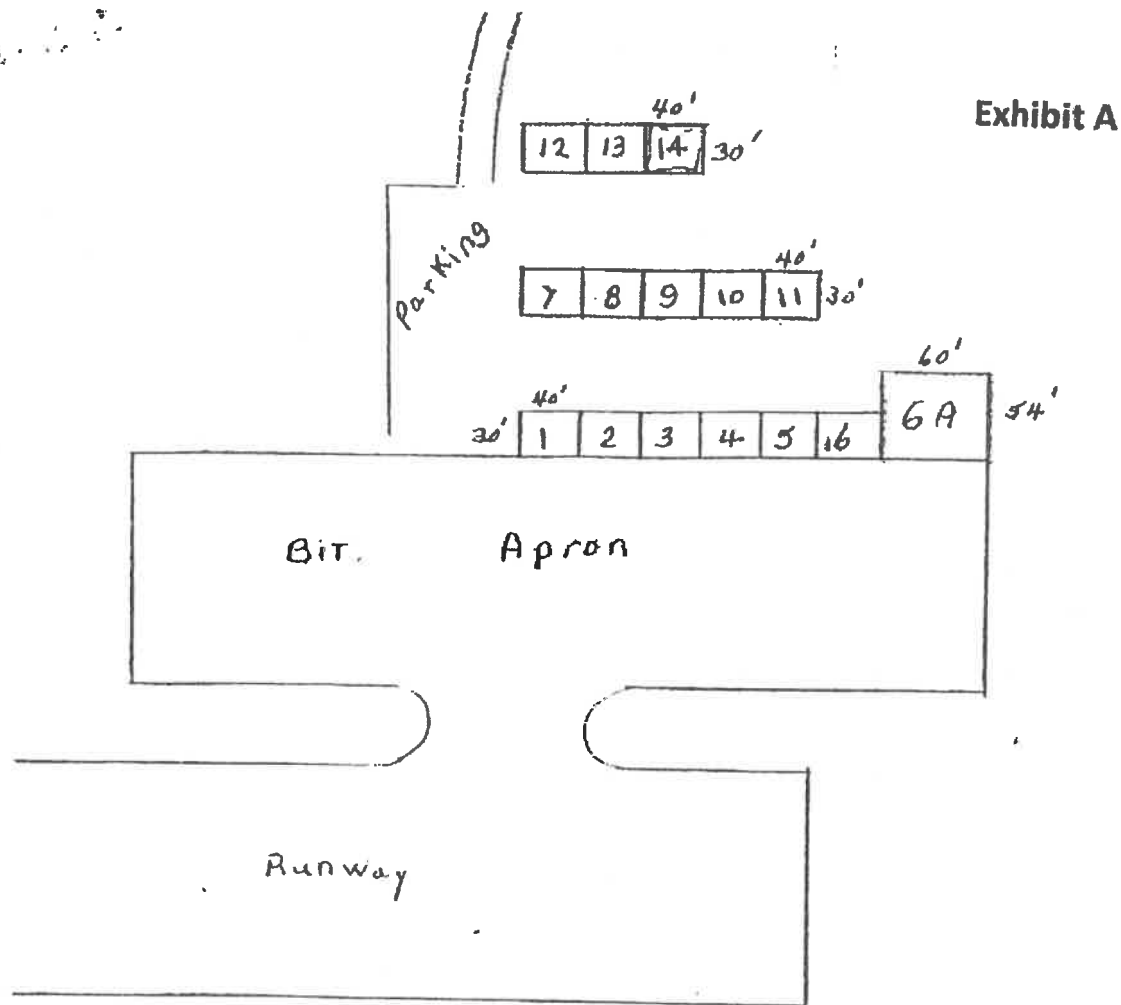
On this _____ day of _____, 20____, before me a Notary Public within and for said county, personally appeared _____ to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft wide, 30 ft deep

except lot 6A 60 ft x 54 ft.



NOT TO SCALE

LOT 6
Roger Bender
Estate

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Roger Bender Estate c/o of Bonnie Heim (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 6 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. Term.** The initial term of this Agreement (the "**Initial Lease Term**") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("**Extended Term**"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$313.69 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("**Rent Adjustment Date**"), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessees operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

- 15. Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. Lessor's Reserved Rights.

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. Rights of Leasehold Mortgages.

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgage" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing, the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. **Maintenance.** Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.

19. **Allowable Storage within Hangar.** Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:

- a) Storage of active aircraft.
- b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: Mooney
Model: M20J 201
Type: Airplane single engine
Year: 1977
N-Number: N201BK

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Roger Bender Estate 40 Bonnie Heim
Owner
503 S. Winnebago St Caledonia, MN
Address, City, State, Zip 55401

Home Phone Number: 507-726-3792
Cell Phone Number: 563-419-5655
E-Mail: Kbheim4@gmail.com

With a copy to:

Name

Address, City, State, Zip

Home Phone Number: _____
Cell Phone Number: _____
E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

- (d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.
- (e) This Agreement is construed in accordance with the laws of the State of Minnesota.
- (f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.
- (g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.
- (h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.
- (i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) **Repairs and Maintenance of the Easement.**

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) **Indemnification.**

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE

Ante' Buel Pers Rep

Bonnie Heim Pers. Rep.

FOR THE COUNTY:

State of Minnesota)

) ss.:

County of Houston)

On this ____ day of _____, 20____, before me, a Notary Public within and for said county, personally appeared _____ and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

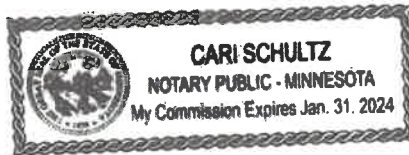
Notary Public

FOR THE LESSEE:

State of Minnesota)
) ss:
County of Houston)

On this 16 day of June, 2021, before me a Notary Public within and for said county, personally appeared Bonnie Heim, Curt's Bender and Estate they are respectively the personal Reps of Estate and the of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said and acknowledged said instrument to be the free act and deed of said corporation: Estate

C. Schultz
Notary Public



FOR INDIVIDUALS:

State of Minnesota)
) ss:
County of Houston)

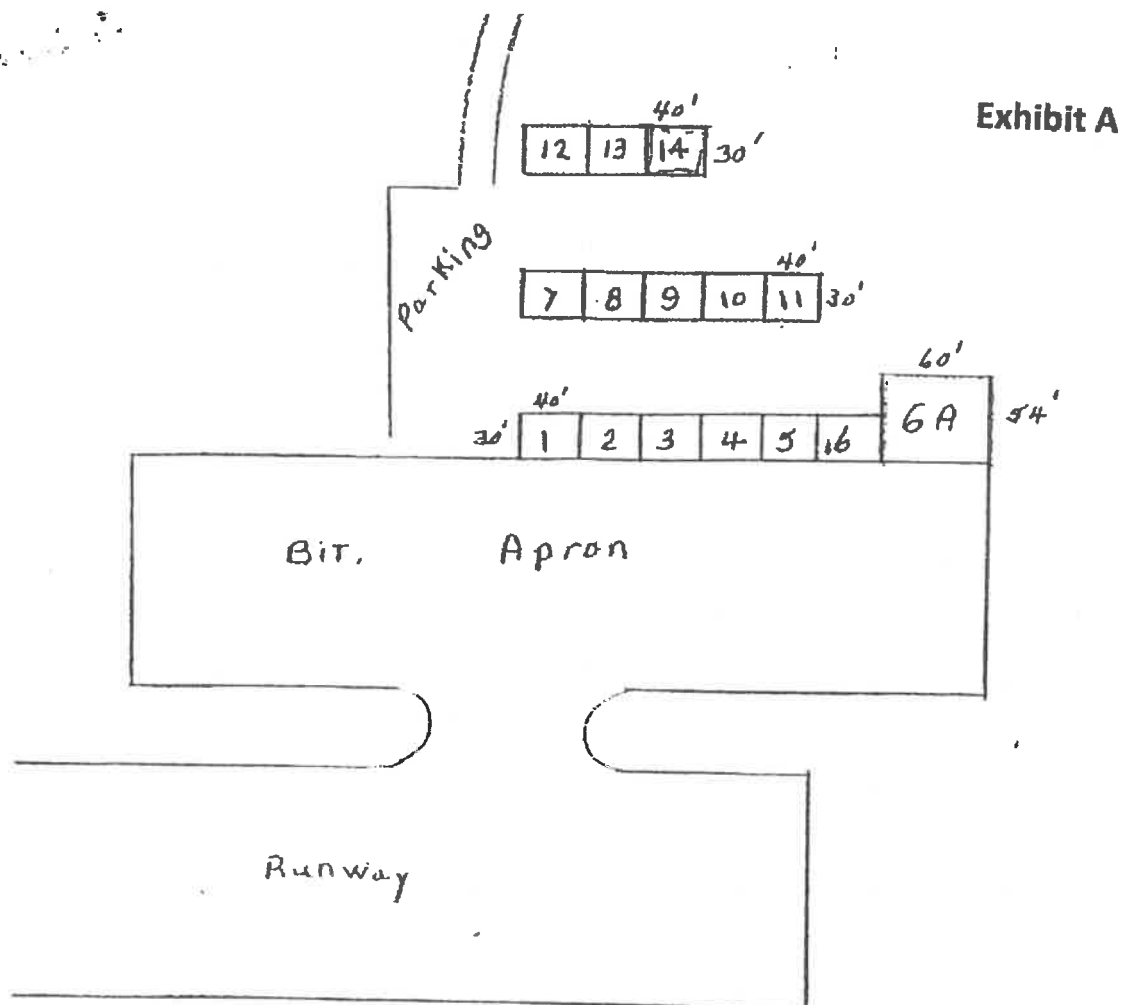
On this _____ day of _____, 20____, before me a Notary Public within and for said county, personally appeared _____ to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft wide, 30 ft deep

except lot 6A 60 ft x 54 ft.



NOT TO SCALE

GROUND LEASE AGREEMENT

LOT 4
Royal Flying Club
(Glen Kneeling)

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Royal Flying Club, Inc. (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 4 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. **Term.** The initial term of this Agreement (the "**Initial Lease Term**") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("Extended Term"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$313.69 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("**Rent Adjustment Date**"), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Date's based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessee's operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

- 15. Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. Lessor's Reserved Rights.

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. Rights of Leasehold Mortgages.

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgagee" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing, the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. **Maintenance.** Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.
19. **Allowable Storage within Hangar.** Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:
 - a) Storage of active aircraft.
 - b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: PIPER
Model: PA-11
Type: 2-PASSENGER-TAILWHEEL
Year: 1947
N-Number: 4642M

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Glenn Kinnberg
Owner
Spring Grove, MN. 14824 Co #14 55924
Address, City, State, Zip

Home Phone Number: 507 448-5157

Cell Phone Number: 507 450-2095

E-Mail: Fly Glenn 2 @ spg grove. coop

With a copy to:

Name

Address, City, State, Zip

Home Phone Number: _____

Cell Phone Number: _____

E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

- (d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.
- (e) This Agreement is construed in accordance with the laws of the State of Minnesota.
- (f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.
- (g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.
- (h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.
- (i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE

6-3-2021



FOR THE COUNTY:

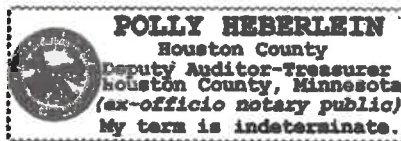
State of Minnesota)

) ss.:

County of Houston)

On this 3 day of June, 2021, before me, a Notary Public within and for said county, personally appeared Glenn Kinneberg and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

Polly Heberlein
Notary Public



FOR THE LESSEE:

State of Minnesota)
) ss:
County of Houston)

On this ____ day of _____, 20 __, before me a Notary Public within and for said county, personally appeared _____ and _____, to me personally known, who being each by me duly sworn, did say that they are respectively the _____ and the _____ of the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and that the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

FOR INDIVIDUALS:

State of Minnesota)
) ss:
County of Houston)

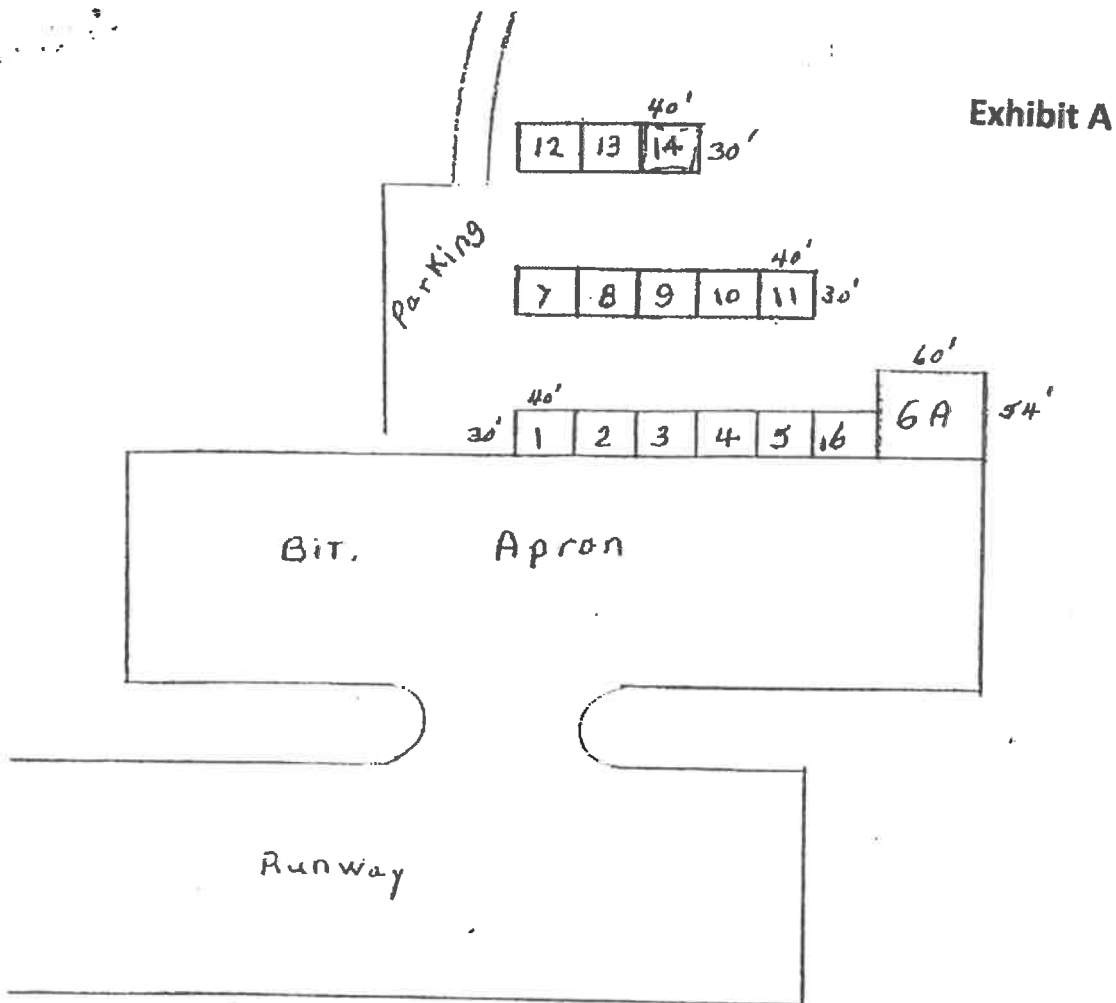
On this ____ day of _____, 20 __, before me a Notary Public within and for said county, personally appeared _____ to be known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft. wide, 30 ft deep

except lot 6A 60 ft x 54 ft.



NOT TO SCALE

Lots 1, 2, 3 & 5
Red Baron Flyers
(Arne Beneke)

GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT (the "Agreement") effective July 1, 2021, by and between Houston County, Minnesota, a municipal corporation, (hereinafter "Lessor"), and Red Baron Flyers, Inc. (hereinafter "Lessee").

RECITALS

- A. Lessor now owns, controls and operates the Houston County Airport in Houston County, State of Minnesota (the "Airport"). Lessor owns that certain real property located within the Airport described as Lot 1,2,3,5 and shown pictorially on Exhibit "A" attached hereto (such real property, together with all rights, privileges, easements and appurtenances benefiting such real property, are collectively referred to herein as the "Premises").
- B. Lessor desires to lease the Premises for use beneficial to Houston County and the general public.
- C. Lessee is qualified, ready, willing and able to lease the Premises.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference thereto, are hereby incorporated into the body of this Agreement, and the mutual covenants contained in this Agreement, the parties hereto hereby agree as follows:

1. Leased Premises.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises for the rent hereinafter provided and on the terms and conditions of this Agreement.

- 2. Term.** The initial term of this Agreement (the "Initial Lease Term") shall commence on July 1, 2021, and shall continue through a date five (5) years from July 1, 2021. Lessor grants to Lessee, subject to the conditions set forth below, the right and option to renew this Lease for an additional five (5) year period beginning at the end of the original term hereof or the end of any extended term, and otherwise subject to and on all the terms and conditions herein contained. Notice to Lessor of Lessee's intention to exercise an option shall be given at least six (6) months prior to expiration of the original term of the Lease herein or the extended term of any exercised option period ("Extended Term"). This lease shall renew for an additional five (5) years unless either party provides written notice of their intention not to renew at least six (6) months prior to the expiration of the original term or any extended term.

3. Payments.

(a) In consideration of the rights and privileges granted by this Agreement, Lessee shall pay rent to Lessor, the amount of \$1,254.75 for the first year (commencing July 1, 2021) and such payment must be made upon execution of this individual Lease Agreement.

(b) A delinquency charge of \$30.00 per month, with a maximum of \$150, shall be added to payments required by Section 3(a) hereof, which are made more than 10 days delinquent.

(c) For the first twelve (12) months following the commencement date of July 1, 2021, the rent to be paid will remain as indicated in Section 3(a) hereof. Thereafter, the rent to be paid under Section 3(a) hereof shall be adjusted based upon increases of 50 percent (50%) of the Urban-Consumer Price Index, as established by the U.S. Bureau of Labor and Statistics ("Urban-CPI"). It is agreed by the parties that the annual rent shall be adjusted every year during the Lease Term commencing on the date on one (1) year from July 1, 2021, and on the same date each year thereafter (each such date referred to herein as a ("**Rent Adjustment Date**"), on the basis of increases in the CPI. Similar adjustments shall be made on each succeeding Rent Adjustment Dates based on the percentage increase, if any, in the CPI from the prior Rent Adjustment Date. All adjustments shall be effective on the applicable Rent Adjustment Date. All adjustments shall be based on the most recent CPI data available for January prior to the Rent Adjustment Date and calculated as a percentage change from the previous year's January data and rounded to nearest 1/10th percent. Notwithstanding any provisions to the contrary contained in this Agreement, it is agreed by the parties that the rent payable under this Agreement shall never be less than that as originally designated in Section 3(a) hereof.

Non-compliance with the term of this Agreement may result in the rental rates being adjusted to Fair Market Value (FMV) for any non-incidental non-aeronautical use of the lease facilities.

(d) In addition to the foregoing and in the event that payment is not received by Houston County prior to October 10 of each succeeding year, the Lessee acknowledges that Houston County is empowered to place the amount of the delinquent lease payment plus all accrued interest on the real estate tax rolls for collection the following year or years, and in addition, to terminate this Lease Agreement and retake the property.

4. Improvements.

(a) Lessee shall not erect additional structures, make any material improvements or modifications or undertake any other material construction on the Premises, nor materially alter, modify or make additions or improvements to the exterior of any structure existing or built on the Premises without prior written approval of the Lessor. Prior to commencement of any material improvements or modifications to the Premises, Lessee shall submit a written request to the Houston County Board of Commissioners. Said request must clearly specify and detail the improvements or modifications which are proposed, including the estimated time period expected to make said improvements or modifications, and the Lessee shall not commence work until written approval is granted. If any material improvements or modifications are made without the prior written consent of Lessor, Lessor may correct or remove the same and the Lessee shall be liable for any and all expenses incurred by

Lessor. Consent to modifications shall not be unreasonably withheld nor shall approval be arbitrary or capriciously withheld by the Lessor, and Lessor shall make a timely disposition of each request.

(b) Upon receipt of written approval, Lessee shall proceed with the construction, with reasonable diligence and at its sole cost and expense, including any permits, applications or inspections. Subject to force majeure, the construction shall be completed according to the project schedule.

5. **Utilities.** Lessee shall have the right to use the utility service facilities located on or available to the Premises that exist on the date of this Agreement. Lessor's obligation under this provision shall be limited to utilities extended by a utility company to the property line of the Premises, and nothing herein shall obligate Lessor to provide any utility to Lessee that is not otherwise available to Lessor at the property line of the Airport. In addition, should Lessee's operations on the Premises require new or additional utility service facilities which facilities are not available to the property line of the Airport, Lessee shall, at its expense, extend such facilities to the Premises. If Lessor is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or service by law or regulation, it shall have no obligation hereunder. Lessee agrees to pay the cost of all utility services utilized on the Premises, which are provided by public utility companies. In the event Lessee fails to pay any utility bill when due, the non-payment of which results in a lien against Lessor's interest in the Premises, Lessor may, at its option, pay the same and collect from Lessee the amounts so disbursed, plus a late charge at the rate of 10% per annum. However, Lessee shall not have the right to extend sewer and water services to their hangars from the County owned systems as they are not designed to handle the service load to serve hangars in addition to the restroom building. In addition, Lessee shall pay for all cost incurred to extend services from their present location to their hangars.

6. **Compliance with Environmental Laws.**

(a) Lessee shall comply with all of the following to the extent applicable to the Premises and within Lessee's control: all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6091 et seq.), the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f-300j), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

(b) Lessee agrees to defend, indemnify and hold harmless Lessor, its agents, officers and employees from and against any and all claim, liability, damages (including fines and penalties), injunctive relief, injuries to person, property or natural resources, cost, expense, action or cause of action, arising as a

result of action or inaction by Lessee, its employees, agents, or contractors in connection with Lessee's failure to comply with the provisions of Section 6(a) hereof, unless (i) the hazardous substances are present on the Premises as a result of the actions of Lessor or its officers, employees, agents or contractors ("Lessor's Action"); or (ii) such hazardous substances were for any reason present on the Premises prior to the date of this Agreement. If hazardous substances (x) are present on the Premises as a result of Lessor's Action or (y) were for any reason present on the Premises prior to the date of this Agreement, Lessor agrees to indemnify, hold harmless and defend Lessee its subLessees and their respective directors, officers, employees, agents and contractors from and against any claims, judgments, liens, damages, penalties, fines, expenses, liabilities, or losses arising during or after the Lease Term which are in any way related to any leak, spill, release, discharge, emission, or disposal of any hazardous substances.

