

ENROLLED ORDINANCE 171-40

APPROVE NEW FIXED BASE OPERATOR AGREEMENT WITH WAUKESHA
FLYING SERVICES, INC., D/B/A ATLANTIC AVIATION

WHEREAS, Waukesha Flying Services, Inc., d/b/a Atlantic Aviation (Atlantic Aviation) is the current Fixed Base Operator (FBO) at Waukesha County Airport and has requested a new 22-year FBO Lease and Operating Agreement ahead of the 2018 expiration of their current agreement, and

WHEREAS, Waukesha County Board Resolution 170-2 authorized a team of County staff to depart from Request for Proposal (RFP) procedures and enter into negotiations with Atlantic Aviation for a new FBO agreement, and

WHEREAS, Atlantic Aviation plans to invest \$6 million in a new 20,000 to 30,000 square foot corporate aircraft hangar and to expand their current corporate hangar, and

WHEREAS, Atlantic Aviation plans to invest between \$750,000 and \$1 million renovating the airport terminal building interior for better functionality and a more modern, corporate finish, avoiding a \$230,000 expenditure of Airport Fund Balance in the Airport Facility Upgrade capital project, and

WHEREAS, in addition to the existing \$387,000 in annual revenue received from the FBO under the current contract, the fiscal impact of the agreement raises an estimated \$134,000 in new annual airport revenue through new land leases, increased share of T-Hangar revenue, and estimated fuel flowage fee revenue, for total estimated annual contract revenue of \$521,000, and

WHEREAS, this additional revenue will assist in potentially eliminating airport tax levy by 2021, and

WHEREAS, Atlantic Aviation is a well-established and nationally recognized FBO whose marketing efforts and service agreements provide added benefit to the airport through additional transient and based corporate aircraft customers, and

WHEREAS, a public RFP process would likely yield a less certain and substantially less positive result for taxpayers of Waukesha County.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the FBO Lease and Operating Agreement between Waukesha County and Waukesha Flying Services, Inc., d/b/a Atlantic Aviation is approved and authorizes the Director of Public Works or his or her designee to execute the agreement.


FISCAL NOTE

APPROVE NEW FIXED BASE OPERATOR AGREEMENT WITH WAUKESHA FLYING SERVICES,
INC., D/B/A ATLANTIC AVIATION

This ordinance authorizes a new negotiated 22-year contract with the existing fixed base operator (FBO). The contract includes annual fixed revenues of about \$278,000* for leased space that will be adjusted by contract annually for CPI. The contract also includes annual projected variable revenues of \$243,000 for fuel flowage fees, T-Hanger revenue and tie-down fees. Total annual contract revenues are estimated at \$521,000, an increase of \$134,000 over the current contract (see table below).

The 22-year contract will also bring FBO investment in the airport terminal building of approximately \$1,000,000 (not to be less than \$750,000 without County consent) to renovate portions of the terminal building to provide a higher-quality appearance within one year. The FBO also plans to expand their current corporate hangar and construct a new one, estimated to be 30,000 square feet (not to be less than 20,000 square feet) within three years. The new hangar will allow for additional based aircraft at the airport that are projected to consume approximately 300,000 gallons of fuel annually when fully operational. The County receives \$0.10/gallon sold at the airport (unchanged). Annual contract increases along with the potential for fuel sales growth will allow for the potential to eliminate airport tax levy by 2021.