7. Default and Termination.

(a) This Agreement shall be subject to termination by Lessee in the event of any one or more of the following events:

- (i) The abandonment of the Airport as an airport or airfield for any type, class or category of aircraft.
- (ii) The default by Lessor in the performance of any of the terms, covenants or conditions of this Agreement, and the failure of Lessor to remedy, or undertake to remedy, to Lessee's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessee to remedy same.
- (iii) Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the operation of any business being conducted on the Premises.
- (iv) The lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part or parts thereof, in such a manner as to restrict any occupant of the Premises from substantially conducting business operations on the Premises for a period in excess of ninety (90) days.

(b) This Agreement shall be subject to termination by Lessor in the event of anyone or more of the following events:

- (i) The default by Lessee in the performance of any of the items, covenants or conditions of this Agreement, and the failure of Lessee to remedy, or undertake to remedy, to Lessor's satisfaction, such default for a period of thirty (30) days after receipt of notice from Lessor to remedy same.
- (ii) Lessee files a voluntary petition in bankruptcy, including a reorganization plan, makes a general or other assignment for the benefit of creditors, is adjudicated as bankrupt or if a receiver is appointed for the property or affairs of Lessee and such receivership is not vacated within thirty (30) days after the appointment of such receiver

(iii) Lessee's abandonment of the Premises for a period of more than 365 days after the date of this Agreement. Abandonment includes failure to use the hanger, for the purpose of storing aircraft or aircraft related items, as allowed under Section 19.

(c) Neither party shall be held in breach of this Agreement because of their failure to perform any of its obligations hereunder if said failure is due to act of God, fire, flood, accident, strike, riot, insurrection, war, or any other cause over which that party has no control; provided however, that the foregoing provision shall not apply to failures by Lessee to pay fees, rents or other charges to Lessor.

(d) The waiver of any breach, violation or default in or with respect to the performance or observance of the covenants and conditions contained herein shall not be taken to constitute a waiver of any subsequent breach, violation or default in or with respect to the same or any other covenant or condition hereof.

8. Condemnation.

(a) If, by an exercise of the right of eminent domain or by conveyance made in response to the threat thereof (in either case, a "Taking") all or any material portion of the Premises is taken, this Agreement will, at the election of Lessee, end on the earlier of the vesting of title to the Premises in the condemning authority, or the taking of possession of the Premises by the condemning authority. Lessor and Lessee shall then divide the total award less costs of obtaining the award, including attorneys' and appraisers' fees based on by their respective interests in the Premises and the improvements thereon, as determined by agreement or by any court of competent jurisdiction, but subject to the rights of any party who holds a valid lien. Lessee's rights shall be determined as if Lessee was permitted to continue to operate the Premises for the permitted uses under this Agreement for the Lease Term (and assuming Lessee exercised all of its rights to extend the Lease Term).

(b) In connection with any Taking, Lessee may prosecute its own claim by separate proceedings against the condemning authority for additional damages legally due to it, including but not limited to (i) the loss of fixtures which Lessee was entitled to remove, and (ii) relocation expenses.

9. Insurance.

(a) Lessee shall, at all times during the Lease Term, and at Lessee's sole expense, keep all improvements that are now or hereafter a part of the Premises insured against loss or damage by fire and the extended coverage hazards for one hundred percent (100%) of the full replacement value of the improvements.

(b) Lessee shall maintain in effect throughout the Lease Term personal injury liability insurance covering the Premises in the amount of One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of anyone person, and One Million and No/100 (\$1,000,000.00) Dollars for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of One Million and No/100 (\$1,000,000.00) Dollars.

(c) All of the policies of insurance referred to in this Section shall be effective July 1 through June 30 of the subsequent year and shall be written in a form reasonably satisfactory to Lessor and by

insurance companies or through self insurance programs reasonably satisfactory to Lessor. Lessee shall pay all of the premiums for insurance and deliver policies, or certificates of policies, to Lessor and Lessor shall be named as an additional insured on the policy. The certificates of insurance and certificate of insurance endorsement must be provided to the County Auditor-Treasurer's Office immediately upon execution of this Lease Agreement. The Lessee must also provide updated copies of Proof of Insurance each year along with payment of their lot lease and upon request by Lessor.

(d) In spite of anything to the contrary contained in this Section, Lessee's obligations to carry the insurance provided for in this Section may be brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee.

(e) The cost of insurance required to be carried by Lessee in this Section shall be deemed to be in addition to rent under this Agreement.

10. **Indemnification.** Lessee shall keep and hold harmless Lessor from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of Lessor, Lessee or sub lessee, by reason of death or injury to persons or loss of or damage to property, resulting from Lessee's or sub lessee's operations, or anything done or omitted by Lessee or sub lessee under this Agreement except to the extent that such claims, demands, suits, judgments, costs and expenses may be attributed to the acts or omissions of Lessor, its agents or employees.
11. **Casualty.** In the event that any of the improvements erected on the Premises by Lessee, pursuant to Section 4(a) of this Agreement or otherwise, are damaged or destroyed by fire or other casualty and Lessee does not elect to terminate this Agreement, Lessee shall promptly repair the improvements and restore them to a condition at least as good as existed immediately before the casualty. While the improvements are being so repaired and restored, the rent hereunder shall abate to the extent the Premises are rendered untenable by such damage or destruction.
12. **Lessee as Independent Contractor.** In conducting its business hereunder, Lessee acts as an independent contractor and not as an agent of Lessor. The selection, retention, direction and payment of Lessee's employees and vendors shall be at the sole responsibility of Lessee, and Lessor shall not attempt to exercise any control over the daily performance of duties by Lessee's employees.
13. **Assignment/Sublease.** Lessee may sublease the Premises with the consent of Lessor, which consent shall not be unreasonably withhold or delayed. Upon receiving consent from Lessor to sublease, or a change in sublease Lessee, Lessee shall provide the Lessor with sublease contact information. Lessee may, without the prior written consent of Lessor, assign this Agreement; but in such event, Lessee shall remain liable to Lessor for the remainder of the term of the Agreement and to pay to Lessor any portion of the rent and fees not paid by the assignee when due.
14. **Signage.** No sign shall be erected or maintained by Lessee on the Premises except in compliance with local policies and regulations and with the consent of Lessor. Prior to erection of such sign, Lessee must obtain written approval from Lessor, such consent not to be unreasonably withheld. Notwithstanding any other provisions of this Agreement, said sign(s) shall

remain the property of Lessee. Lessee shall remove, at its expense, all lettering, signs and placards so erected on the Premises upon termination of this Agreement.

- 15. Non-Interference with Operation of the Airport.** Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of the Premises in any manner which might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard or breach Federal Aviation Administration established security requirements. In the event of a breach in airport security caused by Lessee, resulting in fine or penalty to the Airport of which Lessee has received prior written notice, such fine or penalty will be charged to Lessee. Lessor shall maintain and keep in repair the landing area of the Airport and shall have the right to direct and control all activities of the Lessee in this regard.

16. Lessor's Reserved Rights.

(a) Lessor, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the Airport (other than on the Premises) and to take any action it considers reasonably necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport (other than the Premises) which, in the reasonable opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(b) For so long as this Agreement remains in effect, Lessee and its SubLessees shall have the (i) non-exclusive right to use all portions of the Airport that are not leased or occupied by others (the "Common Areas"), for such purposes and subject to rules as Lessor may reasonably permit and establish from time to time, and (ii) the non-exclusive right to use for access purposes any public or private road or utility system now or hereafter serving the premises (collectively the "roads and utilities") but according to any limitations as mentioned in Section 5. Lessor agrees to repair, replace, maintain and restore the common areas and roads and utilities in accordance with the Airport's long-term maintenance program.

(c) Lessor agrees to repair, operate and maintain the airport as required by the FAA. Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and use restrictions as Lessor deems necessary.

(d) Lessor reserves the right to enter upon the premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this agreement, or to the operation of the airport. Any items found during said examinations not in compliance with local, state, or federal regulations or the conditions of this Lease Agreement will be considered a breach of the same.

17. Rights of Leasehold Mortgages.

(a) For purposes of this Agreement, "Leasehold Mortgage" means any deed of trust, mortgage or lien on this Agreement and Lessee's leasehold interest in the Premises or any portion thereof; and "Leasehold Mortgagee" shall mean the beneficiary under any such deed of trust or the holder of any

such mortgage or lien.

(b) Notwithstanding anything in this Agreement to the contrary, Lessee shall have the absolute right, without Lessor's consent, to mortgage this Agreement and Lessee's leasehold interest or any portion thereof by one or more Leasehold Mortgages. Lessor, without waiving any provision of this Agreement, consents to any exercise of remedies by any Leasehold Mortgagee, including acceptance of an assignment, deed or other conveyance in lieu of foreclosure. Any Leasehold Mortgagee which succeeds to Lessee's estate under this Agreement shall have the right, without Lessor's consent, to sell, assign or sublet the leasehold interest hereunder to any party subject to the terms and conditions of this Agreement.

(c) If Lessee shall mortgage this Agreement and Lessee's leasehold estate hereunder or any portion thereof, and if any Leasehold Mortgagee shall forward to Lessor a copy of the Leasehold Mortgage together with a written notice setting forth its name and address, then any such copy of the Leasehold Mortgage and any such notice shall be deemed also to have been forwarded to any successor to Lessor's interest in the Premises and until the time, if any, that such Leasehold Mortgage shall be satisfied of record or such Leasehold Mortgagee shall give Lessor written notice that said Leasehold Mortgage has been satisfied, and further, as to each Leasehold Mortgagee who has given Lessor the above-described notice, Lessor agrees and acknowledges as follows for the benefit of each such Leasehold Mortgagee (all of which agreements and covenants shall be cumulative, so that if a Leasehold Mortgagee exercises rights or remedies under anyone of the following paragraphs, the same shall not be deemed an election of remedies, and such Leasehold Mortgagee shall continue to have all other rights and remedies provided for herein below):

(i) No cancellation, surrender, abandonment, acceptance of surrender or modification or amendment of this Agreement shall be binding upon any Leasehold Mortgagee or affect the lien of any Leasehold Mortgage if done without the prior written consent of said Leasehold Mortgagee (provided that no consent shall be required to a cancellation in accordance with the terms of Section 7 (b) of this Agreement or a surrender on the expiration of the Lease Term or earlier termination hereof, and consents to any modification or amendment to this Agreement shall not be unreasonably withheld or delayed by such Leasehold Mortgagee);

(ii) If Lessor shall give any notice, demand or election (collectively, "Notice") to Lessee hereunder, Lessor shall at the same time give a copy of such Notice to each Leasehold Mortgagee at the address theretofore designated by each of them in accordance with the terms of this Section. All Notices to any Leasehold Mortgagee shall not be in addition to and run successively with any notice given to Lessee but instead shall run concurrently with the applicable notice and grace periods given to Lessee. No Notice given by Lessor to Lessee shall be binding upon or affect any Leasehold Mortgagee unless a copy of said Notice shall be given to said Leasehold Mortgagee pursuant to this Section. In the case of any assignment of the Leasehold Mortgage or Mortgages held by it, or of any change of address of any Leasehold Mortgagee, said assignee or Leasehold Mortgagee, by written notice received by Lessor, may change the name of said Leasehold Mortgagee and the address to which such copies of Notices are to be sent to Leasehold Mortgagee;

(iii) Notwithstanding anything to the contrary herein, each Leasehold Mortgagee shall have the right to perform any term, covenant, condition or agreement of this Agreement to be performed by Lessee and to remedy any default by Lessee hereunder, and Lessor shall accept such performance by a Leasehold Mortgagee with the same force and effect as if performed by Lessee so long as such performance and/or remedy is made within any applicable grace or cure period provided herein;

(iv) If Lessor shall give a Notice of a default by Lessee under this Agreement and if such default shall not be remedied within any applicable grace or cure period and Lessor shall become entitled to re-enter the Premises or terminate this Agreement, then, before re-entering the Premises or terminating this Agreement, Lessor shall give to each Leasehold Mortgagee not less than, sixty (60) days written notice of the default and shall allow each Leasehold Mortgagee such sixty (60) days within which to cure the default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not re-enter the Premises or terminate this Agreement, so long as any Leasehold Mortgagee or Lessee is diligently engaged and is using all reasonable efforts in curing the default;

(v) In case of a default by Lessee under this Agreement, if Lessor shall not elect to re-enter the Premises or give notice of default, but shall instead bring a proceeding to dispossess Lessee or other occupants of the Premises, to re-enter the Premises, to terminate this Agreement by reason of such default, or terminate the leasehold estate of Lessee hereunder, then Lessor shall, before commencing such proceedings, or otherwise terminating the leasehold estate of Lessee hereunder, give to each Leasehold Mortgagee sixty (60) days written notice of such default and shall allow each Leasehold Mortgagee such sixty (60) day period within which to cure such default, or, in the case of a default which cannot in the exercise of diligence reasonably be cured within said sixty (60) day period, shall allow each Leasehold Mortgagee such sixty (60) days to commence the curing of the default, in which event Lessor shall not commence any such proceeding, or otherwise terminate the leasehold estate of Lessee hereunder, so long as a Leasehold Mortgagee or Lessee is diligently engaged in and is using all reasonable efforts curing, the default;

(vi) Lessee may delegate irrevocably to any Leasehold Mortgagee the authority to exercise any or all of Lessee's rights hereunder, including without limitation the authority to exercise any option to extend or renew the term hereof (subject to the terms of this Agreement, but no such delegation shall be binding upon Lessor unless and until either Lessee or the Leasehold Mortgagee shall give to Lessor a true copy of a written instrument effecting such delegation;

(vii) Notwithstanding anything to the contrary herein, if any default by Lessee under this Agreement cannot practicably be cured by a Leasehold Mortgagee without taking possession of the Premises, or if any such default is not reasonably susceptible of being cured by a Leasehold Mortgagee, including without limitation the bankruptcy or insolvency of Lessee, then Lessor shall not re-enter the Premises or serve a notice of election to terminate this Agreement, or bring a proceeding, to dispossess Lessee or other occupants of the Premises or to re-enter the Premises or to terminate this Agreement by reason of such default, unless Lessor shall first give each

Leasehold Mortgagee sixty (60) days written notice of such election to re-enter, terminate or bring such proceeding and allow each such Leasehold Mortgagee reasonable time to obtain possession of the Premises (by appointment of a receiver, or otherwise) and to cure such default.

(viii) A Leasehold Mortgagee shall not be required to continue to proceed to obtain possession, or to continue in possession as mortgagee, of the Premises or to continue to prosecute foreclosure proceedings, if and when a default shall be cured.

(d) If Lessor terminates this Agreement, Lessor shall notify each Leasehold Mortgagee entitled to Notice under this Section of such termination (the "Termination Notice"), which notice shall set forth all sums due to Lessor under the Agreement and upon the written request of any Leasehold Mortgagee. Lessor shall enter into a new lease of the Premises with such Leasehold Mortgagee for the remainder of the Lease Term effective as of the date of such termination at the rent and upon the terms, provisions, covenants, and agreements herein contained (including, without limitation, all rights, options, or privileges to extend or renew the Lease Term if any). The following terms and conditions shall be applicable to any such new lease:

(i) Leasehold Mortgagee shall make written request upon Lessor for the execution of such new lease within sixty (60) days after the date Leasehold Mortgagee receives the Termination Notice which request shall be accompanied by a payment to Lessor of all amounts then due Lessor by Lessee under this Agreement but for the termination.

(ii) Leasehold Mortgagee shall perform and observe all covenants contained in any such new lease on Lessee's part to be performed and observed during the period Leasehold Mortgagee is in possession of the Premises under such new lease and shall further remedy any default existing as of the date of any such new lease.

(iii) Any such new lease shall be expressly subject to the rights, if any of Lessee under this Agreement and to the rights, if any of any then in possession of all or any part of the Premises under leases permitted by the Leasehold Mortgage and then subject to the provisions of any subordination agreements between such party and the Leasehold Mortgagee.

(iv) Any such new lease shall be identical to this Agreement.

(e) Except as set forth above, any new lease entered into pursuant to this Section shall be superior to all rights, liens and interest intervening between the date of this Agreement and the date of such new lease. Upon the request of the new Lessee, Lessor shall execute and deliver a memorandum of the new lease in recordable form so that notice of the new lease may be placed of record by the new Lessee.

(f) The rights hereunder of Leasehold Mortgagees shall be exercisable by such Leasehold Mortgagees in the order of the priority of lien or other security interest of their respective Leasehold Mortgages. No holder of a Leasehold Mortgage shall be liable under the provisions of this Agreement unless and until such time as it takes possession of the Premises or it becomes the owner of the leasehold estate in the Premises, but, in such case, only for as long as it remains in possession of the Premises or owns the leasehold estate in the Premises.

(g) At Lessee's expense, upon written request of Lessee, any Leasehold Mortgagee, or any prospective holder of any mortgage on this Agreement or the Lessee's leasehold interest, Lessor shall deliver to them or any of them a separate written instrument signed and acknowledged by Lessor setting forth and confirming the provisions of this Section, and acknowledge to them or any of them in writing the receipt by Lessor of any notice or instrument given, sent or delivered to Lessor pursuant to the provisions of this Section.

(h) Subject to the provisions of this Section, when a new lease is entered into with a Leasehold Mortgagee or its designee (such holder or designee the "Acquiring Holder" and the Leasehold Mortgage of such Acquiring Holder the "Acquiring Holder's Leasehold Mortgage"). The liens on and estates and other interests in the Premises or this Agreement of all persons holding directly or indirectly under or through Lessee (including the Acquiring Holder's Leasehold Mortgage), other liens, estates and interests which are subordinate to the Acquiring Holder's Leasehold Mortgage, shall immediately and without documentation continue in effect attach to the new lease and be reinstated as to each other to the same extent, and in the same manner, order and priority as if (i) the new lease were this Agreement (ii) this Agreement had not been terminated, Agreement by assignment on the date the term of the new lease commences. Each lien, estate or interest which could have been extinguished by the foreclosure of the Acquiring Holder's Leasehold Mortgage shall be deemed to be subordinate to the Acquiring Holder's Leasehold.

(i) Notwithstanding anything in this Agreement to the contrary, the senior Leasehold Mortgagee shall be entitled to participate in any proceedings relating to any condemnation of all or any part of the Premises to the same extent as the Lessee may so participate hereunder.

(j) Notwithstanding any provision of this Section to the contrary, Lessor shall not be required to provide any notice to any Leasehold Mortgagee under this Section unless such Leasehold Mortgagee has provided Lessor written notice of its existence.

(k) Upon request of a Leasehold Mortgagee Lessor will enter into an agreement with such Leasehold Mortgagee confirming the provisions of this Section for the benefit of such Leasehold Mortgagee and acknowledging the Leasehold Mortgage and the assignments made therein.

18. Maintenance. Lessee shall maintain and repair the buildings built and existing on the Premises in a reasonable manner at all times. Lessee further agrees to keep the Premises continually in a neat, clean, and respectable condition, free of ice and snow and other obstructions. Lessee shall not allow the accumulation of any garbage, refuse or rubbish on the Premises nor allow any liquors or beverages of an intoxicating nature or tendency to be sold or kept on said Premises nor any gambling or illegal practices to be tolerated on said Premises.

19. Allowable Storage within Hangar. Airport Sponsors who accept grants under the FAA Airport Improvement Program (AIP) have agreed to comply with certain Federal policies. One of these policies requires aeronautical use of hangars on airport property. Aeronautical use is defined as follows:

a) Storage of active aircraft.

b) Final assembly of aircraft under construction.

- c) Non-commercial construction of amateur-built or kit-built aircraft.
- d) Maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of nonoperational aircraft.
- e) Storage of aircraft handling equipment, e.g. towbars, glider tow equipment, workbenches, and tools and materials used in the servicing, maintenance, repair or outfitting of aircraft.
- f) Provided the hangar is used primarily for aeronautical purposes, Lessee may store non-aeronautical items in the hangar provided items do not interfere with the aeronautical use of the hangar.

Lessee shall actively seek to sublease, make the hangar available for aeronautical activities, or acquire aeronautical property should the hangar be vacant or not actively used for aeronautical activities. If Lessee is found non-compliant with aeronautical use of the hangar and there is no immediate demand for aeronautical use of the hangar space, Houston County reserves the right to charge non-aeronautical fair market rental fees.

Lessee shall provide the Lessor with the make, model, year, and N-number of all planes housed at the Houston County Airport to comply with the National Based Aircraft Inventory Program. A based aircraft is an aircraft that is operational and airworthy, which is typically based at the facility for a majority of the year. It is the responsibility of the Lessee to notify the Lessor and Airport Manager in writing of any changes in aircraft within 30 days of the change and annually with lease payment.

Make: <u>Cessna</u>	<u>Cessna</u>	<u>Cessna</u>	<u>Quad City</u>
Model: <u>182 Q</u>	<u>172 M</u>	<u>182 Q</u>	<u>Challenger</u>
Type: <u>Single Engine Piston</u>	<u>→</u>		<u>Single Engine</u>
Year: <u>1977</u>	<u>1976</u>	<u>1977</u>	<u>1993</u>
N-Number: <u>N735DV</u>	<u>N1368U</u>	<u>N735GT</u>	

Lessee agrees that he/she will not have a fuel tank on the property other than that which is normally stored onboard the aircraft itself for aircraft operations. In addition to the aforementioned, Lessee is allowed to store fuel only in Class A fuel containers, with a maximum of three (3) containers allowed in a hangar, holding no more than five (5) gallons per container. No other fuel storage containers, explosives or other dangerous or hazardous materials, other than described above, will be permitted.

20. **Lessee's Property.** All property and improvements of Lessee in or about the leased premises shall be kept, stored and/or maintained at the sole risk of Lessee without any liability of Lessor for loss or

damage thereto, including but not limited to, loss from fire, explosion, wind, rain, hail, water leakage, bursting of pipes or conduits, sprinklers, gas, electricity, or structural failure, regardless of negligence, nor shall Lessor be liable to Lessee for any interruption of business conducted by Lessee, regardless of cause.