Additional Annual Revenue	Changes
\$49,500 for Terminal Ramp Space	The contract leases 165,000 square feet of ramp space adjacent to the terminal to the FBO for “preferential use.” This maintains general public access, but grants the FBO exclusive rights to provide aeronautical services there. According to the Airport Manager, granting “preferential use” will make future ramp improvements ineligible for federal and state funding (typically 95% of project costs). However, the proposed contract makes the FBO responsible for maintaining (and potentially replacing) the ramp according to Federal Aviation Administration standards.
\$28,000 for Land Lease for New Hangar Building	The contract requires the FBO to construct a new hangar, within three years on leased airport land. The FBO will begin paying full land lease amounts when constructed or in the 4 th year, whichever is sooner.
\$9,000 for Land Lease for Existing Hangar	The contract specifies an increase in leased space to accommodate the FBO’s plans to expand its existing hangar, to correspond with a future lease agreement.
\$17,500 for T-Hanger rentals, some of which is likely to be spent on additional maintenance.	The share of rental revenue of T-hanger rental revenue provided to the FBO will decrease from 25% to 10%. The FBO will continue managing the T-hangers, but the County assumes responsibility for more substantive repair and upkeep of the T-Hangers. The FBO will continue to manage the aircraft tie-downs on the South Terminal Ramp, sharing 50 percent of the rental revenue.
\$30,000 for Increased Fuel Flowage Fees when Hangar constructed	The County continues to receive \$0.10/gallon sold at the airport (not changed in this contract). The new hangar will allow for additional based aircraft at the airport that are projected to consume approximately 300,000 gallons of fuel annually, based on FBO estimates.
\$134,000	Total – The phasing in of this additional revenue will be mostly dependent upon how soon the FBO constructs the new hangar (impacting land lease and fuel flowage revenues).


 Linda Witkowski
 Budget Manager
 9/7/2016
 WPD


*One existing lease, containing the aircraft maintenance building, will transfer to another tenant by November 2016, with no net fiscal impact to the County.


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FLYING SERVICES, INC., D/B/A ATLANTIC AVIATION

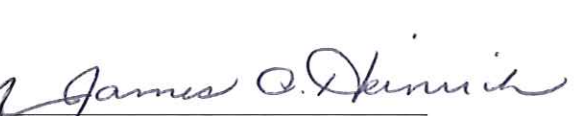
Presented by:
Executive Committee


Approved by:
Public Works Committee

Approved by:
Finance Committee


Paul L. Decker, Chair


David W. Swan, Chair



James A. Heinrich, Chair


James A. Heinrich


Keith Hammitt


Timothy Dondlinger

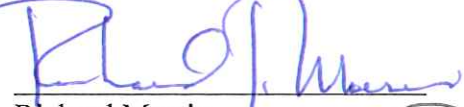

Christine M. Howard



Darlene M. Johnson

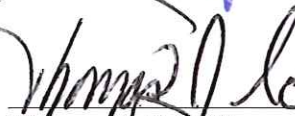

Thomas A. Michalski

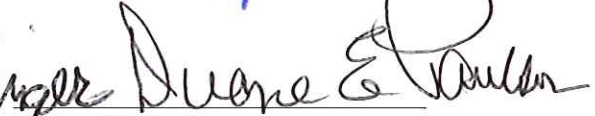

Larry Nelson



Richard Morris


Richard Morris

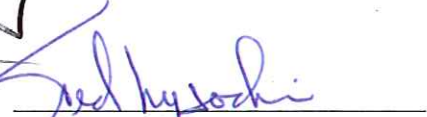

David W. Swan

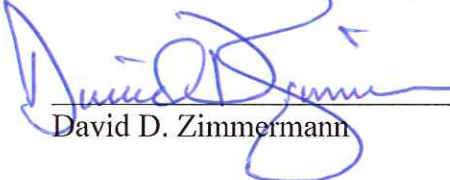

Thomas J. Schellinger


Duane E. Paulson

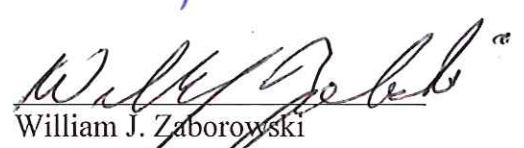

Peter M. Wolff


Steve Whittow


Ted Wysocki


David D. Zimmermann


Chuck Wood


William J. Zaborowski

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 9/27/16, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 10/4/16, 
Paul Farrow, County Executive

**FBO LEASE AND OPERATING AGREEMENT BETWEEN
WAUKESHA COUNTY AND ATLANTIC AVIATION**

THIS FBO LEASE AND OPERATING AGREEMENT ("Agreement") is made and entered into as of the 1st day of October, 2016, by and between Waukesha County, a municipal corporation (the "County") and Waukesha Flying Services, Inc., a domestic corporation and a fixed base operator (FBO) doing business as Atlantic Aviation ("Lessee").