21. **Snow Removal.** Lessor will remove snow to the greatest extent practical using County owned equipment. The manner, speed and timeliness of snow removal shall be in the sole discretion of the Lessor, and may vary from year-to-year and from snowfall-to-snowfall. Lessee is responsible for the remainder of the snow and ice build-up directly in front of the hangars which is not accessible and/or removable by the aforementioned County equipment.

22. **Miscellaneous Provisions.**

(a) This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or independent agreements between the parties covering the subject matter hereof. Any change or modification hereof must be in writing and signed by all parties.

(b) If a provision hereof shall be finally decreed void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void, but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

(c) All notices and demands hereunder shall be in writing, and shall be deemed to have been properly given or served as of (i) the date of personal delivery with acknowledgment of receipt; (ii) five (5) days after the same is deposited in the United States mail, prepaid, for delivery by registered or certified mail, return receipt requested; or (iii) the first business day after the date delivered to a reputable overnight courier service providing proof of delivery. The initial addresses of Lessee and Lessor are set forth below:

If to Lessee

Red Baron Flyer
P.O. Box 46 ^{Owner} Caladonia, MN 55921
Address, City, State, Zip

Home Phone Number: _____

Cell Phone Number: 608-769-8973

E-Mail: _____

With a copy to:

Name

Address, City, State, Zip

Home Phone Number: _____

Cell Phone Number: _____

E-Mail: _____

If to Lessor: Houston County Engineer, Airport Manager
1124 East Washington Street, Room 105
Caledonia, MN 55921

And

Houston County Auditor-Treasurer
304 South Marshall Street, Room 111
Caledonia, MN 55921

With a copy to: Houston County Attorney's Office
Houston County Justice Center
306 Marshall Street, Suite 2300
Caledonia, MN 55921

(d) The headings used in this Agreement are intended for convenience of reference only and do not define or limit the scope or meaning of any provisions of this Agreement.

(e) This Agreement is construed in accordance with the laws of the State of Minnesota.

(f) In the event Lessee shall continue to occupy the Premises beyond the Lease Term, such holding over shall not constitute a renewal of this Agreement but shall be a month-to-month tenancy only.

(g) All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the parties.

(h) The interests of Lessor hereunder are not to be subordinated to any Leasehold Mortgage. Lessor shall, without charge, from time to time, within ten (10) days after request by Lessee or any Leasehold Mortgagee, certify in writing to the effect that (i) this Agreement is unmodified and in full force and effect (or, if there shall have been modifications, stating the modifications), (ii) the date to which all rent and other charges have been paid, (iii) the expiration date of the Lease Term, (iv) whether, to the best knowledge of the person executing such certificate on behalf of Lessor, any default by Lessee has occurred and, if so, the notice shall specify such default to the extent of the knowledge of the person executing the certificate, and (v) such other matters as may be reasonably requested by Lessee or any Leasehold Mortgagee.

(i) At expiration of the Lease Term or the earlier termination of this Agreement, after payment of all rents and charges which are due as of such date, Lessee shall have the right, within thirty (30) days thereafter to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises, but not considered a permanent component of the structure, and shall repair at its own expense all damage caused by such removal. At expiration of the Lease Term or the earlier of this Agreement, Lessor shall have the right upon thirty (30) days' notice, to require Lessee, at Lessee's own expense, to remove any furniture, fixtures, machinery, equipment and signs installed on the Premises by Lessee, but not considered a permanent component of the structure, and Lessee to repair at the Lessee's own

expense all damage to the Premises caused by such removal. Any such personal property not removed by Lessee within such time shall become the property of Lessor.

(j) Lessor agrees that, on payment of the rent and performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peaceably hold and enjoy the Premises and all rights and privileges of the Airport, its appurtenances and facilities, granted herein.

(k) Neither Lessor nor Lessee shall unreasonably withhold or delay approvals and consents required or otherwise sought by the other under the terms of this Agreement.

(l) Except as otherwise provided herein, all improvements on the Premises shall be owned by Lessee. Upon the expiration of the Lease Term or earlier termination of this Agreement, title to such improvements shall remain the property of the Lessee. However, upon the expiration of this Agreement, Lessee shall either rent or sell the improvements to a party who is ready, willing and able to enter into a ground lease agreement with Lessor. Further Lessee grants a right of first refusal to Lessor to purchase the improvements existing on the Premises from Lessee.

(m) If any mortgage, trustee or other purchaser at a foreclosure sale of a mortgage, indenture or deed of trust acquires title to Lessor's interest in the Premises, such party shall recognize Lessee's rights hereunder and execute a non-disturbance agreement to that effect, and Lessee shall then recognize such mortgagee, trustee or other purchaser, as its new Lessor, and this Lease shall continue in full force and effect as a direct lease between such mortgagee, trustee or other purchaser, upon the terms, covenants, conditions and agreements set forth herein.

(n) Each individual executing this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Lessee and Lessor, as the case may be, in accordance with a duly adopted resolution, and that this Agreement is binding upon Lessee and Lessor, as the case may be, in accordance with its terms. Each party shall, contemporaneous with the execution of this Agreement, deliver to the other a certified copy of a resolution of its governing board authorizing or ratifying the execution and delivery of this Agreement.

(o) This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

(p) Upon the request of either party hereto, the other party shall join in the execution of a Memorandum of this Agreement in form acceptable to Lessee for the purposes of recordation.

(q) Time shall be of the essence hereof.

(r) As a material inducement to enter into this Agreement, Lessor represents and warrants to Lessee that Lessor owns fee simple absolute title to the Premises, free and clear of any and all liens, claims, charges, encumbrances, easements, restrictions, reservations, covenants and conditions, except those previously disclosed to Lessee in writing or otherwise appearing of record.

(s) No merger of the leasehold estate created by this Agreement with the fee estate in the Premises shall occur unless and until all persons, including any Leasehold Mortgagee, having any interest in the

leasehold estate created by this Agreement and the fee estate in the Premises shall join in a written instrument effecting such merger.

23. Easement.

(a) Houston County owns fee simple title to certain real property located within the Airport pictorially described on Exhibit A attached hereto (the "County Parcel").

(b) The County hereby irrevocably, absolutely and unconditionally grants, conveys, sells and transfers unto Lessee (i) a non-exclusive, perpetual easement for purposes of vehicular and pedestrian ingress and egress to, through and from the County Parcel, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the County Parcel; (ii) the non-exclusive right to use all portions of, including but not limited to private roadways servicing the airport not leased or occupied by other parties (the "Common Areas"). For purposes of vehicular and pedestrian ingress and egress to, through and from the Airport, for Lessee's customers, employees, guests, invitees, agents and licensees and for the benefit of the premises, upon, over, across and under the Airport, and for such other purposes and subject to such rules as the Lessor may reasonably permit and establish from time to time; (iii) a non-exclusive, perpetual easement to any utility system now or hereafter located on the County Parcel (the "Utilities") for connection purposes to service the premises; and (iv) the right to construct and maintain driveways together with related landscaping, lighting, curbs, gutters, utilities, signage, drainage system and any other necessary improvements over, across, under and upon the County Parcel connecting the premises to any private roadway and located upon the County Parcel (collectively the "Easement"). The Easement shall be appurtenant to the premises and run with the land including but not limited to the County Parcel. Lessee shall not interfere with the rights and privileges of other persons or firms using the common areas in the County Parcel and shall be subject to such weight and use restrictions as the Lessor deems reasonably necessary, except that such use restrictions may not interfere with Lessee's ability to connect to a utility system on the County Parcel and to have utilities service the premises and the ingress and egress rights provided to Lessee hereunder. That being stated, however, utility use shall exclude the use of sewer and water from serving hangars as previously mentioned in Section 5.

(c) Repairs and Maintenance of the Easement.

(i) The Lessor agrees to repair, operate and maintain the common areas and utilities as required by the FAA. The County further agrees to repair, replace, maintain and restore the County parcel per the requirements of the FAA, at all times.

(d) Indemnification.

(i) The Lessor agrees to indemnify, defend and hold Lessee harmless against and from all expenses, losses or liabilities (including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its breach of this Agreement. Lessee agrees to indemnify, defend and hold the County harmless against and from all expenses, losses or liabilities including reasonable attorneys' fees and other costs and expenses of defensive claims) claimed, paid, suffered or incurred as a direct result of its use of the Easement in accordance with this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written and retroactive, where applicable, to July 1, 2021.

In the presence of:

HOUSTON COUNTY, MN

Houston County Board Chairman

Houston County Auditor-Treasurer

In the presence of:

LESSEE

Alan Bunch

President Red Baron Flyer

FOR THE COUNTY:

State of Minnesota)

) ss.:

County of Houston)

On this ____ day of _____, 20____, before me, a Notary Public within and for said county, personally appeared _____ and Donna Trehus, to me personally known, who being each by me duly sworn, did say that they are respectively the County Board Chairperson and the County Auditor-Treas of the corporation named in the foregoing instrument, and that seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Commissioners, and the said County Board Chairperson and County Auditor acknowledged said instrument to be the free act and deed of said corporation.

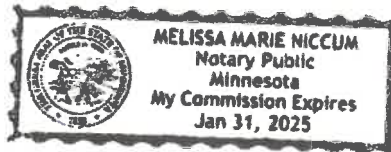
Notary Public

FOR THE LESSEE:

State of Minnesota)
) ss:
County of Houston)

On this 19th day of May, 2021 before me a Notary Public within and for said county,
personally appeared Arcis Bank and
_____, to me personally known, who being each by me duly sworn, did say that
they are respectively the _____ and the _____ of the
corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate
seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by
authority of its Board of Commissioners, and that the said _____
and _____ acknowledged said instrument to be the free act and deed
of said corporation.

Melissa Marie Niccum
Notary Public



FOR INDIVIDUALS:

State of Minnesota)
) ss:
County of Houston)

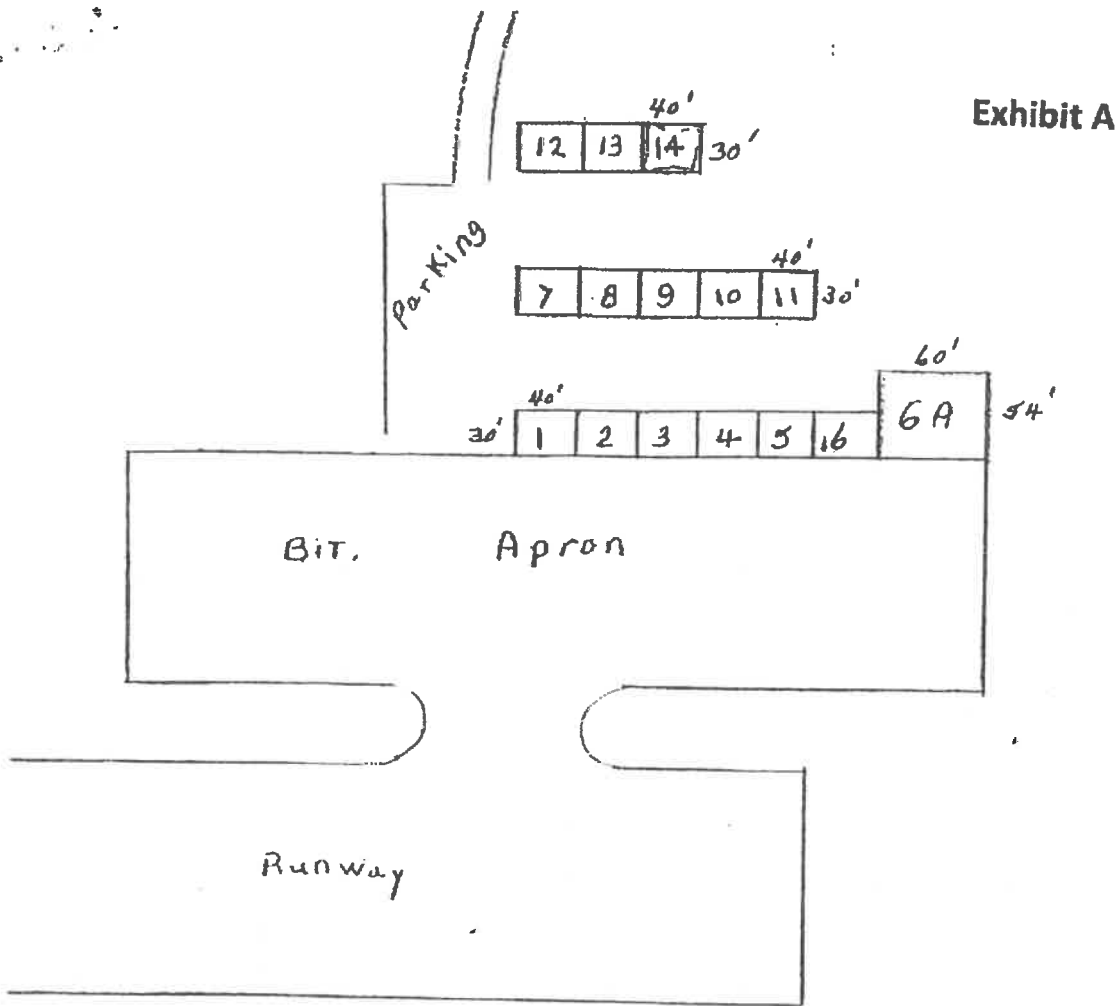
On this _____ day of _____, 20____, before me a Notary Public within and
for said county, personally appeared _____ to be known to be the
person(s) described in and who executed the foregoing instrument and acknowledged that he/she executed
the same as their free act and deed.

Notary Public

Approved as to Form and Execution

Dated _____

Houston County Attorney



Houston County Airport Hangers

lots 40 ft. wide, 30 ft. deep

except lot 6A 60 ft x 54 ft.

NOT TO SCALE

HOUSTON COUNTY AGENDA REQUEST FORM

Date Submitted: 07.27.21

By: Donna Trehus, Auditor/Treasurer

CONSENT AGENDA REQUEST:

Approve LG214 Premises Permit Application for Country Climbers Snowmobile Club at the site of the La Crescent Snowmobile Club to conduct gambling activities with pull tab sales and bingo.

ACTION ITEM:

Reviewed by:

___ HR Director

___ Finance Director

___ IS Director

___ County Attorney

___ Environmental Svcs

___ County
Sheriff

___ County
Engineer

___ PHHS
Other
(indicate
dept)

___ Auditor/Treasurer

Recommendation:

Decision:

RESOLUTION NO. 21-35

**MINNESOTA LAWFUL GAMBLING PERMIT APPROVAL
COUNTRY CLIMBERS SNOWMOBILE CLUB**

July 27, 2021

BE IT RESOLVED, the Houston County Board of Commissioners does hereby approve the Minnesota Lawful Gambling Application LG214 for Country Climbers Snowmobile Club for gambling activities to be conducted at the La Crescent Snowmobile Club in La Crescent Township, with no waiting period.

*******CERTIFICATION*******

STATE OF MINNESOTA

COUNTY OF HOUSTON

I, Donna Trehus, do hereby certify that the above is true and correct copy of a resolution adopted by the Houston County Board of Commissioners at the session dated July 27, 2021,

WITNESS my hand and the seal of my office this 27th day of July 2021.

(SEAL)

Donna Trehus, Auditor/Treasurer

MINNESOTA LAWFUL GAMBLING
LG214 Premises Permit Application

6/15 Page 1 of 2
Annual Fee \$150 (NON-REFUNDABLE)

REQUIRED ATTACHMENTS TO LG214

1. If the premises is leased, attach a copy of your lease. Use LG215 Lease for Lawful Gambling Activity.
2. \$150 annual premises permit fee, for each permit (non-refundable). Make check payable to "State of Minnesota."

Mail the application and required attachments to:
 Minnesota Gambling Control Board
 1711 West County Road B, Suite 300 South
 Roseville, MN 55113

Questions? Call 651-539-1900 and ask for Licensing.

ORGANIZATION INFORMATION

Organization Name: Country Climbers Snowmobile Club License Number: 00968
 Chief Executive Officer (CEO): Rodney T Merchlewitz Daytime Phone: [REDACTED]
 Gambling Manager: Sarah Schorn Daytime Phone: [REDACTED]

GAMBLING PREMISES INFORMATION

Current name of site where gambling will be conducted: La Crescent Snowmobile Club

List any previous names for this location:

Street address where premises is located: 2485 Cnty Rd 6
(Do not use a P.O. box number or mailing address.)

City: La Crescent OR Township: La Crescent County: Houston Zip Code: 55947

Does your organization own the building where the gambling will be conducted?

☒ Yes ☐ No If no, attach LG215 Lease for Lawful Gambling Activity.

A lease is not required if only a raffle will be conducted.

Is any other organization conducting gambling at this site? ☐ Yes ☒ No ☐ Don't know

Note: Bar bingo can only be conducted at a site where another form of lawful gambling is being conducted by the applying organization or another permitted organization. Electronic games can only be conducted at a site where paper pull-tabs are played.

Has your organization previously conducted gambling at this site? ☒ Yes ☐ No ☐ Don't know

GAMBLING BANK ACCOUNT INFORMATION; MUST BE IN MINNESOTA

Bank Name: [REDACTED]

Bank Street: [REDACTED]

ALL TEMPORARY AND PERMANENT OFF-SITE STORAGE SPACES

Address (Do not use a P.O. box number):

5500 County Rd 12

City:

Houston

State: Zip Code:

MN

55943

MN

MN

ACKNOWLEDGMENT BY LOCAL UNIT OF GOVERNMENT: APPROVAL BY RESOLUTION
**CITY APPROVAL
for a gambling premises
located within city limits**

City Name: _____

Date Approved by City Council: _____

 Resolution Number: _____
(If none, attach meeting minutes.)

Signature of City Personnel: _____

Title: _____ Date Signed: _____

Local unit of government
must sign.

**COUNTY APPROVAL
for a gambling premises
located in a township**

County Name: _____

Date Approved by County Board: _____

 Resolution Number: _____
(If none, attach meeting minutes.)

Signature of County Personnel: _____

Title: _____ Date Signed: _____

 TOWNSHIP NAME: LaCrescent Township

Complete below only if required by the county.
On behalf of the township, I acknowledge that the organization is applying to conduct gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minnesota Statutes 349.213, Subd. 2.)

 Print Township Name: LaCrescent Township

 Signature of Township Officer: [Signature]

 Title: Chairman

 Date Signed: 6/14/2021
ACKNOWLEDGMENT AND OATH

1. I hereby consent that local law enforcement officers, the Board or its agents, and the commissioners of revenue or public safety and their agents may enter and inspect the premises.
2. The Board and its agents, and the commissioners of revenue and public safety and their agents, are authorized to inspect the bank records of the gambling account whenever necessary to fulfill requirements of current gambling rules and law.
3. I have read this application and all information submitted to the Board is true, accurate, and complete.
4. All required information has been fully disclosed.
5. I am the chief executive officer of the organization.
6. I assume full responsibility for the fair and lawful operation of all activities to be conducted.
7. I will familiarize myself with the laws of Minnesota governing lawful gambling and rules of the Board and agree, if licensed, to abide by those laws and rules, including amendments to them.
8. Any changes in application information will be submitted to the Board no later than ten days after the change has taken effect.
9. I understand that failure to provide required information or providing false or misleading information may result in the denial or revocation of the license.
10. I understand the fee is non-refundable regardless of license approval/denial.

 Signature of Chief Executive Officer (designee may not sign) [Signature]

 Date 6-22-21

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process your organization's application. Your organization's name and address will be public.

Information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to: Board members, Board staff whose work requires access to the information;

Minnesota's Department of Public Safety, Attorney General, Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

This form will be made available in alternative format, i.e. large print, braille, upon request.

An equal opportunity employer

HOUSTON COUNTY AGENDA REQUEST FORM

Date Submitted: 07.27.2021

By: Donna Trehus, Auditor/Treasurer

CONSENT AGENDA REQUEST:

ACTION ITEM:

Approve Per Diem for Parks Committee Members Dick Walter and Dennis Yeiter @\$30 per meeting retroactive to 2017.

County Board had not approved the addition of per diem request for Dick Walter from 2017-2021. Dennis Yeiter was added as a board member in 2021.

Dick Walter – 15 meetings@30 = \$450.00

Dennis Yeiter – 2 meetings @30 = \$60.00

Reviewed by:

☐ HR Director

☒ Finance Director

☐ IS Director

☐ County Attorney

☐ Environmental Svcs

☐ County Sheriff
☐ County Engineer

☐ PHHS
☐ Other
(indicate dept)

Auditor/Treasurer

Recommendation:

Decision:

Houston County Agenda Request Form

Date Submitted: July 21, 2021 **Board Date:** July 27, 2021

Person requesting appointment with County Board: Brian Pogodzinski

Issue:

Attached is the FAA grant closeout report for the Master Plan with Airport Layout Plan update. All the work for these grant has been completed and board approval is needed so that we can obtain final payment.

Attachments/Documentation for the Board's Review:

Attached is a copy of the Faa grant closeout report.

Justification:

Action Requested:

Accept the closeout report and approve Brian's Signature.

For County Use Only			
<u>Reviewed by:</u>	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> County Auditor	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> County Attorney	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Zoning Administrator
	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Finance Director	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> County Engineer	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Environmental Services
	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> IS Director	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Other (indicate dept)	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div>
<u>Recommendation:</u>			
<u>Decision:</u>			

All agenda request forms must be submitted to the County Auditor by 4:00 p.m. on Monday in order to be considered for inclusion on the following week's agenda. The Board will review all requests and determine if the request will be heard at a County Board meeting.



Real People. Real Solutions.

FAA GRANT CLOSEOUT REPORT

HOUSTON COUNTY AIRPORT (CHU)

FAA AIP NO. 3-27-0016-007-2018

STATE PROJECT NO. A2801-31

"AIRPORT MASTER PLAN WITH AIRPORT LAYOUT PLAN UPDATE."

JULY 2021

Submitted by:

Bolton & Menk, Inc.