PRELIMINARY RECITALS

WHEREAS, the County is the owner and operator of the Waukesha County Airport/Crites Field, an airport located in Waukesha County, Wisconsin (the "Airport");

WHEREAS, Lessee is engaged in the business of a Fixed Base Operator, and currently serves as the Airport's FBO pursuant to that certain FBO Lease and Operating Agreement dated on or about November 1, 1998 as amended (the "Prior Agreement");

WHEREAS, Lessee desires to extend its right to operate at the Airport as FBO and to use certain of the County's Airport facilities beyond the term of the Prior Agreement;

WHEREAS, the County desires to continue Fixed Base Operator services at the Airport and to grant Lessee the continued right to use certain Airport facilities.

WHEREAS, the County deems it advantageous to the operation of its Airport to grant Lessee the rights and privileges in this Agreement; and

WHEREAS, the term of the Prior Agreement continues through October 31, 2018, however, Lessee desires to enter into a new long term lease and operating agreement at this time and the County is willing to enter into such new agreement, and each agree the Prior Agreement shall be terminated and replaced with this Agreement upon execution hereof, except for any outstanding payment obligations of the Lessee for amounts due the County for rent or other charges under the Prior Agreement or other obligations which survive the termination of the Prior Agreement, which shall remain in full force and effect until satisfied.

NOW, THEREFORE, in consideration of the mutual promises of the County and the Lessee as set forth below, the County and the Lessee agree as follows:

**ARTICLE 1
TERM**

This Agreement shall commence on October 1, 2016 and shall continue through September 30, 2038, unless sooner terminated as permitted by this Agreement.

**ARTICLE 2
INSPECTION**

Prior to executing this Agreement, the Lessee has physically viewed and inspected the Airport and all land, buildings and facilities which it will lease, occupy, manage and/or use, and

has determined that the Airport and all those lands, buildings and facilities are in good order and repair and suitable and adequate for all activities contemplated by this Agreement.

ARTICLE 3 LEASED PREMISES

The County leases to Lessee the following described portions of the Airport, hereinafter referred to collectively as the "Leased Premises," as designated on Exhibit 1 and 2, which are attached to and made a part of this Agreement:

1. The Executive Terminal Building (2525 Aviation Drive), consisting of:
 - A. Four Thousand Nine Hundred Sixty-Three (4,963) square feet, more or less, of exclusive use space;
 - B. Five Hundred Ten (510) square feet, more or less, of common use garage area;
 - C. Three Thousand Five Hundred (3,500) square feet, more or less, of common use lobby area; and
 - D. Non-exclusive use of the terminal building parking lot.

2. The Gold Hangar (505 Bluemound Road):
Fifteen Thousand Three Hundred Sixty (15,360) square feet, more or less, of exclusive use space.

3. The Aircraft Maintenance Building (503 Bluemound Road):
Twelve Thousand Fifteen (12,015) square feet, more or less, of exclusive use space.

4. The Airport Fuel Farm (no address):
Twenty-Eight Thousand Seven Hundred Fifty (28,750) square feet, more or less, of exclusive use space. Thirty (30) days following written notice from the County to the Lessee, the 28,750 square feet of exclusive use space leased hereunder shall be reduced by an amount of space sufficient to allow the siting of an aboveground fuel tank of no more than 12,000 gallon capacity and its saddle, piping, filtration, spill containment, electrical supply and other necessary associated equipment. The specific area that will be withdrawn from the space leased to Lessee shall not be any part of the area that is used for the location of currently existing fuel tanks or fuel tank saddles. The County will not issue such written notice except as may be required to comply with paragraph 4 of the Stipulation and Order for Dismissal set forth in Cedarhurst Air Charter, Inc. v. Waukesha County, E.D. Wis. Case No. 99-C-1199.