7533 Sunwood Drive NW

Suite 206

Ramsey MN, 55303

P: 763-433-2851

F: 763-427-0833

A. PROJECT SUMMARY

- a. AIRPORT: HOUSTON COUNTY AIRPORT (CHU)
- b. LOCATION: CALEDONIA, MINNESOTA
- c. AIP PROJECT NUMBER: 3-27-0016-007-2018
- d. GRANT AGREEMENT DATE: AUGUST 7, 2018
- e. GRANT AGREEMENT AMOUNT: \$ 187,020.00
- f. AMENDMENT(S): \$ 0.00
- g. MAXIMUM GRANT OBLIGATION: \$ 187,020.00
- h. SPONSOR(S): HOUSTON COUNTY, MINNESOTA
- i. FEDERAL PARTICIPATION RATE: 90.0 %
- j. PROJECT DESCRIPTION: AIRPORT MASTER PLAN WITH AIRPORT LAYOUT PLAN UPDATE

B. EXECUTIVE SUMMARY

- a. LAND: (NOT APPLICABLE)
- b. CONSTRUCTION: (NOT APPLICABLE)
- c. ENGINEERING:
- i. Engineering included Aviation Planning services and was completed by Bolton & Menk Inc. of Mankato, MN.

Engineering services completed are summarized in the table below.

ENGINEERING	AS-BID AMOUNT	FINAL AMOUNT
BOLTON & MENK, INC.	\$205,300.00	\$205,300.00
TOTALS	\$205,300.00	\$205,300.00

d. ADMINISTRATION:

i. Administration cost incurred by the Houston County, MN are summarized in the table below.

ADMINISTRATION	AS-BID AMOUNT	FINAL AMOUNT
HOUSTON COUNTY	2,500.00	2,500.00
TOTALS	\$2,500.00	\$2,500.00

e. EQUIPMENT: (NOT APPLICABLE)

f. OTHER: (NOT APPLICABLE)

C. PROJECT COST SUMMARY

DESCRIPTION	TOTAL COST
LAND	\$0.00
CONSTRUCTION	\$0.00
ENGINEERING	\$205,300.00
ADMINISTRATION	\$2,500.00
EQUIPMENT	\$0.00
OTHER	\$0.00
TOTAL	\$207,800.00
FEDERAL SHARE	\$187,020.00
MAXIMUM GRANT OBLIGATION	\$187,020.00
PREVIOUS PAYMENT AMOUNT	\$168,320.00
RECOMMENDED FINAL GRANT AMOUNT	\$187,020.00
RECOMMENDED GRANT AMENDMENT AMOUNT	\$0.00
RECOMMENDED FINAL PAYMENT	\$18,700.00

D. CHANGE ORDER SUMMARY: (NOT APPLICABLE)

E. DBE PARTICIPATION SUMMARY: (NOT APPLICABLE)

F. FINAL INSPECTION: (NOT APPLICABLE)

G. FINAL PAYMENT RECOMMENDATION

- c. A FINAL PAYMENT IN THE AMOUNT OF \$ **18,700.00** IS RECOMMENDED.

H. APPROVALS

- a. REQUESTED BY: _____ DATE: _____
BRIAN POGODZINSKI, P.E.
COUNTY ENGINEER
- b. CONCURRED BY: _____ DATE: _____
MnDOT AERONAUTICS
- c. APPROVED BY: _____ DATE: _____
FAA
- d. APPROVED BY: _____ DATE: _____
FAA

I. APPENDICES

- a. MnDOT GRANT PAYMENT SUMMARY
- b. FINAL SPONSOR CERTIFICATIONS
- c. FORM SF-271

APPENDIX A
MnDOT GRANT PAYMENT SUMMARY

State of Minnesota
Department of Transportation
Office of Aeronautics
Airport Development Section
GRANT PAY SUMMARY

July 01, 2021

State Project Number: A2801-31
Agreement: 1032122
Municipality: HOUSTON COUNTY
Project Description: Master Plan with ALP

Region: S
FAA Proj Number: 3-27-0016-07-18
FY: 2019 Estimate Number: 5
Final Payment

	TOTAL	FEDERAL	STATE	LOCAL
1 Project Funds Encumbered:	207,800.00	187,020.00	10,390.00	10,390.00
2 Federal Credit for use as State Share:			0.00	
2wh Federal Withholding:		0.00		
3 Total Funds Encumbered:	207,800.00	187,020.00	10,390.00	10,390.00
4 Previous Payments:	189,100.00	168,320.00	10,390.00	10,390.00
5 Federal Funds Received Total:		187,020.00		
6 Available Encumbered Funds (Fed Received):	18,700.00	18,700.00	0.00	0.00
7 Construction Costs to Date:	0.00	0.00	0.00	0.00
8 Allowable Payment.....	0.00	0.00	0.00	0.00
9 Payments on Previous Estimates:	0.00	0.00	0.00	0.00
10 Allowable Payment This Estimate:	0.00	0.00	0.00	0.00
11 Engineering and Inspection Costs:	205,300.00	184,770.00	10,265.00	10,265.00
12 Allowable Payment..... 100%	205,300.00	184,770.00	10,265.00	10,265.00
13 Payments on Previous Estimates:	205,300.00	184,770.00	10,265.00	10,265.00
14 Allowable Payment This Estimate:	0.00	0.00	0.00	0.00
15 Administration and Other Costs:	2,500.00	2,250.00	125.00	125.00
16 Allowable Payment..... 100%	2,500.00	2,250.00	125.00	125.00
17 Payments on Previous Estimates:	2,500.00	2,250.00	125.00	125.00
18 Allowable Payment This Estimate:	0.00	0.00	0.00	0.00
19 Project Costs Allowed this Report:	0.00	0.00	0.00	0.00
20 Project Costs Allowed to Date:	207,800.00	187,020.00	10,390.00	10,390.00
21 Previously Approved Project Costs Unpaid:	18,700.00	18,700.00	0.00	0.00
22 Adjustments to Payments (see note below):	0.00	0.00	0.00	0.00
23 Total Payments Allowed this Report:	18,700.00	18,700.00	0.00	0.00
24 Previous PMTS - Lump Sum to State/Federal Credit:	0.00	0.00	0.00	0.00
25 Available Encumbered Funds (Fed Received):	18,700.00	18,700.00	0.00	0.00
26 Project Payments Approved this Report:	18,700.00	18,700.00	0.00	0.00
27 State Payment Using Federal Credit:			0.00	
28 Remaining State Payment:			0.00	
29 Lump Sum Payment to the State:	0.00	0.00	0.00	0.00
30 Total Payments Approved this Report: *****	18,700.00	18,700.00	0.00	0.00
31 Approved Payments Holding for Add Funds Encumb: (Fed Rec)	0.00	0.00	0.00	0.00
32 Total Project Payments Made to Date:	207,800.00	187,020.00	10,390.00	10,390.00
33 Balance Available Encumb Funds Carried Forward:	0.00	0.00	0.00	0.00
34 Balance Federal Funds Received:		0.00		

NOTE:

The work described herein is satisfactory
and payment of State Aid is hereby
recommended

Date

Regional Airport Engineer

State Aid on work described in this report is
hereby approved for payment

Date

Assistant Director, Office of Aeronautics

State of Minnesota
 Department of Transportation
 Office of Aeronautics
 Airport Development Section

Statement of Construction Work Performed

Region: S
 FAA Proj Number: 3-27-0016-07-18
 FY: 2019
 Estimate Number: 5
 Construction Costs Through: 07/01/2021

State Project Number: A2801-31
 Agreement: 1032122
 Municipality: HOUSTON COUNTY
 Project Description: Master Plan with ALP

Item Number	Construction Item	Unit of Measure	Funding Rate			Unit Price	Quantity	Amount	Previously Completed Quantity	Completed This Report Quantity	Completed to Date Quantity	Completed to Date Amount							
			FAA	ST	MUN														
Pmt. 1	Blank Entry to Get Report to Print											\$	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Contract Totals:																			
TOTAL																			
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Completed to Date:

State of Minnesota
Department of Transportation
Office of Aeronautics
Airport Development Section

Statement of Engineering Services
Certified as part of Construction Report and Cost Estimate

Region: S
FAA Proj Number: 3-27-0016-07-18
FY: 2019
Estimate Number: 5
Engineering Costs Through: 07/01/2021

State Project Number: A2801-31
Agreement: 1032122
Municipality: HOUSTON COUNTY
Project Description: Master Plan with ALP

Item Number	Engineering Work Phase	Engineering Cost Contract, Percent, or Not to Exceed Total	Funding Rate			Engineering Costs from Previous Statements	Engineering Costs this Statement	Engineering Costs To Date
			FAA	ST	MUN			
Pmt-1	**Bolton & Menk Invoices**	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1	Inv.#:0225200/10-31-18/Mstr Pln(01)&Gmt Admin(04)	0.00	90.00	5.00	5.00	18,107.25	0.00	18,107.25
2	Inv.#:022667/11-30-18/Master Plan (001)	0.00	90.00	5.00	5.00	7,927.50	0.00	7,927.50
Pmt-2	** Bolton & Menk Invoices**	0.00	0.00	0.00	0.00	0.00	0.00	0.00
116820	B&M - Invoice 227800 - 12/31/2018 - Master Plan	0.00	90.00	5.00	5.00	7,927.50	0.00	7,927.50
117129	B&M - Invoice 229173 - 1/28/2019 - Master Plan	0.00	90.00	5.00	5.00	7,927.50	0.00	7,927.50
117824	B&M - Invoice 230520 - 2/28/2019 - Master Plan	0.00	90.00	5.00	5.00	10,570.00	0.00	10,570.00
118295	B&M - Invoice 231511 - 3/29/2019 - Master Plan	0.00	90.00	5.00	5.00	10,570.00	0.00	10,570.00
118801	B&M - Invoice 232859 - 4/30/2019 - Master Plan	0.00	90.00	5.00	5.00	23,782.50	0.00	23,782.50
118801	B&M - Invoice 232859 - 4/30/2019 - Survey	0.00	90.00	5.00	5.00	512.50	0.00	512.50
118801	B&M - Invoice 232859 - 4/30/2019 - ALP	0.00	90.00	5.00	5.00	2,891.00	0.00	2,891.00
119254	B&M - Invoice 234406 - 5/31/2019 - Master Plan	0.00	90.00	5.00	5.00	5,285.00	0.00	5,285.00
119254	B&M - Invoice 234406 - 5/31/2019 - Survey	0.00	90.00	5.00	5.00	1,025.00	0.00	1,025.00
119254	B&M - Invoice 234406 - 5/31/2019 - ALP	0.00	90.00	5.00	5.00	5,782.00	0.00	5,782.00
119678	B&M - Invoice 235815 - 6/28/2019 - Master Plan	0.00	90.00	5.00	5.00	6,606.25	0.00	6,606.25
119678	B&M - Invoice 235815 - 6/28/2019 - Survey	0.00	90.00	5.00	5.00	1,230.00	0.00	1,230.00
119678	B&M - Invoice 235815 - 6/28/2019 - ALP	0.00	90.00	5.00	5.00	17,924.20	0.00	17,924.20
Pmt-3	***Bolton & Menk Invoices***	0.00	0.00	0.00	0.00	0.00	0.00	0.00
120217	Inv.#:23734708 - 08-2019 / Master Plan	0.00	90.00	5.00	5.00	7,927.50	0.00	7,927.50
120217	Inv.#:237347 - 08-2019 / Airport Layout Plan	0.00	90.00	5.00	5.00	12,142.20	0.00	12,142.20
120657	Inv.#:238753 - 09-2019 / Master Plan	0.00	90.00	5.00	5.00	2,642.50	0.00	2,642.50
120657	Inv.#:238753 - 09-2019 / Survey	0.00	90.00	5.00	5.00	307.50	0.00	307.50
120657	Inv.#:238753 - 09-2019 / Airport Layout Plan	0.00	90.00	5.00	5.00	7,764.35	0.00	7,764.35
120657	Inv.#:238753 - 09-2019 / Grant Administration	0.00	90.00	5.00	5.00	255.25	0.00	255.25
121167	Inv.#:240309 - 10-2019 / Master Plan	0.00	90.00	5.00	5.00	2,642.50	0.00	2,642.50
121167	Inv.#:240309 - 10-2019 / Airport Layout Plan	0.00	90.00	5.00	5.00	3,799.65	0.00	3,799.65
121652	Inv.#:241794 - 11-2019 / Master Plan	0.00	90.00	5.00	5.00	2,378.25	0.00	2,378.25
122355	Inv.#:244799 - 01-2020 / Master Plan	0.00	90.00	5.00	5.00	3,303.13	0.00	3,303.13
122355	Inv.#:244799 - 01-2020 / Survey	0.00	90.00	5.00	5.00	2,306.25	0.00	2,306.25
122355	Inv.#:244799 - 01-2020 / Airport Layout Plan	0.00	90.00	5.00	5.00	867.30	0.00	867.30
122355	Inv.#:244799 - 01-2020 / Grant Administration	0.00	90.00	5.00	5.00	153.15	0.00	153.15
122077	Inv.#:243229 - 12-2019 / Master Plan	0.00	90.00	5.00	5.00	1,585.50	0.00	1,585.50
122077	Inv.#:243229 - 12-2019 / Survey	0.00	90.00	5.00	5.00	256.25	0.00	256.25
122077	Inv.#:243229 - 12-2019 / Grant Administration	0.00	90.00	5.00	5.00	102.10	0.00	102.10
Pymt #4		0.00	0.00	0.00	0.00	0.00	0.00	0.00
124215	B&M - Inv #0250211 - 4/30/2020 - Master Plan	0.00	90.00	5.00	5.00	8,588.12	0.00	8,588.12
124215	B&M - Inv #0250211 - 4/30/2020 - Survey	0.00	90.00	5.00	5.00	4,612.50	0.00	4,612.50
124603	B&M - Inv #0251692 - 5/29/2020 - Master Plan	0.00	90.00	5.00	5.00	5,285.00	0.00	5,285.00

State of Minnesota
Department of Transportation
Office of Aeronautics
Airport Development Section

Statement of Administration Services
Certified as part of Construction Report and Cost Estimate

State Project Number: A2801-31
 Agreement: 1032122
 Municipality: HOUSTON COUNTY
 Project Description: Master Plan with ALP

Region: S
 FAA Proj Number: 3-27-0016-07-18
 FY: 2019
 Estimate Number: 5
 Administration Costs Through: 07/01/2021

Item Number	Administration Description	Funding Rate			Costs from Previous Statements	Costs this Statement	Administration Costs To Date
		FAA	ST	MUN			
Pmt-1 1	Houston County Master Plan IFE - SEH Inv.#:352181 / 7-6-18 / CHU - Mstr Pln	0.00	0.00	0.00	0.00	0.00	0.00
	TOTALS	90.00	5.00	5.00	2,500.00	0.00	2,500.00

CONSTRUCTION PRO-RATE SHARES OF COST:
 ADMINISTRATION COSTS TO DATE SHARES:

PLEASE INCLUDE WITH THIS REPORT A COPY OF YOUR PAID INVOICE FOR EACH NEW CLAIMED COST.

TOTAL
 2,500.00
 FEDERAL
 0.0000 %
 STATE
 0.0000 %
 LOCAL
 0.0000 %
 125.00

APPENDIX B
FINAL SPONSOR CERTIFICATIONS

Drug-Free Workplace Airport Improvement Program Sponsor Certification

Sponsor: HOUSTON COUNTY, MN

Airport: HOUSTON COUNTY AIRPORT

Project Number: AIP 3-27-0016-07-18

Description of Work: AIRPORT MASTER PLAN AND AIRPORT LAYOUT PLAN UPDATE

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within federal grant programs are described in 2 CFR part 182. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. A statement has been or will be published prior to commencement of project notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition (2 CFR § 182.205).

☒ Yes ☐ No ☐ N/A

2. An ongoing drug-free awareness program (2 CFR § 182.215) has been or will be established prior to commencement of project to inform employees about:

- a. The dangers of drug abuse in the workplace;
- b. The sponsor's policy of maintaining a drug-free workplace;
- c. Any available drug counseling, rehabilitation, and employee assistance programs; and
- d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

☒ Yes ☐ No ☐ N/A

3. Each employee to be engaged in the performance of the work has been or will be given a copy of the statement required within item 1 above prior to commencement of project (2 CFR § 182.210).

☒ Yes ☐ No ☐ N/A

4. Employees have been or will be notified in the statement required by item 1 above that, as a condition employment under the grant (2 CFR § 182.205(c)), the employee will:

- a. Abide by the terms of the statement; and
- b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

☒ Yes ☐ No ☐ N/A

5. The Federal Aviation Administration (FAA) will be notified in writing within 10 calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction (2 CFR § 182.225). Employers of convicted employees must provide notice, including position title of the employee, to the FAA (2 CFR § 182.300).

☒ Yes ☐ No ☐ N/A

6. One of the following actions (2 CFR § 182.225(b)) will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:

- a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; and
- b. Require such employee to participate satisfactorily in drug abuse assistance or rehabilitation programs approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

☒ Yes ☐ No ☐ N/A

7. A good faith effort will be made, on a continuous basis, to maintain a drug-free workplace through implementation of items 1 through 6 above (2 CFR § 182.200).

☒ Yes ☐ No ☐ N/A

Site(s) of performance of work (2 CFR § 182.230):

Location 1

Name of Location:

Address:

Location 2 (if applicable)

Name of Location:

Address:

Location 3 (if applicable)

Name of Location:

Address:

Attach documentation clarifying any above item marked with a "No" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this 1ST day of JULY, 2021.

Name of Sponsor: HOUSTON COUNTY, MN

Name of Sponsor's Authorized Official: BRIAN POGODZINSKI

Title of Sponsor's Authorized Official: COUNTY ENGINEER

Signature of Sponsor's Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Selection of Consultants

Airport Improvement Program Sponsor Certification

Sponsor: HOUSTON COUNTY, MN

Airport: HOUSTON COUNTY AIRPORT

Project Number: AIP 3-27-0016-07-18

Description of Work: AIRPORT MASTER PLAN AND AIRPORT LAYOUT PLAN UPDATE

Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements for selection of consultant services within federal grant programs are described in 2 CFR §§ 200.317-200.326. Sponsors may use other qualifications-based procedures provided they are equivalent to standards of Title 40 chapter 11 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "Yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. Sponsor acknowledges their responsibility for the settlement of all contractual and administrative issues arising out of their procurement actions (2 CFR § 200.318(k)).
☒ Yes ☐ No ☐ N/A
2. Sponsor procurement actions ensure or will ensure full and open competition that does not unduly limit competition (2 CFR § 200.319).
☒ Yes ☐ No ☐ N/A
3. Sponsor has excluded or will exclude any entity that develops or drafts specifications, requirements, or statements of work associated with the development of a request-for-qualifications (RFQ) from competing for the advertised services (2 CFR § 200.319).
☒ Yes ☐ No ☐ N/A

4. The advertisement describes or will describe specific project statements-of-work that provide clear detail of required services without unduly restricting competition (2 CFR § 200.319).
☒ Yes ☐ No ☐ N/A
5. Sponsor has publicized or will publicize a RFQ that:
a. Solicits an adequate number of qualified sources (2 CFR § 200.320(d)); and
b. Identifies all evaluation criteria and relative importance (2 CFR § 200.320(d)).
☒ Yes ☐ No ☐ N/A
6. Sponsor has based or will base selection on qualifications, experience, and disadvantaged business enterprise participation with price not being a selection factor (2 CFR § 200.320(d)).
☒ Yes ☐ No ☐ N/A
7. Sponsor has verified or will verify that agreements exceeding \$25,000 are not awarded to individuals or firms suspended, debarred or otherwise excluded from participating in federally assisted projects (2 CFR § 180.300).
☒ Yes ☐ No ☐ N/A
8. A/E services covering multiple projects: Sponsor has agreed to or will agree to:
a. Refrain from initiating work covered by this procurement beyond five years from the date of selection (AC 150/5100-14); and
b. Retain the right to conduct new procurement actions for projects identified or not identified in the RFQ (AC 150/5100-14).
☒ Yes ☐ No ☐ N/A
9. Sponsor has negotiated or will negotiate a fair and reasonable fee with the firm they select as most qualified for the services identified in the RFQ (2 CFR § 200.323).
☒ Yes ☐ No ☐ N/A
10. The Sponsor's contract identifies or will identify costs associated with ineligible work separately from costs associated with eligible work (2 CFR § 200.302).
☒ Yes ☐ No ☐ N/A
11. Sponsor has prepared or will prepare a record of negotiations detailing the history of the procurement action, rationale for contract type and basis for contract fees (2 CFR § 200.318(i)).
☒ Yes ☐ No ☐ N/A
12. Sponsor has incorporated or will incorporate mandatory contract provisions in the consultant contract for AIP-assisted work (49 U.S.C. Chapter 471 and 2 CFR part 200 Appendix II)
☒ Yes ☐ No ☐ N/A

13. For contracts that apply a time-and-material payment provision (also known as hourly rates, specific rates of compensation, and labor rates), the Sponsor has established or will establish:

- a. Justification that there is no other suitable contract method for the services (2 CFR §200.318(j));
- b. A ceiling price that the consultant exceeds at their risk (2 CFR §200.318(j)); and
- c. A high degree of oversight that assures consultant is performing work in an efficient manner with effective cost controls in place 2 CFR §200.318(j)).

☐ Yes ☐ No ☒ N/A

14. Sponsor is not using or will not use the prohibited cost-plus-percentage-of-cost (CPPC) contract method. (2 CFR § 200.323(d)).

☒ Yes ☐ No ☐ N/A

Attach documentation clarifying any above item marked with "no" response.

Sponsor's Certification

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Executed on this 1ST day of JULY, 2021.

Name of Sponsor: HOUSTON COUNTY, MN

Name of Sponsor's Authorized Official: BRIAN POGODZINSKI

Title of Sponsor's Authorized Official: COUNTY ENGINEER

Signature of Sponsor's Authorized Official: _____

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

APPENDIX C
FORM SF 271

**OUTLAY REPORT AND REQUEST FOR
REIMBURSEMENT FOR
CONSTRUCTION PROGRAMS**

1. TYPE OF REQUEST

☒ **FINAL**
☐ **PARTIAL**

2. BASIS OF REQUEST

☒ **CASH**
☐ **ACCRUAL**

**3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL
ELEMENT TO WHICH THIS REPORT IS SUBMITTED**

FAA

**4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER
ASSIGNED BY FEDERAL AGENCY**

3-27-00016-007-18

**5. PARTIAL PAYMENT REQUEST
NUMBER FOR THIS REQUEST**

**6. EMPLOYER IDENTIFICATION
NUMBER**

41-6007162

**7. FINANCIAL ASSISTANCE
IDENTIFICATION NUMBER**

DUNS 95727 1604

8. PERIOD COVERED BY THIS REQUEST

From: 08/07/2018

To: 07/01/2021

9. RECIPIENT ORGANIZATION

Name: MNDOT OFFICE OF AERONAUTICS

Street1: 222 EAST PLATO BLVD.

Street2:

City: ST. PAUL

County: RAMSEY

State: MN: Minnesota

Province:

Country: USA: UNITED STATES

ZIP / Postal Code: 55107

10. PAYEE (Where check is to be sent if different than item 9)

Name:

Street1:

Street2:

City:

County:

State:

Province:

Country:

ZIP / Postal Code:

11.

STATUS OF FUNDS

CLASSIFICATION	PROGRAMS	FUNCTIONS	ACTIVITIES	TOTAL
	(a) <small>FAA</small>	(b) <small>STATE</small>	(c) <small>LOCAL</small>	
a. Administrative expense	\$ 2,250.00	\$ 125.00	\$ 125.00	\$ 2,500.00
b. Preliminary expense				
c. Land, structures, right-of-way				
d. Architectural engineering basic fees	184,770.00	10,265.00	10,265.00	205,300.00
e. Other architectural engineering fees				
f. Project inspection fees				
g. Land development				
h. Relocation expense				
i. Relocation payments to individuals and businesses				
j. Demolition and removal				
k. Construction and project improvement cost				
l. Equipment				
m. Miscellaneous cost				
n. Total cumulative to date (sum of lines a thru m)	187,020.00	10,390.00	10,390.00	207,800.00
o. Deductions for program income				
p. Net cumulative to date (line n minus line o)	187,020.00	10,390.00	10,390.00	207,800.00
q. Federal share to date	187,020.00			187,020.00
r. Rehabilitation grants (100% reimbursement)				
s. Total Federal share (sum of lines q and r)	187,020.00			187,020.00
t. Federal payments previously requested	168,320.00			168,320.00
u. Amount requested for reimbursement	\$ 18,700.00	\$	\$	\$ 18,700.00
v. Percentage of physical completion of project	100.00 %	100.00 %	100.00 %	100.00 %

12. **CERTIFICATION**

I certify that to the best of my knowledge and belief the billed costs or disbursements are in accordance with the terms of the project and that the reimbursement represents the Federal share due which has not been previously requested and that an inspection has been performed and all work is in accordance with the terms of the award.

a. RECIPIENT

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REPORT SUBMITTED
	

TYPED OR PRINTED NAME AND TITLE

Prefix: First Name: Middle Name:
Last Name: Suffix:
Title:

TELEPHONE (Area code, number, and extension)

b. REPRESENTATIVE CERTIFYING TO LINE 11V

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE SIGNED
	

TYPED OR PRINTED NAME AND TITLE

Prefix: First Name: Middle Name:
Last Name: Suffix:
Title:

TELEPHONE (Area code, number, and extension)

Houston County Agenda Request Form

Date Submitted: July 22, 2021 Board Date: July 27, 2021

Person requesting appointment with County Board: Brian Pogodzinski

Issue:

Attached is Change Order Request #12 for the Highway Facility project. The change order request removes the cost of the shed from Weiser Contract.

Attachments/Documentation for the Board's Review:

Attached is Change Order Request #12 for the Highway Facility project.

Justification:

Action Requested:

Approve Change Order Request #12

For County Use Only			
<u>Reviewed by:</u>	<u> </u> County Auditor	<u> </u> County Attorney	<u> </u> Zoning Administrator
	<u> </u> Finance Director	<u> </u> County Engineer	<u> </u> Environmental Services
	<u> </u> IS Director	<u> </u> Other (indicate dept)	<u> </u>
<u>Recommendation:</u>			
<u>Decision:</u>			

All agenda request forms must be submitted to the County Auditor by 4:00 p.m. on Monday in order to be considered for inclusion on the following week's agenda. The Board will review all



CHANGE ORDER REQUEST # 12

Project Name: Houston County Hwy Department

Job # 220193

Date: 7/16/2021

DESCRIPTION OF WORK TO BE DONE:

Refunding funds into contingency after Shed solution was determined. Houston County provided shed. Wieser Brothers used equipment to move shed into correct location: \$250.

	Sub Quote	Labor Total	Tax Exempt Material Total	WB Mark Up	Total Cost
Shed			-\$3,795.00	-\$379.50	-\$4,174.50
Crane Usage		\$250.00			\$250.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
Subtotal	\$0.00	\$250.00	-\$3,795.00	-\$379.50	
					Subtotal
					-\$3,924.50
					Contractor's Fee
					\$0.00
					Total for Change Order
					-\$3,924.50

Approval: _____

Date: _____

Houston County Agenda Request Form

Date Submitted: July 22, 2021 **Board Date:** July 27, 2021

Person requesting appointment with County Board: Brian Pogodzinski

Issue:

This request is approve the Dunn Blacktop bid for 32A Asphalt Paving and Windsor Co. for the concrete polishing.

Attachments/Documentation for the Board's Review:

Bid Package 2

Justification:

These contracts were discussed at the 12/1/2020 board meeting but were tabled to get more information.

Action Requested:

Accept and approve both Dunn's and Winsor's contracts.

For County Use Only			
<u>Reviewed by:</u>	_____	County Auditor	_____
	_____	County Attorney	_____
	_____	Zoning Administrator	_____
	_____	Finance Director	_____
	_____	County Engineer	_____
	_____	Environmental Services	_____
	_____	IS Director	_____
	_____	Other (indicate dept)	_____
<u>Recommendation:</u>			
<u>Decision:</u>			

All agenda request forms must be submitted to the County Auditor by 4:00 p.m. on Monday in order to be considered for inclusion on the following week's agenda. The Board will review all

BID RESULTS

Project Name: Houston County Highway Department Facility Bid Package: #2
Date: November 25, 2020

Work Category	Bidders	Bidder Location	Base Bid	Notes
2A: Hazardous Materials Abatement				

Work Category	Bidders	Bidder Location	Base Bid	Notes
32A: Asphalt Paving (Furnish & Install)	Dunn Blacktop	Winona MN	\$ 369,666.64	

Work Category	Bidders	Bidder Location	Base Bid	Notes
32B: Precast Divider Panels (Furnish & Install)	Al's Concrete Products	La Crescent MN	\$ 145,421.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
32C: Fencing & Gates (Furnish & Install)	Century Fence	Forest Lake MN	\$ 78,725.00	
	Stonebrook Fence	Lakeville MN	\$ 79,894.00	
	Midwest Fence	So St Paul MN	\$ 84,414.00	
	American Fence of Minn	Rochester MN	\$ 89,384.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
3A: Cast in Place Concrete (Furnish & Install)	Hanson Masonry	Owen WI	\$ 789,227.00	
	Wieser Brothers	La Crescent MN	\$ 716,674.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
3B: Precast Wall Panels (Furnish & Install)	Al's Concrete	La Crescent	\$ 107,992.00	
	Crest Precast	La Crescent	\$ 174,400.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
3C: Hollow Core Plank (Furnish & Install)	No Bids			See Allowance

Work Category	Bidders	Bidder Location	Base Bid	Notes
4A: Masonry (Furnish & Install)	Rusty Berger Masonry	Waukon IA	\$ 61,870.00	
	Darold Berger Masonry	Waukon IA	\$ 87,200.00	
	Hanson Masonry	Owen WI	\$ 137,540.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
5A: Metal Fabrications (Furnish Only)	Valley Custom Welding	Elmwood WI	\$ 45,110.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
6A: Carpentry (Furnish & Install)				

Work Category	Bidders	Bidder Location	Base Bid	Notes
6B: Plastic Laminate Casework (Furnish Only)	Midwest Millwork	La Crosse, MN	\$ 17,478.00	
	Northern Woodwork	Thief River Falls, MN	\$ 19,658.00	
	CTB Inc	Wyoming MN	\$ 21,356.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
7A: EPDM Roofing and Sheet Metal Flashings (Furnish & Install)	WHV	Winona MN	\$ 36,400.00	
	Interstate Roofing	Onalaska WI	\$ 43,850.00	
	Ledegar Roofing		\$ 81,150.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
8A: Doors/Frames/Hardware (Furnish Only)	Valley Builders Hdwr	Eau Claire WI	\$ 43,200.00	
	Kendell Doors	Mankato MN	\$ 44,450.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
8B: Aluminum Windows/Doors/Glazing (Furnish & Install)	Glass Service Center	La Crosse WI	\$ 47,939.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
8C: Sectional Doors (Furnish & Install)	Seven Rivers Overhead Door	Onalaska WI	\$ 58,292.00	
	Skold Specialty	Isanti, MN	\$ 93,762.52	

Work Category	Bidders	Bidder Location	Base Bid	Notes
9A: Metal Stud Framing (Furnish & Install)	Mulcahy Nickolaus	Oakdale MN	\$ 162,800.00	
	Wieser Brothers	La Cresecent MN	\$ 141,500.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
9B: Acoustical Ceilings (Furnish and Install)	Twin City Acoustics	New Hope MN	\$ 18,050.00	
	Midwest Ceilings	Holmen WI	\$ 18,132.00	
	Country Acoustics	Grand Meadow MNq	\$ 18,875.00	
	Ceiling Pro	Oronoco MN	\$ 20,565.00	
	Poellinger	La Crosse WI	\$ 22,000.00	
	Palmer Soderberg	Rochester MN	\$ 27,000.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
9C: Carpet & Resilient Flooring Resilient Base (Furnish & Install)	Hiller Stores Inc	Rochester MN	\$ 21,500.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
9D: Tile (Furnish & Install)	Tims Construction Group	Ramsey MN	\$ 12,277.00	
	Grazzini Brothers	Eagan MN	\$ 16,700.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
9E: Concrete Polishing (Furnish & Install)	Winsor Co.	St Paul MN	\$ 6,255.00	
	Mavo Systems	White Bear Lk MN	\$ 7,900.00	
	Sterling Stone Tile	Oak Grove MN	\$ 9,000.00	
	Universal Floor Coatings	Hampton MN	\$ 9,947.00	
	Pro Maintenance	Huchinson MN	\$ 15,574.00	
	Power Glaze	Eureco MO	\$ 19,778.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
9F: Painting (Furnish & Install)	High Performance Coatings	Buffalo, MN	\$ 25,297.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
10A: Specialties	Superior Building Specialties	Fall Creek WI	\$ 1,747.00	
	Bartley Sales	St Louis Park MN	\$ 1,805.00	
	Tri-State Specialties	Moorhead MN	\$ 1,819.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
10B: Wall and Door Protection (Furnish Only)	Superior Building Spec	Fall Creek WI	\$ 1,793.00	
	Tri-State Specialties	Moorhead MN	\$ 2,152.00	
	Bartley Sales	St Louis Park MN	\$ 2,260.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
10C: Lockers (Furnish Only)	Bartley Sales	St Louis Park MN	\$ 7,421.00	
	Adams	Fargo ND	\$ 8,342.42	
	Tri-State Specialties	Moorhead MN	\$ 9,375.00	
	Olympus Lockers	Eden Prairie MN	\$ 9,905.00	
	Building Material Supply	Edina MN	\$ 12,300.00	
	Wisota Supply	Prescott WI	\$ 15,900.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
12A: Window Blinds (Furnish & Install)	No Bids			See allowance

Work Category	Bidders	Bidder Location	Base Bid	Notes
13A: Metal Building Erection (Install as applies)	Wieser Brothers General Contractor	La Crescent MN	\$ 398,600.00	Erection

Work Category	Bidders	Bidder Location	Base Bid	Notes
13B : Fabric Covered/Steel Frame Structure (Furnish & Install)	Greystone	Shakopee MN	\$ 212,304.00	Add \$19827 for one 145'x 110' bldg
	Structures Unlimited	Stratford WI	\$ 238,800.00	No alternate bid
	Legacy Buildings	South Haven MN	\$ 308,219.00	Deduct \$23,600 for one 145'x110' bldg

Work Category	Bidders	Bidder Location	Base Bid	Notes
14A: Conveying Equipment (Furnish & Install)	Lovegreen Material Handling	Eagan MN	\$ 90,551.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
21A: Fire Suppression (Furnish & Install)	Viking Sprinkler	Rochester MN	\$ 98,900.00	
	Olympic Fire Protection	Owatonna MN	\$ 109,500.00	
	Fireline Sprinkler	Whitehall WI	\$ 118,900.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
22A: Plumbing (Furnish & Install)	Hengel Brothers	La Crosse WI	\$ 197,850.00	
	Winona Controls	Caledonia MN	\$ 227,993.00	
	Seven Rivers Mechanical	La Crescent MN	\$ 239,890.00	
	Plumbers Mechanical Group	Winona MN	\$ 263,000.00	
	Winona Heating & Vent	Winona MN	\$ 266,622.00	
	Superior Mechanical	Rochester	\$ 271,860.00	
	B & C Plumbing & Heat	Eyota MN	\$ 353,885.00	

Work Category	Bidders	Bidder Location	Base Bid	Notes
23A: HVAC (Furnish & Install)	Winona Controls	Caledonia MN	\$ 369,261.00	Alt: Deduct \$35,906
	Hengel Brothers	La Crosse WI	\$ 427,861.00	Alt: Deduct \$37,146
	Plumbers Mechanical Group	Winona MN	\$ 455,620.00	Alt: Deduct \$32,755
	Schneider Heating & AC	Onalaska WI	\$ 475,460.00	Alt: Deduct \$31,460
	B&C Plumbing & Heat	Eyota MN	\$ 488,809.00	no alternate bid
	Superior Mechanical	Rochester MN	\$ 499,450.00	Alt: Deduct \$25,900
	Winona Heat & Vent	Winona MN	\$ 510,890.00	Alt: Deduct \$59,699

Work Category	Bidders	Bidder Location	Base Bid	Notes
26A: Electrical (Furnish & Install)	Kish	La Crosse WI	\$ 312,885.00	
	McCabe Electric	Caledonia MN	\$ 337,124.00	
	P&T Elect	La Crescent MN	\$ 362,990.00	

Houston County

Agenda Request Form

This form is not intended for the general public. It is intended for use by county department heads, representatives of other governmental units or vendors/agencies who contract with Houston County. Members of the public may address the Board during the Public Comment Period. (See Policy for Public Comment Period).

Date Submitted: July 20, 2021 for the July 27th Board Meeting

Person requesting appointment with County Board: Amelia Meiners

Issue:

Looking to amend the Agreement between Goodhue County SWCD and Houston County (for feedlot cost-share funds) to extend the end date on the contract from August 31, 2021 to July 31, 2022.

Attachments/Documentation for the Board's Review:

Amendment #1 to Agreement between the Goodhue SWCD and Houston County.

Justification:

The original contracts were reviewed through the necessary channels. This will only amend the end date and fund balance, all other agreement language will remain as-is.

Action Requested:

Seeking Board approval; will require a signature if approved.

For County Use Only			
<u>Reviewed by:</u>	<input type="checkbox"/> County Auditor	<input type="checkbox"/> County Attorney	<input type="checkbox"/> Zoning Administrator
	<input type="checkbox"/> Finance Director	<input type="checkbox"/> County Engineer	<input type="checkbox"/> Environmental Services
	<input type="checkbox"/> IS Director	<input type="checkbox"/> Other (indicate dept)	
<u>Recommendation:</u>			
<u>Decision:</u>			

All agenda request forms must be submitted to the County Auditor by 4:00 p.m. on Monday in order to be considered for inclusion on the following week's agenda. The Board will review all requests and determine if the request will be heard at a County Board meeting.

**AMENDMENT #1 to AGREEMENT BETWEEN
THE GOODHUE COUNTY SOIL AND WATER CONSERVATION DISTRICT
AND HOUSTON COUNTY**

This AGREEMENT is between the Goodhue County Soil and Water Conservation District (hereinafter referred to as “the District”) and Houston County (hereinafter referred to as “the Subrecipient”).

I. STATEMENT OF PURPOSE

The purpose of this AGREEMENT is to clarify the roles and responsibilities of the parties regarding the project entitled, “**Reducing Bacteria from SE MN Feedlots**” (hereinafter referred to as “the Project”) made possible through a grant received from the Minnesota Pollution Control Agency’s (MPCA) Federal Clean Water Act Section 319 grant program.

II. SCOPE OF SERVICES AND SPECIFIC DUTIES

The District has agreed to provide funding to the Subrecipient for implementation of the Project. The Subrecipient will complete the duties described in Attachment A (Project Workplan). Subject to approval by the authorized representative of the District, the Subrecipient may modify Attachment A through a written addendum to this Agreement which is signed by both parties. Some changes may require approval of the grantor, the MPCA.

The Subrecipient also agrees to adhere to the provisions of the attached State of Minnesota Grant Agreement, Swift Contract No. 158117, including Attachments A (Project Workplan) and B (Terms and Conditions).

III. PAYMENT TERMS AND REPORTING REQUIRMENTS

- A. REPORTING. The Subrecipient will submit semi-annual reports to the District to coincide with MPCA reporting requirements. The District will provide the Subrecipient a format for all reports approximately one month prior to the date on which reports are due.
- B. TERM. The Subrecipient may expend grant funds toward completion of the Project between the dates of **August 15, 2019 and August 31, 2021. July 31st 2022**
- C. AMOUNT. During the **remaining** term of this agreement the Sub-recipient may bill the District for up to ~~\$ 27,337.11~~ **\$17,250.00** for time and expenses incurred toward completion of the Project, as detailed in the grant work plan. Sub-recipient may not spend more than ~~\$6,337.11~~ **\$1,500** in technical assistance ~~of initial allocation~~. Grant funds may be transferred between participating members throughout the grant term. This will be conducted administratively with the approval of each effected party.

D. **PAYMENT SCHEDULE.** Upon execution of this AGREEMENT, the Subrecipient may present quarterly itemized invoices to the District for work actually performed (twice a year this invoice will accompany submittal of the semi-annual report.) The District will provide a sample invoice that indicates the required level of documentation of expenses. The District submits reimbursement requests to the MPCA quarterly. Upon the District's receipt of payment from the MPCA, and within seven days of receipt of payment, the District will process reimbursement to the Subrecipient.

IV. CONTRACT CLAUSES

1. **Ownership of Project Materials.** To the extent permissible under Minnesota law, materials prepared or developed by the Subrecipient hereunder, including documents, notes, reports, data, and samples shall become the property of the District when prepared, whether delivered to the Board or not, and shall be delivered to the Board upon request. The parties agree to comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the parties in accordance with this contract. The civil remedies of Minnesota Statute §13.08 apply to the release of the data referred to in this clause by either District or Subrecipient. Further, the parties will notify the other party within two business days of any request it receives to release data as a result of this CONTRACT. Each party shall be responsible for its own data responses in compliance with State law. Notwithstanding, the District will be responsible for responding to any data practices requests pertaining to this data.
2. **Changes.** The District may at any time issue written directions requiring additional work within the Work Plan and any amendments thereto, or directing the addition of, omission of, or variation in Work. If such direction results in a material change in the amount or character of Work, Subrecipient will prepare a proposed amended Scope of Work and cost estimate and forward it to District's representative. All changes/alterations to the Scope of Work set forth in II. above, and authorization to proceed shall be in writing and shall be executed by a duly authorized representative each the respective parties prior to the Subrecipient proceeding with the altered Scope of Work.
3. **Indemnity and Hold Harmless.** Subrecipient shall indemnify the District, its directors, officers, employees, and agents against damages, penalties, costs, or expenses incurred in connection with any alleged violation of any federal, state, or local law or regulation regulating the Work performed hereunder or any part thereof. Subrecipient agrees to indemnify and hold harmless the District, its directors, officers, employees, and agents against and from loss, claims, or suits, including costs and attorney's fees, for, or on account of injury, bodily or otherwise, or death, of persons, or damage to or destruction of property belonging to the District or others arising out of the negligent performance of the Work hereunder by the Subrecipient. Subrecipient shall, in no event, be liable for loss or damage attributable to District or its representatives or agents. Subrecipient's liability shall be limited by the provisions of

Minnesota Statutes Chapter 466 or other applicable law. Nothing herein shall be construed to limit either party from asserting against third parties any defenses or immunities (including common law, statutory and constitutional) it may have or be construed to create a basis for a claim or suit when none would otherwise exist.

4. **Nonassignment.** Subrecipient shall not assign this Agreement nor delegate or subcontract any of the Work to be performed without the District's written consent. If assignment, delegation, or subcontract is done with such consent, it shall not relieve Subrecipient from its responsibility for the performance of any of its obligations hereunder.
5. **Complete Agreement.** This Agreement constitutes the final expression of the parties' agreement, and the complete and exclusive statement of the terms agreed upon. This Agreement supersedes all prior negotiations, understandings, agreements and representations. There are no oral or written understandings, agreements or representations not specified herein.
6. **Independent Contractor Status.** Subrecipient is an Independent Contractor. Nothing contained in this Agreement is intended or should be construed as creating the relationship of co-partners or joint ventures between the parties. Subrecipient will be responsible for any federal or state taxes applicable to this payment. No tenure or any rights or benefits, including workers' compensation, unemployment insurance, medical care, sick leave, vacation leave, severance pay, Public Employment Retirement Association or other benefits available to Subrecipient employees, shall accrue to Goodhue Soil and Water Conservation District or its employees performing services under this Agreement.
7. **Worker Health, Safety and Training.** Subrecipient shall be solely responsible for the health and safety of its employees in connection with the work performed under this Contract. Subrecipient shall make arrangements to ensure the health and safety of all subcontractors and other persons who may perform work in connection with this Contract. Subrecipient shall ensure all personnel of Subrecipient and subcontractors are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks engaged in under this Contract. Subrecipient shall comply with federal, state and local occupational safety and health standards, regulations and rules promulgated pursuant to the Occupational Health and Safety Act which are applicable to the work to be performed by Subrecipient
8. **Legal Compliance.** Subrecipient and the District shall comply with all applicable federal and state statutes and regulations as well as local ordinances now in effect or hereafter adopted.
9. **Data Privacy.** For purposes of this Contract all data created, collected, received, stored, used, maintained, or disseminated by Subrecipient in the performance of this Contract is subject to the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Chapter 13 and the Minnesota Rules implementing the Act now in force or hereafter adopted as well as the federal laws on data privacy.