5. The West Tie-Down Area of Executive Terminal Building Aircraft Parking Ramp:
Forty-Eight Thousand Six Hundred Fifty-Nine (48,659) square feet, more or less, of exclusive use space. The County has the unilateral right to adjust the leased square footage in the West tie-down area at any time.

6. The Executive Terminal Ramp:

One Hundred Sixty-Five Thousand (165,000) square feet, more or less, of preferential use ramp space. The County has the unilateral right to remove Executive Terminal ramp space at any time in accordance with Article 15A. For the purposes of this Agreement, "preferential use" means the space is generally open to public for parking and operations, however, only Lessee shall have the right to provide aeronautical services in this area.

7. An area of fifteen (15) feet around the footprint of each building, facility and area identified in this Article.

The Lessee shall be entitled to sublet space in the Gold Hangar (505), but only for aircraft storage or to an approved Aeronautical Service Provider authorized by the Airport Operations Commission to provide services from that location pursuant to an operating agreement with Waukesha County, and provided further that a written sublease that is subject to termination at any time that this Agreement is terminated has been approved by the Airport Operations Commission.

Except as otherwise specifically provided, Lessee shall, at its own expense, maintain and keep in good order and repair all buildings, fixtures, areas and equipment leased exclusively to it in this Article, including, but not limited to, hangar doors, door rollers, steel trusses, motors, pumps, other mechanical equipment, doors, and heating, ventilating, and air conditioning (HVAC) equipment in accordance with instructions provided by the manufacturers thereof. Lessee shall supply and replace lights, both incandescent and fluorescent, including starters and ballasts throughout the Leased Premises. Lessee shall also be responsible for, at its own expense, landscaping, mowing, and weed control in the confines of the Leased Premises. Lessee shall also be responsible for snow removal and control within three feet of the Airport Maintenance Building and the Gold Hangar, all vehicle movement areas within the Fuel Farm, all public walkways and entrances around and to the Executive Terminal Building, the concrete ramp area on the west face of the Executive Terminal Building, the asphalt pavement on the east side of the Executive Terminal Building south of the aircraft parking ramp, and all of the West tie-down area. In addition, Lessee shall, at its own expense, maintain and keep in good order and repair (and replace if necessary) the preferential use Executive Terminal Ramp Space in accordance Federal Aviation Regulation (FAR) Part 139.305, as amended or modified from time to time, and County standards.

If Lessee fails to comply with any part of the preceding paragraph, the Airport Manager may notify Lessee in writing of any such maintenance or repair that must be done. If Lessee fails to perform the maintenance or repair within fifteen (15) days of the written notice, the County may provide the necessary maintenance or repair services, and Lessee shall pay the County one hundred twenty-five percent (125%) of the County's expenses within fifteen (15) days of receipt of an invoice.

**ARTICLE 4
PREMISES RENT**

As rent for the Leased Premises described in Article 3, the Lessee shall pay as follows:

1. The Executive Terminal Building:
 - A. Eight and 90/100 dollars (\$8.90) per square foot per annum for 4,963 square feet of exclusive use space;
 - B. Two and 97/100 dollars (\$2.97) per square foot per annum for 510 square feet of common use garage area; and
 - C. Two and 22/100 dollar (\$2.22) per square foot per annum for 3,500 square feet of common use lobby area.

2. The Gold Hangar:

Two and 97/100 dollars (\$2.97) per square foot per annum for 15,360 square feet of exclusive use space.

3. The Aircraft Maintenance Building:

One and 71/100 dollars (\$1.71) per square foot per annum for 12,015 square feet of exclusive use space.

4. The Airport Fuel Farm:

One and 19/100 dollars (\$1.19) per square foot per annum for 28,750 square feet of exclusive use space.

5. The Executive Terminal Building Aircraft Parking West Ramp:

Zero and 12/100 dollars (\$0.12) per square foot per annum for 48,659 square feet of exclusive use space.

6. The Executive Terminal Building Preferential Use Ramp:

Zero and 30/100 dollars (\$0.30) per square foot per annum for 165,000 square feet of preferential use space.