10. **Business Records.** Subrecipient shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Subrecipient's profession. Subrecipient shall maintain such records for at least 6 years from the date services or payment were last provided or made or longer if any audit in progress requires a longer retention period. All accounting records shall be kept in accordance with generally accepted accounting practices. The District shall have the right to audit and review all such documents and records at any time during Subrecipient's regular business hours or upon reasonable notice. These records are subject to examination, duplication, transcription and audit by the District and either the Legislative or State Auditor of the State of Minnesota pursuant to Minnesota Statute § 16C.05, subd 5. Such evidences are also subject to review by the Comptroller General of the United States, or a duly authorized representative, if federal funds are used for any work under this Contract.
11. **Force Majeure.** Neither party shall be held responsible for delay or failure to perform caused by fire, flood, epidemic, strikes, riot, acts of God, unusually severe weather, terrorism, war, acts of public authorities other than Goodhue SWCD or delays or defaults caused by public carriers which was beyond a party's reasonable control, provided the defaulting party gives notice as soon as possible to the other party of the inability to perform.
12. **Waiver.** The failure of the District or Subrecipient to enforce one or more of the terms or conditions of the Contract or to exercise any of its rights or privileges, or the waiver by either party of any breach of such terms or conditions, shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no waiver had occurred.
13. **Notices.** All official notices, shall be sufficiently given when delivered or mailed, certified mail, postage prepaid, to the parties at their respective places of business as set forth below or at a place designated hereafter in writing by the parties.
Authorized Representatives:
For the District: Board Chair. 104E 3rd Ave. PO Box 335, Goodhue MN 55027
For Houston County: Amelia Meiners, Houston County Environmental Services Director, Suite 209, 304 S. Marshall Street, Caledonia, MN 55921
14. **Interpretation, Jurisdiction and Venue.** All contractual agreements shall be subject to, governed by, and construed and interpreted solely according to the laws of the State of Minnesota. Both parties hereby consent and submit to the jurisdiction of the appropriate courts of Minnesota or of the United States having jurisdiction in Minnesota for adjudication of any suit or cause of action arising under or in connection with the contract documents, or the performance of such contract, and agrees that any such suit or cause of action may be brought in any such court.
15. **Severability.** The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

16. **Agreement to Mediate Disputes.** In the event that any dispute arises between the parties in relation to this Agreement, or out of this Agreement, and the dispute is not resolved by negotiation, the parties may agree to submit the dispute to mediation. Should the parties agree to submit the dispute to mediation the parties agree that their participation in mediation is a condition precedent to either party pursuing any other available remedy in relation to the dispute.

Either party to the dispute may give written notice to the other party of their desire to commence mediation, and a mediation session must take place within [30] days after the date that such notice is given.

The parties must jointly appoint a mutually acceptable mediator. If the parties are unable to agree upon the appointment of a mediator within [7] days after a party has given notice of a desire to mediate the dispute, either party may contact any organization or person to assist with engaging a qualified mediator from the Minnesota Supreme Court ADR-Rule 114 Neutrals Civil Roster

The parties further agree to share equally the costs of the mediation, which costs will not include costs incurred by a party for representation by counsel at the mediation.

17. **Default and Termination.** Either party by a [30] day written notice of default (including breach of contract) to the other party may terminate the whole or any part of this agreement if the other party fails to perform any of the provisions of this contract, and after receipt of written notice from the first party, fails to correct such failures within a period of 10 days or such longer period as the first party may authorize in writing after receipt of notice from the first party specifying such failure.
18. **Merger Clause.** This agreement constitutes the final expression of the parties' agreement, and the complete and exclusive statement of the terms agreed upon. This agreement supersedes all prior negotiations, understanding, agreements, and representations. There are no oral or written understandings, agreements or representations not specified herein. Furthermore, no waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

V. AGREEMENT EFFECTIVE DATE

This agreement is effective upon execution by all parties.

Approved and accepted for:

FOR THE GOODHUE COUNTY SOIL AND WATER CONSERVATION
DISTRICT

Jeff Beckman
Board Chair, Goodhue SWCD

Date

FOR THE SUBRECIPIENT

Name

Date

Title

Houston County

Agenda Request Form

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Date Submitted: July 22, 2021 for the July 27th Board Meeting

Person requesting appointment with County Board: Amelia Meiners

Issue:

CUP Approval/Denial: 1) Karl Housker - CUP to build a non-farm dwelling on less than 40 acres in Caledonia Township. 2) Thomas Ready - CUP to operate a multi-unit storage facility in the General Business District in La Crescent Township.

Justification:

Action Requested:

Final Approval by the County Board. (Agenda, Hearing Notice, Findings and Staff Report is attached.)

For County Use Only

Reviewed by:

_____ County Auditor	_____ County Attorney	_____ Zoning Administrator
_____ Finance Director	_____ County Engineer	_____ Environmental Services
_____ IS Director	_____ Other (indicate dept)	_____

Recommendation:

Decision:

All agenda request forms must be submitted to the County Auditor by 4:00 p.m. on Monday in order to be considered for inclusion on the following week's agenda. The Board will review all requests and determine if the request will be heard at a County Board meeting.

**HOUSTON COUNTY
PLANNING COMMISSION AND
BOARD OF ADJUSTMENT AGENDA
Thursday, July 22, 2021**

(Hearings are in the Houston County Commissioner's Room)

PLANNING COMMISSION

Approve Minutes for May 27, 2021

CONDITIONAL USE HEARINGS:

- 5:00 p.m. ***Karl Housker – Caledonia Township***
Conditional Use Permit to build a dwelling on less than 40 acres in an Agricultural Protection District (14.3 Subdivision 1 (10).
- 5:20 p.m. ***Thomas Ready – La Crescent Township***
Conditional Use Permit to operate a multi-unit storage facility in the General Business District (17.3 Subdivision 1 (5).

BOARD OF ADJUSTMENT

Approve Minutes for May 27, 2021

VARIANCE HEARINGS:

- 5:40 p.m. ***Steven Kennedy – Black Hammer Township***
Variance to reduce the township road setback for an existing building (14.7 Subdivision 3).
Variance to reduce a property line setback for an existing building (14.8 Subdivision 1).
- 6:00 p.m. ***Philip and Sara Brand – Yucatan Township***
Variance to reduce the property line setback for an existing building. Variance to reduce property line setback for a proposed building (14.8 sub. 1).
- 6:20 p.m. ***James and Judy Voshart – La Crescent Township***
Variance to reduce the toe of bluff setback (29.17 Subd. 2) Variance to allow an accessory building nearer the front lot line than the principal building (29.14 Subd. 2).
- 6:40 p.m. ***Eriah and Katharine Hayes – La Crescent Township***
Variance to reduce setback to an existing feedlot. (33.16 Sub. 6).
- 7:00 p.m. ***Eric and Tiffany Beck – La Crescent Township***
1) Variance to allow new dwellings on lots that are not buildable lots as defined by Ordinance (15.9 Subd. 1) 2) Variance to reduce the setback required from a public road (15.6 Subd. 3)
3) Variance to allow a structure within a bluff impact zone (29.17 Subd. 1) 4) Variance to reduce setback from the top of a bluff (29.17 Subd. 2) 5) Variance to minimum sewage treatment and disposal area standards (29.22 Subd. 10) and 6) Variance to allow an accessory building nearer the front lot line than the principal building (29.14 Subd. 2).
- 7:30 p.m. ***Kiernan Minehan – La Crescent Township***
1) Variance to allow new dwellings on lots that are not buildable lots as defined by Ordinance (15.9 Subd. 1); 2) Variance to reduce the setback required from a public road (15.6 Subd. 3);
3) Variance to allow a structure within a bluff impact zone (29.17 Subd. 1); 4) Variance to reduce setback from the top of a bluff (29.17 Subd. 2); 5) Variance to minimum sewage treatment and disposal area standards (29.22 Subd. 10); and 6) Variance to minimum side yard setback (15.7 Subd. 1).



HOUSTON COUNTY ENVIRONMENTAL SERVICES

Solid Waste • Recycling • Zoning
304 South Marshall Street – Room 209, Caledonia, MN 55921
Phone: (507) 725-5800 • Fax: (507) 725-5590



STAFF REPORT 6/15/2021

Application Date: 6/24/2021
Hearing Date: 6/1/2021
Petitioner: KTD Facilities LLC c/o Thomas Ready
Reviewer: Amelia Meiners
Zoning: General Business
Address: 1369 County 6
Township: La Crescent
Parcel Number: 080535000
Submitted Materials: CUP Application, Building Layout

OVERVIEW

REQUEST

The applicant is seeking a Conditional Use Permit to operate a storage facility in the General Business District.

SUMMARY OF NOTEWORTHY TOPICS

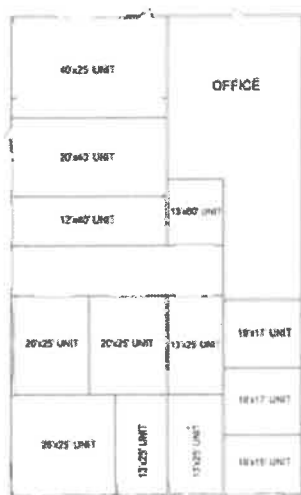
This is a 1.57-acre parcel in La Crescent Township, but there is 5.2 contiguous acres here. All three are zoned General Business.



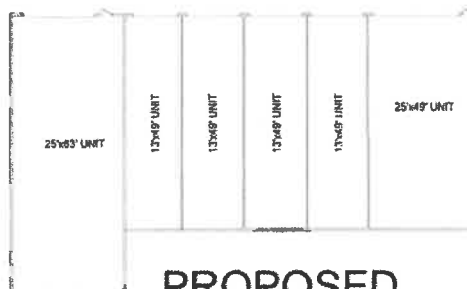
Figure 1. Yellow depicts the general business district, green is residential and purple is within city limits.

La Crescent Township handled zoning when former business activities were permitted on this property so permitting history is unknown. There is currently no conditional use permits on record for this parcel.

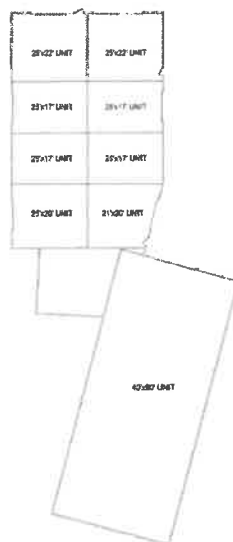
The applicant owned and operated a bus company for many years and has since retired. The bus sheds are empty and the applicant is looking to convert them into multi-unit storage facilities. This will only require interior construction activities aside from installing additional garage doors. Therefore, no zoning permits will be required. Proposed building layouts are shown below; larger drawings are included in the packet.



**PROPOSED
BUILDING A**



**PROPOSED
BUILDING B**



**PROPOSED
BUILDING C**

Relevant ordinance language:

17.3 CONDITIONAL USES

Subdivision 1. Conditional Uses. *In the General Business District, the following uses may be allowed only after obtaining a Conditional Use Permit in accordance with the provision of this Ordinance.*

- (1) Auto Service Stations.*
- (2) Drive in Business.*
- (3) Passenger and Freight Transportation Terminals.*
- (4) Single and Multi-Family Dwelling Units.*
- (5) Other Uses. Other uses as determined by the Planning Commission and the Houston County Board of Commissioners that are similar to those uses listed above, and are found to be compatible to with other uses already permitted in the district.*

The applicant is proposing this use under “other uses”. If single and multi-family dwelling units are a conditional use in this district, this could be considered an accessory use to those and therefore a relevant fit.

TOWNSHIP AND NEIGHBORHOOD COMMENTS

La Crescent Township and the ten nearest property owners were notified. No comments were received.

SITE CHARACTERISTICS

This is a 1.57-acre parcel in the General Business District of La Crescent Township. It is surrounded by residentially zoned properties within La Crescent Township and many properties that have been annexed into the City of La Crescent. There is an unnamed tributary to Pine Creek approximately 750 feet to the west and Pine Creek is 1,610 feet to the south. There are no floodplain, shoreland, wetland, slope or bluff concerns with this proposal. This physical property of this site will not change.

EVALUATION

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The landowner would like to maintain the property by finding a new use for his existing infrastructure rather than let it deteriorate which is in the best interest of the County.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: Former business operations have ceased and in an effort to utilize existing infrastructure in good condition the applicant the applicant has decide to offer storage services. With the number of residential properties in close proximity, this may be a good service to provide with little impact.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: This use will not change the exterior of the existing structures and will not have a different effect on water quality than the current use.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: This use will not change the exterior of the existing structures and will not have a different effect than the current use.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: N/A

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: There should be no pollution hazards. There will be no additional on-site septic.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: This is an existing site and there will be no additional utilities needed. If a utility need arises, it will be the responsibility of the applicant.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: This site used to accommodate multiple busses so will have adequate off-street parking and loading spaces for this use.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: This site used to accommodate school buses in which there were 100-150 departures per day. The applicant estimates the new use will have 10-15 trips per day of light vehicle traffic.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The surrounding properties are residential and the proposed use will complement those properties and actually be less intense than the previous business.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: This area is highly developed and this use should not affect any future change of uses.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: Storage units will create less of a nuisance to neighboring properties than what the bus company did.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: This is the only commercial development in the area and the proposal will be a complement to the residential development in the area.

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: To the County's knowledge, this location has never had an issue affecting the public's health, safety, morals and general welfare and that will not change with the new use.

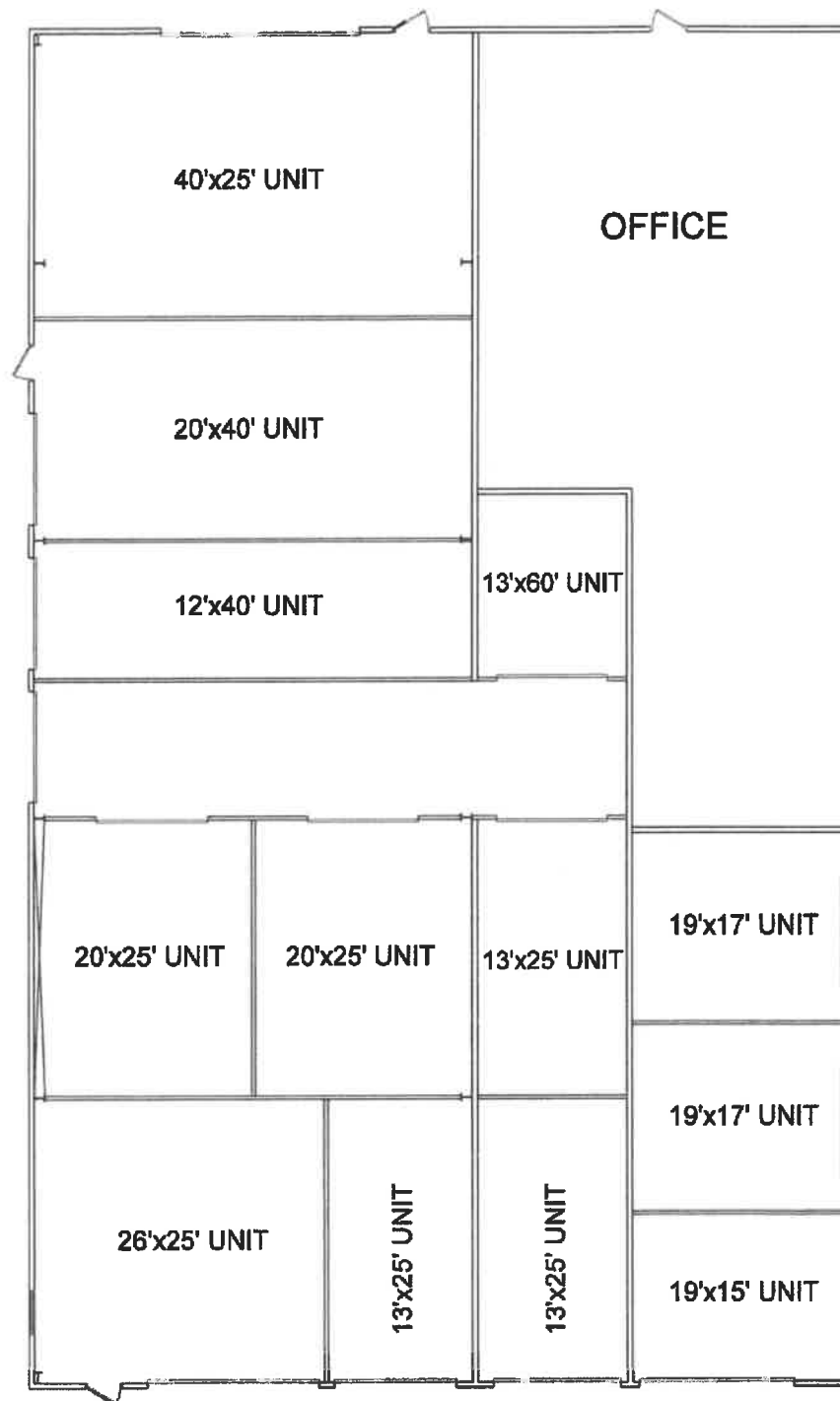
RECOMMENDATION

The Planning Commission must consider the criteria above. Should the permit be granted, staff recommend requiring the following conditions:

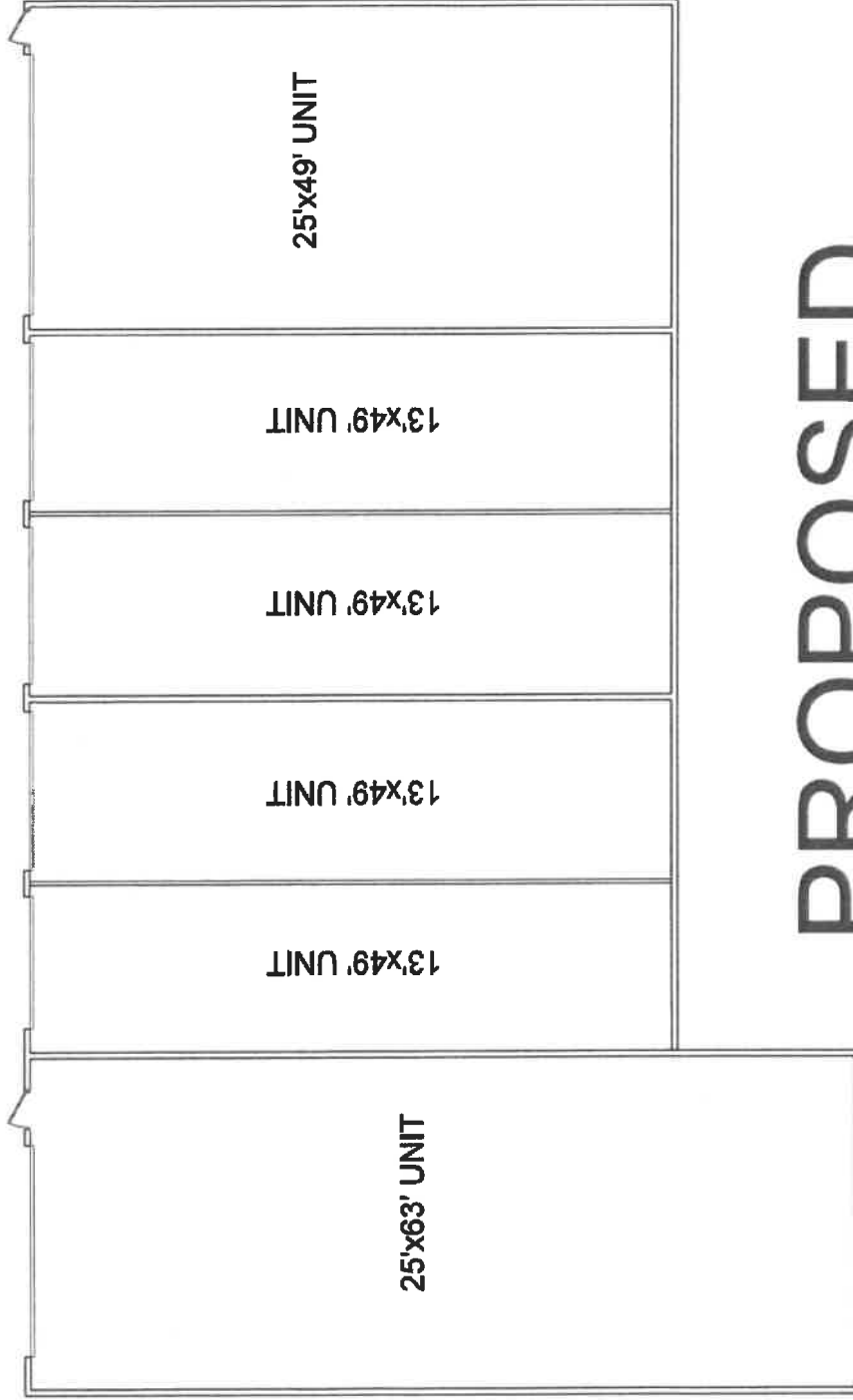
1. The Permittee shall comply with all federal, state, and local laws and regulations;
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

Proposed motion:

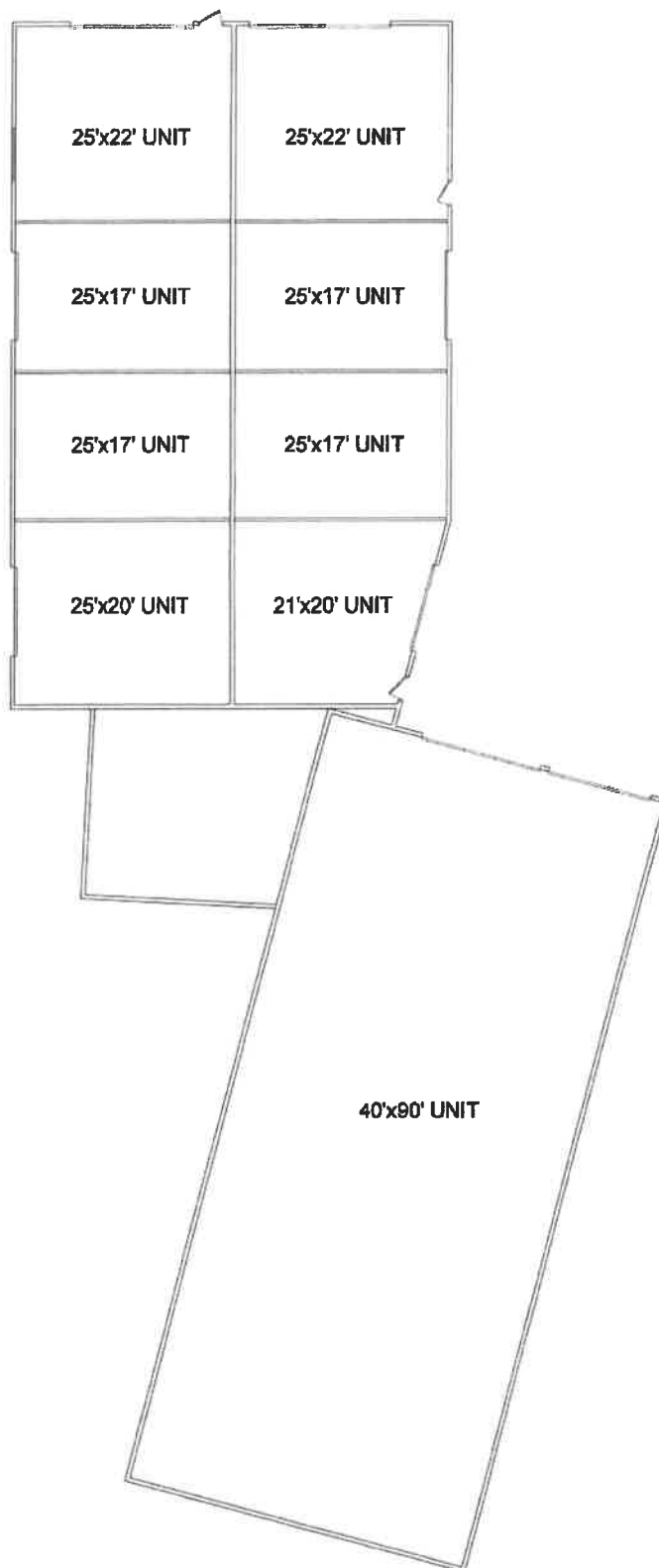
To recommend the granting of a Conditional Use Permit to operate a storage facility in the General Business District.