Payment of these amounts shall be made to the Airport Manager on a monthly basis in 12 equal monthly installments in advance on the 20th day of each month, with the first payment therefore due on October 20, 2016. (Rent for the month of October 2016 shall be paid in accordance with Prior Agreement.) Any late payment shall be subject to interest in the amount of 1.5% per month. The failure to make any payment when due may also result in a termination of the Agreement as provide in Article 18.

For the year 2017 beginning with the monthly advanced payment due December 20, 2016, the premises rent shall be adjusted on the basis of the percentage by which the average of the United States Consumer Price Index - Urban (or its successor or replacement index) for the previous twelve calendar months ending June 2016 increased over the average for the prior twelve calendar months ending June 2015. The same adjustment in the premises rent shall be made

according to the same formula for each succeeding year. Notwithstanding the foregoing, premises rent shall never be increased more than 8.5% or less than 2.5% annually.

If any of the Leased Premises are rendered unusable through no fault of the Lessee, the rent for such premises shall abate on a per diem basis until such time as the premises again becomes useable. If other space in any other County building can be used by Lessee for its purposes during restoration of the unusable premises, and the County consents to such use, Lessee shall use each space and pay rental for the space at the same rate per square foot as was being paid for the unusable premises.

**ARTICLE 4A
ADDITIONAL FUEL TANK RENT**

In addition to the rent payable under Article 4 above, on October 31, 2016 and each October 31st thereafter through October 31, 2018, Lessee shall pay the County additional rent for the 15,000 gallon above ground fuel tank in the JetA containment area in the Airport Fuel Farm in the amount of \$5,210. Said payments constitute the final three payments due to the County for the installation of the fuel tank as required under the Prior Agreement. After October 31, 2018, Lessee shall have no further obligation to pay additional fuel tank rent pursuant to this Article.

**ARTICLE 5
MANAGED PREMISES**

Lessee shall manage the following County-owned hangars, each of which shall include fifteen (15) feet around the footprint of each hangar:

A. T- Hangar	15,360 square feet	513 Bluemound Road
B. T- Hangar	9,504 square feet	668 Northview Road
C. T- Hangar	9,504 square feet	670 Northview Road
D. T- Hangar	9,504 square feet	672 Northview Road
E. T-Hangar	9,504 square feet	676 Northview Road

Lessee's management of these hangars shall include renting the hangars to tenants and performing all customary and reasonable managerial and administrative functions associated therewith, including showing available units to prospective tenants; preparing, obtaining signatures on and enforcing the County-approved lease forms; accounting, invoicing and collecting rental fees; providing related and necessary supplies, including postage, and collecting appropriate insurance documents; conducting weekly or as needed inspections to ensure compliance with lease requirements (flammable liquid storage, non-aeronautical uses, etc.), and resolution of access issues (minor door issues, problems with locks, pins, etc.).

Lessee shall pay to the County Ninety Percent (90%) of the rent collected on the hangars. The rental fees shall be set by the County. Payment of the amount of the fees due to the County shall be made to the Airport Manager on the 20th day of each month for the previous month's management, with the first payment therefore due on November, 20, 2016. Any late payment shall be subject to interest in the amount of 1.5% per month. The failure to make any payment when

due may also result in a termination of the Agreement as provided in Article 18. With each payment, the Lessee shall furnish the Airport Manager with a statement and documentation showing the amount of hangar rental collected for the applicable period. The Lessee may not accept non-monetary rental for any of the managed premises.

Lessee shall provide for the storage of aircraft owned and operated by others to the reasonable capacity of the hangar facilities. Lessee shall make available for rent any vacant hangar space to any interested individuals on a first come, first serve basis, subject always to storage conditions agreed to by the Airport Manager and Lessee.