**PROPOSED
BUILDING A**



PROPOSED BUILDING B



**PROPOSED
BUILDING C**

Number 2021- CUP- 78367	KTD FACILITIES LLC THOMAS READY 080535000 Conditional Use Request Submitted by KTD FacilitiesLLC on 6/1/2021	
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CONDITIONAL USE INTRO [\[Edit\]](#) Last updated: 6/1/2021 12:11:41 PM and saved by: KTD FacilitiesLLC

A Conditional Use is a land use or development that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that specific criteria are met, as outlined in Section 6.5 of the ordinance.

When submitting an application, the information requested in this form is required. You may be asked to provide additional information as deemed necessary by the Zoning Office, the Planning Commission, or the County Board.

A non-refundable application fee and recording fee are required before an application is considered complete.

Prior to completing this form, a pre-application meeting with County Zoning is strongly recommended.

Conditional Use Application Fee **\$700.00**

Recording Fee **\$46.00**

Application Type:
Conditional Use

APPLICANT INFORMATION [\[Edit\]](#) Last updated: 6/1/2021 12:12:59 PM and saved by: KTD FacilitiesLLC

Applicant Name **KTD FACILITIES LLC THOMAS READY**

Telephone Number **608 7922349**

Address **1369 CTH 6**

City **La Crescent**

Zip **55947**

Parcel Tax ID **080535000**

Legal Description **PT W1/2 SE1/4 DOC #237533; DOC 250530**

Section-Township-Range **09/104/004**

Do you own additional adjacent parcels **Yes**

Township of: **La Crescent**

Applicants are required to inform township boards of their application.

Please reference the table below and contact the official for your township.

I understand I am required to inform my township of my application. **Yes**

Township Contacts

CONDITIONAL USE REQUEST [Edit] Last updated: 6/1/2021 12:15:03 PM and saved by: KTD FacilitiesLLC

[Click here to view the Houston County Zoning Ordinance](#)

Describe in detail your request.

I want to convert our bus storage garages in multi unit storage. We would only be construction work to the interior of the buidlings and putting in additional garage doors. We

would not be doing any thing to the foot print of the garages.

Citation of Ordinance
Section from which the
Conditional Use is
requested:

1369 CTH 6

Requested Dimension:

La Crescent

**Please upload any
supporting documents:**

There are no attached documents.

CONDITIONAL USE FINDING OF FACTS [Edit] Last updated: 6/1/2021 12:31:44 PM and
saved by: KTD FacilitiesLLC

[Click here to view the
Houston County Zoning
Ordinance](#)

Findings Required:

**1. That the proposed
use conforms to the
County Land Use Plan.**

Yes

Comments:

no change to outer area of buildings.

**2. That the applicant
demonstrates a need for
the proposed use.**

Yes

Comments:

**will be reusing the current site to the best available
purpose for the neighbors and a quiet industry.**

**3. That the proposed
use will not degrade the
water quality of the
County.**

Yes

Comments:

Water quality will not be degraded

**4. That the proposed
use will not adversely
increase the quantity of
water runoff.**

No

Comments: **No changes to the the lay of the land and parking lots**

5. That soil conditions are adequate to accommodate the proposed use.

Yes

Comments:

The parking lots are paved and hard surface gravel

6. That potential pollution hazards have been addressed and standards have been met.

Yes

Comments:

Should not be any pollution issues. Storage units clean and quiet business.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Yes

Comments:

No change to property surfaces

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Yes

Comments:

Yes plenty of parking are loading spaces.

9. That adequate facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Yes

Comments:

There will be less traffic congestion than when it was a bus company. During the busy seasons at the bus company we would have 100 to 150 departures per day out of driveway. I would estimate there will be no more that 10 to 15 per day when project completed.

Yes

10. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Comments: **The property had sufficient drainage and no neighbors will be of hazards .**

Yes

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Comments: **No issues with the surrounding properties.**

Yes

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Comments: **Storage units are a clean quiet industry.**

Yes

13. That the density of any proposed residential development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district

Comments: **There is no increase in intensity of surroundings .**

Yes

14. That the density of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district.

Comments:

There is no increase in intensity of surroundings.

Yes

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Comments:

All safety considerations will be taken. As had been in the past 60 years of business in the location.

SITE PLAN INFORMATION [Edit] Last updated: 6/1/2021 12:35:52 PM and saved by: KTD FacilitiesLLC

A site plan MUST accompany all Applications. You may either upload a drawing or use the interactive map below.

There are no attached documents.

Upload Site Plan

Use Interactive Map to Create Site Plan



Layer List:

- ☒ NG911 Address Point
- ☒ Wells_MWI_Jan_201
- ☐ Contours
- ☒ Septic Permit
 - ☐ Septic Permits
- ☒ Corporate Limits
- ☒ Political Townships
- ☐ Subdivisions



- 15
- ☐ Blocks
 - ☐ Lot Boundaries
 - ☒ Parcels
 - ☐
 - ☒ Roads
 - ☐ Streams
 - ☐ Floodplain (Effective 12/7/2018)
 - ☒ 2020 Imagery

none

Use the space below to
include site plan
comments, if necessary

APPLICATION SUBMITTAL [Edit] Last updated: 6/1/2021 12:37:31 PM and saved by: KTD
FacilitiesLLC

By checking this box, I grant Houston County access to my property for the purpose of evaluating this application. **Yes**

By checking this box, I certified that I have notified my town board of my application. **Yes**

By checking this box, I certify that the information provided in this application is true and accurate to the best of my knowledge. **Yes**

Signature

Tom Reck

Date Signed:
06/01/2021

Check this box if Staff Signature on behalf of Applicant. **No**

APP SUBMITTED/PAYMENT SELECTION Last updated: 6/4/2021 12:10:55 PM and saved by: Holly Felten

Fee amount paid: **\$746**

LA CRESCENT TOWNSHIP REVIEW

Submitted by Applicant [Edit] Last updated: 6/4/2021 12:11:04 PM and saved by: Holly Felten 16

Notice to Township

Date email sent:
06/04/2021

APPLICATION DATE

[Edit] Last updated: 6/4/2021 12:11:42 PM and saved by: Holly Felten

**What Stage is the
Application At?**

Application reviewed and determined complete.

**Application Date
(Complete Application)**

6/1/2021

**Date of Notice of
Incomplete Application**

Comments

**Please upload any
supporting documents:**

There are no attached documents.

DATES

[Edit] Last updated: 6/4/2021 12:12:50 PM and saved by: Holly Felten

Advertising Date

6/9/2021

Planning Commission
Meeting Date

6/24/2021

Meeting Time

5:30 PM

Comments

CRITERIA FOR GRANTING CONDITIONAL USE PERMITS

NAME OF APPLICANT: *Karl Housker* DATE: *July 22, 2021*

C.U.P. REQUESTED: *Place a dwelling on less than 40 acres in an agricultural protection district.*

The Planning Commission shall not recommend a conditional use permit unless they find the following:

FINDINGS OF FACT

Section 11.5 of the Houston County Zoning Ordinance requires the following:

(SA = Staff Analysis)

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The County Land Use Plan encourages agriculture. This site will not be removing any land from production and having a dwelling on-site will allow the applicant to assist his brother-in-law with cattle if needed.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: A CUP is required to construct a single-family dwelling in the agricultural district.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: A septic professional completed a preliminary review of the site to determine that there are two locations for Type I systems. Further work will need to be completed by a licensed septic professional per MPCA requirements.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The applicant will need to meet all requirements of their erosion control plan to address any runoff concerns before, during and after construction. There is minimal slope at this site.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: Non-farm dwellings cannot be constructed on prime agricultural soils. This site meets the exemption for not having been in production for ten years or more. A dwelling was located in proximity to the proposed location at one time.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: Treatment of septage is likely the biggest potential pollution hazard, but a septic system designed and installed by a licensed MN professional should mitigate that risk. This site has been preliminarily approved by a septic professional.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: This is an existing developed site so many utilities are present. If any new installations are necessary, any costs are the responsibility of the applicant.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: The applicant plans to purchase an acre parcel which should allow for adequate off-street parking.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The primary use of surrounding acreage is agricultural. Tillable acreage surrounds much of the property while across the road is a farm dwelling. A dwelling existed at this site at one time as well.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: N/A

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: N/A

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: This request meets the required agricultural protection district density limitations.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: N/A

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: A non-farm dwelling should not negatively affect the public's health, safety, morals, and general welfare.

Board agreed to the finding by a unanimous vote. Ed Hammell and Greg Myhre were not present to participate in the vote.

Wayne Feldmeier made the motion to recommend the Houston County Board approve the Conditional Use application to build a dwelling on less than 40 acres in an agricultural protection district with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations;
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. Contingent upon the creation of a new parcel substantially similar to the proposed parcel as described in the application.

Bob Conway seconded. Roll call vote was taken. All were in favor. Motion carried.

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE:

That an application has been made by Karl Housker, 322 North Maple Street, Mabel, MN 55954 for a Conditional Use Permit to build a dwelling on less than 40 acres in an agricultural district (Section 14 – 14.3 Conditional Uses, Subdivision 1, Subsection 10) in Caledonia Township on the following premises, to-wit:

Part SE¼ SE¼, Section 15, Township 102, Range 6, Houston County, Minnesota. (Parcel #03.0149.001)

Said applicant standing and making application is as holder and owner of an enforceable option to purchase full interest in said described lands.

A hearing on this application will be held at the Houston County Commissioner's Room, City of Caledonia, Minnesota at 5:00 p.m. on Thursday, July 22, 2021.

All persons having an interest in the matter will be given the opportunity to submit comments relative to the granting or denying of said application. Comments should be mailed to the Environmental Services Dept., 304 South Marshall Street, Caledonia, MN 55921, or emailed to amelia.meiners@co.houston.mn.us, and must be received by Tuesday, July 13, 2021. Comments in regard to the petition received by this date will be part of the public record and will be made available for review by the Planning Commission prior to the meeting.

HOUSTON COUNTY PLANNING COMMISSION

By Amelia Meiners
Zoning Administration

ADV: July 7, 2021



HOUSTON COUNTY ENVIRONMENTAL SERVICES

Solid Waste • Recycling • Zoning
304 South Marshall Street – Room 209, Caledonia, MN 55921
Phone: (507) 725-5800 • Fax: (507) 725-5590



STAFF REPORT 6/15/2021

Application Date: 6/24/2021
Hearing Date: 5/26/2021
Petitioner: Karl Housker
Reviewer: Amelia Meiners
Zoning: Ag Protection
Address: 14930 Prairie Ridge Rd
Township: Caledonia
Parcel Number: 030149001
Submitted Materials: CUP Application, Site Plan, Preliminary septic

OVERVIEW

REQUEST

The applicants are seeking a Conditional Use Permit to build a dwelling on less than 40 acres in the agricultural protection district.

SUMMARY OF NOTEWORTHY TOPICS

This is currently a four-acre parcel off Prairie Ridge Road in Caledonia Township. This site currently only consists of a feedlot with two barns and an open lot, but at one point there was a dwelling. It is unclear in what year that was removed, but it has been over ten years. The applicants are proposing to parcel off enough property to achieve a buildable lot to construct a "shouse". Details regarding building size have not been provided, but the applicants are aware that there is a limited building envelope within the proposed property lines.

The Houston County Zoning Ordinance (HCZO) 14.3 subd.1 (10) requires the following;

(10) Dwellings. Single-family non-farm dwellings subject to the following:

- (a) No more than (1) dwelling per quarter-quarter section.*
- (b) Non-farm dwellings built after the adoption of this Ordinance shall be setback at least one-fourth, (1/4), mile from all feedlots, except as otherwise provided in this Ordinance.*
- (c) Non-farm dwelling units shall not be permitted on land which is of soil classifications of Class I-III soils rated in the Soil Survey - Houston County by the U. S. D. A. Natural Resource Conservation Service, except in cases where the land has not been used for the production of field crops or enrolled in a government program whereby compensation is received in exchange for the removal of an area from production, for a period of ten years or more.*

(d) Non-farm dwelling units shall only be permitted on sites considered Buildable Lots as defined by this Ordinance, and shall not be permitted in areas classified wetlands, flood plain, peat and muck areas and other areas of poor drainage. Non-farm dwelling units shall not be permitted on land which has a slope of twenty-four (24) percent or greater. All non-farm dwellings must have an erosion control plan as required by Section 24.

(e) Non-farm dwelling units shall be required to be located on lots having ownership of at least thirty-three (33) feet of road frontage on a public roadway or a legally recorded perpetual access at least thirty-three (33) feet wide from an existing public roadway and a minimum lot area of one (1) acre.

The current landowner approves of the Conditional Use Permit request (enclosed in packet).



Figure 1. Aerial view of site.

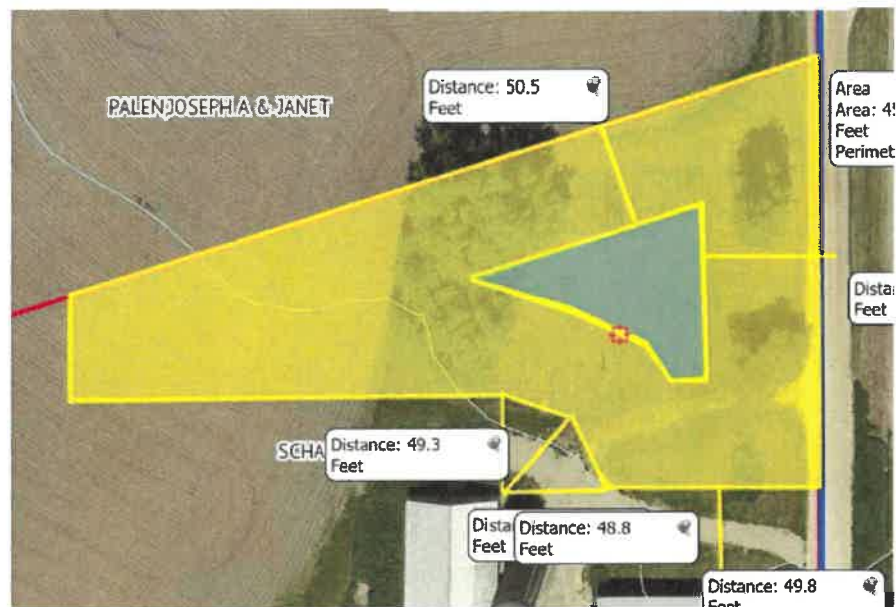


Figure 2. Planned parcel split in yellow. The gray interior is the building envelope that meets all property line setbacks.

TOWNSHIP AND NEIGHBORHOOD COMMENTS

Caledonia Township and the ten nearest property owners were notified. One comment was received.

SITE CHARACTERISTICS

This is currently a four-acre parcel in the agricultural protection district of Caledonia Township. It is an open quarter-quarter with adequate road frontage. The area within the proposed parcel split consists of farmstead mix (driveway and lawn). Since this is a non-farm dwelling, it cannot be located on prime agricultural soils. The area in which they plan to build meets the exemption for being out of production for ten years or more. The septic system may be located on prime ag soils. There is no floodplain, wetland, shoreland, bluff or slope concern.

This location presents a unique challenge. There is a feedlot at this location, but the landowner is the brother-in-law of the applicant so they will be exempt from that setback. However, there is a registered feedlot directly across the road from this site at approximately 200 feet. This feedlot is registered for zero animal units and the producer states he last had animals on-site 1/11/15. Aerial imagery supports that fact. When discussing formally closing the site during a regular feedlot registration cycle, the producer mentioned his son-in-law may wish to restock the site at some point and he did not want to hinder his future ability to do so. It is staff opinion that at this point based upon ordinance definition of a new feedlot, if the son-in-law wishes to restock in the future regardless of whether infrastructure is existing it will be considered a new site. If this dwelling is approved and the son-in-law was to restock the feedlot, he would be required to complete a variance for setback to a residential dwelling. He could never restock the site either. Staff is asking the Planning Commission to make a determination on whether a feedlot variance should be required.

See relevant ordinance language below.

New animal feedlot. "New animal feedlot" means an animal feedlot or manure storage area:

1. Constructed, established, or operated at a site where no animal feedlot or manure storage area existed previously; or
2. That existed previously and has been unused for five years or more.

33.16 GENERAL FEEDLOT LOCATION AND SETBACK STANDARDS

Subdivision 6. Residential Dwelling Setback from Feedlot. *New dwellings and the expansion existing dwellings, other than the feedlot owner's or family member's dwelling, less than one-fourth $\frac{1}{4}$ mile from a registered feedlot shall be reviewed by the feedlot advisory committee and shall require the granting of a site specific variance from the board of adjustment.*



Figure 3. 2014 aerial imagery. Source: Beacon

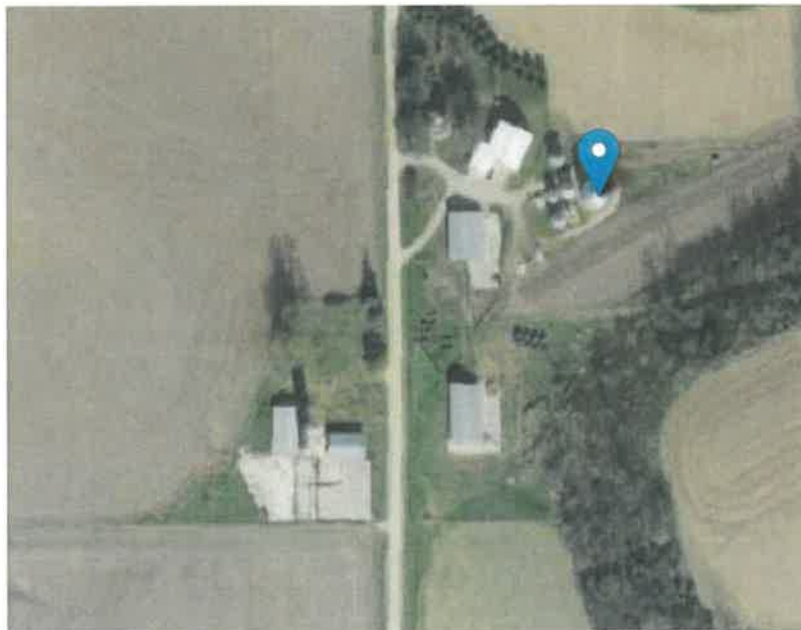


Figure 4 2015 aerial imagery. Source: MN Natural Resource Atlas



Figure 5. 2017 aerial imagery. Source: Beacon



Figure 6. 2020 aerial imagery. Source: Beacon

EVALUATION

Section 11.05 of the Houston County Zoning Ordinance requires the following:

Subdivision 1. Findings. The Planning Commission shall not recommend a conditional use permit unless they find the following:

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The County Land Use Plan encourages agriculture. This site will not be removing any land from production and having a dwelling on-site will allow the applicant to assist his brother-in-law with cattle if needed.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: A CUP is required to construct a single-family dwelling in the agricultural district.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: A septic professional completed a preliminary review of the site to determine that there are two locations for Type I systems. Further work will need to be completed by a licensed septic professional per MPCA requirements.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: The applicant will need to meet all requirements of their erosion control plan to address any runoff concerns before, during and after construction. There is minimal slope at this site.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: Non-farm dwellings cannot be constructed on prime agricultural soils. This site meets the exemption for not having been in production for ten years or more. A dwelling was located in proximity to the proposed location at one time.

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: Treatment of septage is likely the biggest potential pollution hazard, but a septic system designed and installed by a licensed MN professional should mitigate that risk. This site has been preliminarily approved by a septic professional.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: This is an existing developed site so many utilities are present. If any new installations are necessary, any costs are the responsibility of the applicant.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: The applicant plans to purchase an acre parcel which should allow for adequate off-street parking.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: N/A

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The primary use of surrounding acreage is agricultural. Tillable acreage surrounds much of the property while across the road is a farm dwelling. A dwelling existed at this site at one time as well.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: N/A

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: N/A

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: This request meets the required agricultural protection district density limitations.

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: N/A

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: A non-farm dwelling should not negatively affect the public's health, safety, morals, and general welfare.

RECOMMENDATION

The Planning Commission must consider the criteria above. Should the permit be granted, staff recommend requiring the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations;
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. *Contingent upon the creation of a new parcel substantially similar to the proposed parcel as described in the application.*

4. *Completion of a feedlot variance for reduction of setback for a new residential dwelling from registered feedlot.*

Proposed motion: Recommend granting of a Conditional Use Permit for a single-family dwelling on under 40 acres with the two conditions.

Amelia Meiners

From: dan schansberg <danschansberg@hotmail.com>
Sent: Monday, May 24, 2021 2:13 PM
To: Amelia Meiners
Subject: Fwd: House (Dan Schansberg is Brother in law)

*** HOUSTON COUNTY SECURITY NOTICE ***

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Karl has my permission to apply for a permit on the property.

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From: Karl <kboss_69@hotmail.com>
Sent: Monday, May 24, 2021 12:24:30 PM
To: dan schansberg <danschansberg@hotmail.com>
Subject: Fwd: House (Dan Schansberg is Brother in law)

Get [Outlook for Android](#)

From: Amelia Meiners <amelia.meiners@co.houston.mn.us>
Sent: Monday, May 24, 2021 11:22:52 AM
To: 'Karl' <kboss_69@hotmail.com>
Subject: RE: House (Dan Schansberg is Brother in law)

Hi Karl,

I think I have answered everything below, but if not please let me know.

1. Dan can just email me and he has that information. He just needs to give consent for you to make the application. It's not that uncommon for this arrangement.
2. I think Dan had done a lot of the research via email that is typically discussed during the pre-application meetings assuming he shared them all with you. The most difficult items with this site are the small amount of buildable area and the neighboring feedlot. The issue with the feedlot is that we consider them "closed" if they have not had animals for five or more years and Larry Kohlmeier's site across the road is at about five years. I plan to discuss with Larry more too and hopefully we can just officially close it, regardless of time. As of right now, my plan is to ask the Planning Commission if they feel a variance is necessary, but based upon my best available information I would make the case to not require a variance. Do you have any additional questions?
3. Section 14.3 (10) is the correct citation and you can just put a non-farm dwelling under the requested dimension.
4. I looked over your answers and I think you did you a good job on them.
5. We will need two separate checks. One will be for \$700 and the other for \$46. Once you submit your application you will receive more information on that.

Let me know if you have any other questions.

Amelia Meiners
 Houston County Environmental Services
 304 S. Marshall St., Room 209
 Caledonia, MN 55921
 (507) 725-5800

From: Karl <kboss_69@hotmail.com>
Sent: Sunday, May 23, 2021 7:10 PM
To: Amelia Meiners <amelia.meiners@co.houston.mn.us>
Subject: House (Dan Schansberg is Brother in law)

*** HOUSTON COUNTY SECURITY NOTICE ***

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Hi Amelia

My name is Karl Housker and as in title says I am Dans brother in-law. I have been working on the Conditional Use Request. I do not have any official building plans set yet. As not having any secured the parcel yet and that will affect the layout.


I did have a few questions as going through the application process. First, I know that Dan has to send a letter for me to make an application on his property being I am the one filling out the application and my name is one the application. Can he just send an email into someone (Who would that be to) that I am able to make the application on his property? Second question is on the first page of application it recommends a pre application meeting with the county zoning. With some of the conversations that had been happening with emails between Dan and you do you still suggest this pre application meeting? If I do need a meeting is there a way to set it up before the end of the week to get it done with the Application before end of the week. Third question on the next page of The application asked for (citation of ordinance from which conditional use is requested) I was looking through the ordinance and think found the area I am not for sure though if it is the correct one, I need to put use. 14.3 -10 is the section I think is correct. Need the one for building under 40 acres. Then right under that one they ask for Requested dimensions I left that blank as I did not know what to put in that for answer. The fourth questions I have is In the finding of facts section the answers and comment section I answered the questions to the best of my knowledge and in the comments there that I filled out were simple one liner. I don't know if looking for more in-depth answers but I answered to best of knowledge. Last question I know payment is to be in to consider application complete. Do they do credit card or need a check.

Thanks,

Karl Housker

Submitted by Applicant

11

Number 2021- CUP- 77369	Karl Housker 030149001 Conditional Use Request Submitted by karl on 5/16/2021	
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CONDITIONAL USE INTRO [Edit] Last updated: 5/23/2021 6:38:40 PM and saved by: karl

A Conditional Use is a land use or development that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that specific criteria are met, as outlined in Section 6.5 of the ordinance.

When submitting an application, the information requested in this form is required. You may be asked to provide additional information as deemed necessary by the Zoning Office, the Planning Commission, or the County Board.

A non-refundable application fee and recording fee are required before an application is considered complete.

Prior to completing this form, a pre-application meeting with County Zoning is strongly recommended.

Conditional Use Application Fee **\$700.00**

Recording Fee **\$46.00**

Application Type:
Conditional Use

APPLICANT INFORMATION [Edit] Last updated: 5/23/2021 6:41:24 PM and saved by: karl

Applicant Name **Karl Housker**

Telephone Number **5074591644**

Address **322 North Maple Street**

City **Mabel**

Zip **55954**

Parcel Tax ID **030149001**

Legal Description **PT SE1/4 SE1/4**

Section-Township-Range **15/102/006**

Do you own additional adjacent parcels **No**

Township of: **Caledonia**

Applicants are required to inform township boards of their application.

Please reference the table below and contact the official for your township.

I understand I am required **Yes** to inform my township of my application.

Township Contacts

CONDITIONAL USE REQUEST [\[Edit\]](#) Last updated: 5/23/2021 6:57:16 PM and saved by: karl

[Click here to view the Houston County Zoning Ordinance](#)

Describe in detail your request.

Would like to buy 1 acre of land from brother-in law and build a dwelling on less than 40 acres it. There is no concrete building plans that have been made yet. We are checking that it is possible for me to build on this site before purchasing from him. The rough idea would be about 3 bedroom 2 bath dwelling. Our first thought is to

Submitted by Applicant
build a 40ft x 60ft shouse/ (shop house) with a safe room for storm protection. Or a traditional stick built or prefab house

13

Citation of Ordinance
 Section from which the
 Conditional Use is
 requested:

14.3-10

Requested Dimension:

[site plan 1 acre.jpg \(download\)](#)

**Please upload any
 supporting documents:**

CONDITIONAL USE FINDING OF FACTS [Edit] Last updated: 5/23/2021 7:01:59 PM and
 saved by: karl

[Click here to view the
 Houston County Zoning
 Ordinance](#)

Findings Required:

**1. That the proposed
 use conforms to the
 County Land Use Plan.**

Yes

Comments:

**I don't have concrete plans set for the building but rough
 idea is 40ft x 60ft Shouse That would fit into the aspects or
 the surrounding neighboring building and will be built to
 the land use plan**

**2. That the applicant
 demonstrates a need for
 the proposed use.**

Yes

Comments:

**If able to build here I would be able to maintain the
 property and keep an eye on the brother-in-law cattle if
 there was a need that arises.**

**3. That the proposed
 use will not degrade the
 water quality of the
 County.**

Yes

Comments:

It will not degrade the water quality of the county.

Yes

4. That the proposed use will not adversely increase the quantity of water runoff.

Comments: **There would not be an adverse increase of water runoff..**

Yes

5. That soil conditions are adequate to accommodate the proposed use.

Comments: **Soil conditions would be adequate for use.**

N/A

6. That potential pollution hazards have been addressed and standards have been met.

Comments: **no pollution hazards that are known**

Yes

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Comments: **The proposed acre that would buy will meet the adequate needs for the proposed building**

Yes

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Comments: **There will be sufficient off the road parking**

Yes

9. That adequate facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Comments: **Traffic congestion/ hazards will not be an issue**

Yes

10. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Comments:

Building at this place should not hurt the enjoyment of the neighboring property. Building here will help maintain the property and keep weeds and other things under control

Yes

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Comments:

Will not impede the surrounding development area. The area that planning on building use to be an farmstead on it

Yes

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Comments:

There should be no excessive noise that would be a nuisance to the neighboring properties.

Yes

13. That the density of any proposed residential development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district

Comments:

The Building that would go up will fit into the surrounding building of the area

Yes

14. That the density of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district.

Comments:

The building that would go up will fit into the surrounding buildings

Yes

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Comments:

There has been a preliminary septic design for the proposed acre

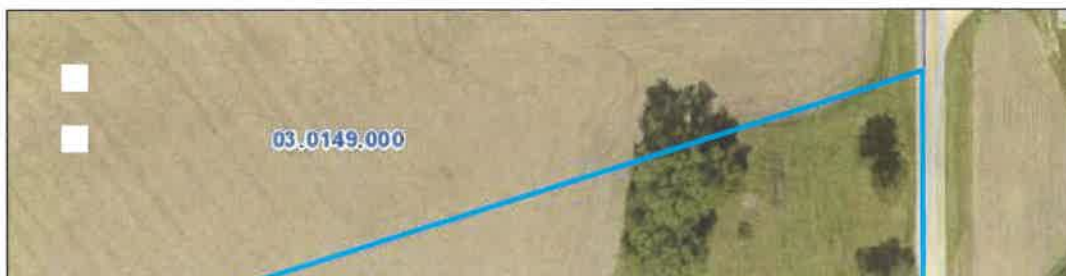
SITE PLAN INFORMATION [Edit] Last updated: 5/23/2021 7:10:38 PM and saved by: karl

A site plan MUST accompany all Applications. You may either upload a drawing or use the interactive map below.

Upload Site Plan

[Karl Housker Conditional septic.PDF \(download\)](#)
[site plan 1 acre.jpg \(download\)](#)

Use Interactive Map to Create Site Plan



Layer List:

- ☒ NG911 Address Point
- ☒ Wells_MWI_Jan_201
- ☐ Contours
- ☒ Septic Permit
 - Septic Permits



Use the space below to include site plan comments, if necessary

The site plan picture the yellow is the acre of land. The grey area is where would plan to build the dwelling in. There is an attached preliminary septic design as well. The stakes that I had put up for the proposed lay out in the field have been pulled up so the land could be planted. (They were pulled up after the septic guy was done with what he needed to do)

APPLICATION SUBMITTAL [\[Edit\]](#) Last updated: 5/25/2021 10:47:58 PM and saved by: karl

By checking this box, I grant Houston County access to my property for the purpose of evaluating this application.

Yes

By checking this box, I certified that I have notified my town board of my application.

Yes

By checking this box, I certify that the information provided in this application is true and accurate to the best of my knowledge.

Yes

Signature

Karl P. Housden

Date Signed:
05/25/2021

Check this box if Staff Signature on behalf of Applicant.

No

APP SUBMITTED/PAYMENT SELECTION Submitted by Applicant Last updated: 6/4/2021 11:58:50 AM and saved by: Holly Felten ¹⁸

Fee amount paid: **\$746**

CALEDONIA TOWNSHIP REVIEW [Edit] Last updated: 6/4/2021 11:59:08 AM and saved by: Holly Felten

Notice to Township

Date email sent:
06/04/2021

APPLICATION DATE [Edit] Last updated: 6/4/2021 12:01:00 PM and saved by: Holly Felten

What Stage is the Application At? **Application reviewed and determined complete.**

Application Date (Complete Application) **5/26/21**

Date of Notice of Incomplete Application

Comments

Please upload any supporting documents: **There are no attached documents.**

DATES [Edit] Last updated: 6/4/2021 12:01:59 PM and saved by: Holly Felten

Advertising Date **6/9/2021**

Planning Commission Meeting Date **6/24/2021**

Meeting Time **5:00 PM**

Comments



Preliminary Septic Design Outline

Dan Schansberg (Owner) / Karl Housker (Proposed Buyer)

14930 Prairie Ridge Rd Caledonia, MN 55921

PIN# 03.0149.001

4/14/2021

Proposed buyer contacted C. Nelson Septic LLC in regards for a septic design for PIN# 03.0149.001. The future plans for the parcel to be split and current outbuildings to be placed on a separate parcel from a proposed new building site. Proposed buyer staked proposed section of parcel to be split. Within this split, borings were performed and a general layout of soil treatment areas were conducted.

Soils varied from 6" – 28" to limiting layer.

Based on the proposed split of the parcel there are options for 2-3 sites for soil treatment areas. There are 2 sites that would allow for a Type I site. These two sites would dictate the placement of the proposed home and overall footprint of proposed home.

There are options for soil treatment areas that would allow for a Type I and the replacement system would need to be Type III (< 12" of suitable soil) without limiting the footprint of proposed home.

If parcel split occurs I would recommend that all suitable soil treatment areas to be staked and protected from any potential disturbance and compaction that may occur during time of building and thereafter. Future plans for other buildings (shed/detached garage) on this site would be limited in order to allow for two soil treatment areas.

I would recommend that proposed buyer of parcel is aware that future options on this parcel are very limited.

See attached for a general layout of site.

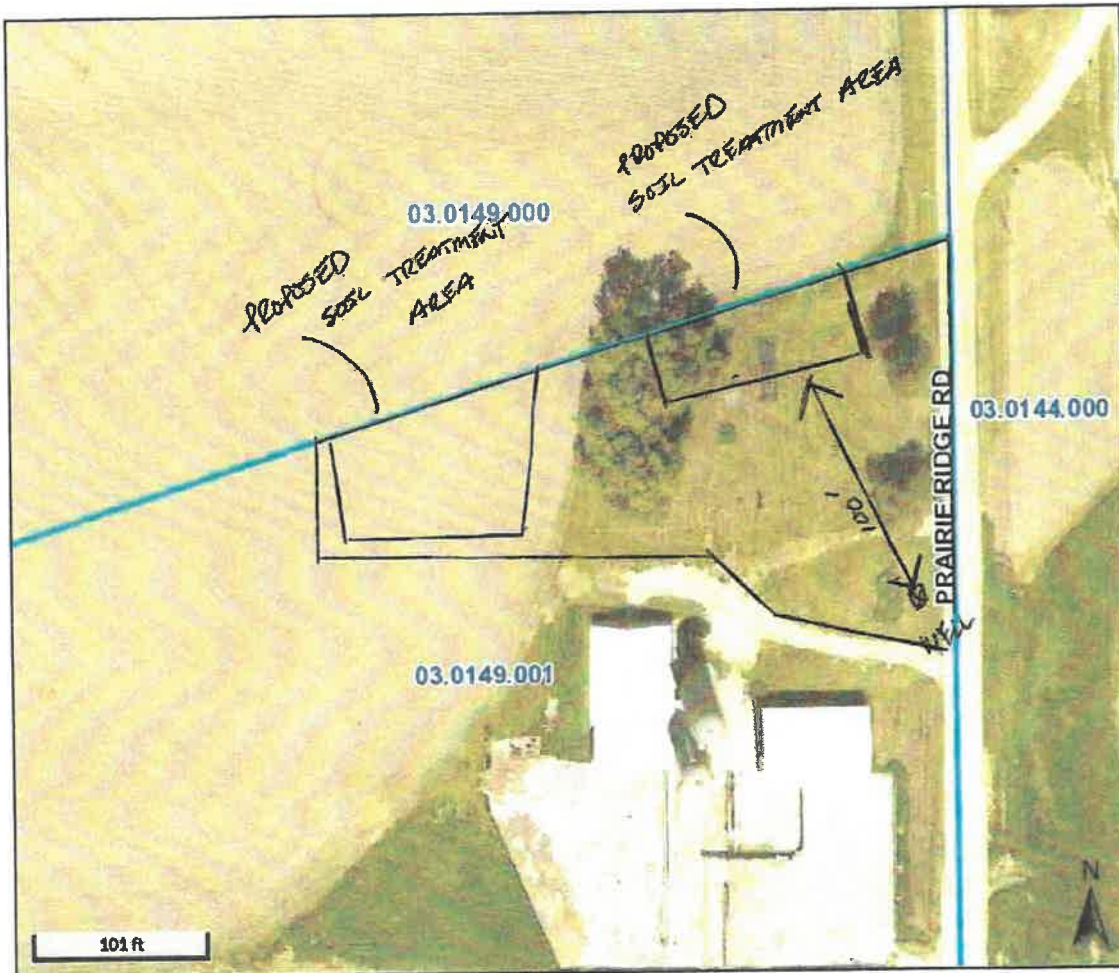
Chance Nelson

C. Nelson Septic LLC

L3647

C9386

Beacon™ Houston County, MN



Overview



Legend

- ☐ Corporate Limits
- ☐ Political Township
- ☐ Parcels
- ☐ Roads

NOT TO SCALE

Parcel ID	030149001	Alternate ID	n/a
Sec/Twp/Rng	15/102/006	Class	Ag Land
Property Address		Acreage	4
District	NONE		
Brief Tax Description	PT SE1/4 SE1/4		
	(Note: Not to be used on legal documents)		

Owner Address SCHANSBERG, DANIEL L
15810 PRAIRIE RIDGE RD
CALEDONIA, MN 55921

Date created: 4/25/2021
Last Data Uploaded: 4/23/2021 7:53:14 PM

Developed by Schneider
GEOSPATIAL

SOIL TREATMENT AREAS MAY LIMIT AREA
FOR HOME FOOTPRINT AND POTENTIAL FUTURE
PLANS FOR PARCEL SEE ATTACHED

Amelia Meiners

From: dan schansberg <danschansberg@hotmail.com>
Sent: Thursday, June 10, 2021 11:10 AM
To: Amelia Meiners
Subject: Re: Land

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Ok thanks. I was just concerned about neighbors getting this letter may misunderstand what's going on.

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From: Amelia Meiners <amelia.meiners@co.houston.mn.us>
Sent: Wednesday, June 9, 2021 7:34:22 PM
To: dan schansberg <danschansberg@hotmail.com>
Subject: Re: Land

Since it hasn't been split yet we don't have a different legal description to use but I'll outline those details in the staff report that comes out later.

Amelia

Sent from my iPhone

On Jun 9, 2021, at 7:22 PM, dan schansberg <danschansberg@hotmail.com> wrote:

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Maybe im reading it wrong but to me it sounds like hes buying my whole 4 acres but he's only buying 1 acre.
<processed.jpeg>

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NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE:

That an application has been made by Thomas Ready, 1369 CTH 6, La Crescent, MN 55947 for a Conditional Use Permit to operate a multi-unit storage facility in a general business district (Section 17 – 17.3 Conditional Uses, Subdivision 1, Subsection 5) in La Crescent Township on the following premises, to-wit:

Pt W½ SE¼, Section 9, Township 104, Range 4, Houston County, Minnesota. (Parcel #08.0535.000)

Said applicant standing and making application is fee owner of said described lands.

A hearing on this application will be held at the Houston County Commissioner's Room, City of Caledonia, Minnesota at 5:20 p.m. on Thursday, July 22, 2021.

All persons having an interest in the matter will be given the opportunity to submit comments relative to the granting or denying of said application. Comments should be mailed to the Environmental Services Dept., 304 South Marshall Street, Caledonia, MN 55921, or emailed to amelia.meiners@co.houston.mn.us, and must be received by Tuesday, July 13, 2021. Comments in regard to the petition received by this date will be part of the public record and will be made available for review by the Planning Commission prior to the meeting.

HOUSTON COUNTY PLANNING COMMISSION

By Amelia Meiners
Zoning Administration

ADV: July 7, 2021

CRITERIA FOR GRANTING CONDITIONAL USE PERMITS

NAME OF APPLICANT: Thomas Ready DATE: July 22, 2021

C.U.P. REQUESTED: To operate a storage facility in the General Business District.

The Planning Commission shall not recommend a conditional use permit unless they find the following:

FINDINGS OF FACT

Section 11.5 of the Houston County Zoning Ordinance requires the following:

(SA = Staff Analysis)

1. That the proposed use conforms to the County Land Use Plan.

Staff Analysis: The landowner would like to maintain the property by finding a new use for his existing infrastructure rather than let it deteriorate which is in the best interest of the County.

Board agreed to the finding by a unanimous vote.

2. That the applicant demonstrates a need for the proposed use.

Staff Analysis: Former business operations have ceased and in an effort to utilize existing infrastructure in good condition the applicant the applicant has decide to offer storage services. With the number of residential properties in close proximity, this may be a good service to provide with little impact.

Board agreed to the finding by a unanimous vote.

3. That the proposed use will not degrade the water quality of the County.

Staff Analysis: This use will not change the exterior of the existing structures and will not have a different effect on water quality than the current use.

Board agreed to the finding by a unanimous vote.

4. That the proposed use will not adversely increase the quantity of water runoff.

Staff Analysis: This use will not change the exterior of the existing structures and will not have a different effect than the current use.

Board agreed to the finding by a unanimous vote.

5. That soil conditions are adequate to accommodate the proposed use.

Staff Analysis: N/A

6. That potential pollution hazards been addressed and that standards have been met.

Staff Analysis: There should be no pollution hazards. There will be no additional on-site septic.

Board agreed to the finding by a unanimous vote.

7. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Staff Analysis: This is an existing site and there will be no additional utilities needed. If a utility need arises, it will be the responsibility of the applicant.

Board agreed to the finding by a unanimous vote.

8. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Staff Analysis: This site used to accommodate multiple busses so will have adequate off-street parking and loading spaces for this use.

Board agreed to the finding by a unanimous vote.

9. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

Staff Analysis: This site used to accommodate school buses in which there were 100-150 departures per day. The applicant estimates the new use will have 10-15 trips per day of light vehicle traffic.

Board agreed to the finding by a unanimous vote.

10. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

Staff Analysis: The surrounding properties are residential and the proposed use will complement those properties and actually be less intense than the previous business.

Board agreed to the finding by a unanimous vote.

11. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

Staff Analysis: This area is highly developed and this use should not affect any future change of uses.

Board agreed to the finding by a unanimous vote.

12. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Staff Analysis: Storage units will create less of a nuisance to neighboring properties than what the bus company did.

Board agreed to the finding by a unanimous vote.

13. That the density of any proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable Zoning District.

Staff Analysis: N/A

14. That the intensity of any proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable Zoning District.

Staff Analysis: This is the only commercial development in the area and the proposal will be a complement to the residential development in the area.

Board agreed to the finding by a unanimous vote.

15. That site specific conditions and such other conditions are established as required for the protection of the public's health, safety, morals, and general welfare.

Staff Analysis: To the County's knowledge, this location has never had an issue affecting the public's health, safety, morals and general welfare and that will not change with the new use.

Board agreed to the finding by a unanimous vote.

Larry Hafner made the motion to recommend the Houston County Board approve the Conditional Use application to operate a storage facility in the General Business District with the following conditions:

1. The Permittee shall comply with all federal, state, and local laws and regulations;
2. The County may enter onto the premises at reasonable times and in a reasonable manner to ensure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

Richard Schild seconded. Roll call vote was taken. All were in favor. Motion carried.