The County shall, at its own expense, maintain and keep in good order and repair all managed hangars unless Lessee is otherwise required by this Article 5 to perform such maintenance. Notwithstanding the foregoing, it shall be Lessee's sole obligation to promptly repair any and all damages caused by it or its agents to the managed hangars. If Lessee fails to comply with its repair obligation of the preceding sentence, the Airport Manager may notify Lessee in writing of any such repair that must be done. If Lessee fails to perform the maintenance or repair within fifteen (15) days of the written notice, the County may provide the necessary repair services, and Lessee shall pay the County one hundred twenty-five percent (125%) of the County's expenses within fifteen (15) days of receipt of an invoice.

ARTICLE 6 TIE-DOWN AREA

Lessee shall manage, for the County, the South tie-down area of the Executive Terminal Building Aircraft Parking Ramp, an area approximately One Hundred Fifty-Seven Thousand One Hundred Forty-Four (157,144) square feet, as designated on Exhibit 2. Lessee's management shall include renting parking and tie-down space and performing all customary and reasonable functions associated therewith, including showing available spaces to prospective tenants; preparing, obtaining signatures on and enforcing the County-approved lease forms as applicable; accounting, invoicing and collecting rental fees; and providing related and necessary supplies, including postage, and collecting appropriate insurance documents.

Lessee shall pay to the County Fifty Percent (50%) of the fees collected for parking and tie-down in this area. The rental fees shall be set by the County. Payment of the amount of the fees due to the County shall be made to the Airport Manager on the 20th day of each month for the previous month's management, with the first payment therefore due on November 20, 2016. Any late payment shall be subject to interest in the amount of 1.5% per month. The failure to make any payment when due may also result in a termination of the Agreement as provided in Article 18. With each payment, the Lessee shall furnish the Airport Manager with a statement and documentation showing the tie-down and parking fees collected for the applicable period. The County has the unilateral right to adjust the square feet in the South tie-down area at any time. The Lessee may not accept non-monetary remuneration for parking and tie-down services.

Lessee shall, at its own expense, maintain and keep in good order and repair the South tie-down area. For purposes of this paragraph, maintenance shall include, but not be limited to: weed control and removal; snowplowing and snow and ice control, supplying and replacing tie-down

ropes; towing and movement of aircraft; garage/FOD disposal and removal; and periodic striping. If Lessee fails to comply with any part of this paragraph, the Airport Manager may notify Lessee in writing of any such maintenance or repair that must be done. If Lessee fails to perform the maintenance or repair within fifteen (15) days of the written notice, the County may provide the necessary maintenance or repair services, and Lessee shall pay to the County one hundred twenty-five percent (125%) of the County's expenses within fifteen (15) days of receipt of an invoice.

ARTICLE 7 FUEL FLOWAGE FEES

For the right and privilege to conduct a fixed base operator business at the Airport and to provide the services required and permitted by this Agreement, the Lessee shall also pay to the County a fuel flowage fee of \$.10 per gallon of fuel delivered to Lessee for use at the Airport, whether the fuel is for Lessee's own use or for sale or delivery to others. The County may increase or decrease this fuel flowage fee at any time for any reason.

Payment of the fuel flowage fee shall be made to the Airport Manager on the 20th day of each month for the previous month, with the first payment therefor due on November 20, 2016. Any late payment shall be subject to interest in the amount of 1.5% per month. The failure to make any payment when due may also result in termination of the Agreement as provided in Article 18. With each payment, the Lessee shall furnish the Airport Manager with a statement and documentation showing the number of gallons of fuel delivered to Lessee for use at the Airport for the applicable payment period.

ARTICLE 8 SECURITY DEPOSIT AND LETTER OF CREDIT

Upon execution of this Agreement, the Lessee shall deposit with the County the sum of One Hundred Twenty Thousand Dollars (\$120,000.00) to be held by the County as security for the faithful performance of the terms of this Agreement by the Lessee. This security deposit will draw interest at the rate of the yield on five year treasuries as reported by the Wall Street Journal on the first business day of July per annum, payable annually to Lessee. Unless it is used as permitted in the following paragraph, this security deposit shall be returned to Lessee following the completion of all of its obligations under this Agreement, including any payment obligations.

If Lessee fails to make any payment to the County required by this Agreement, including charges for maintenance and repair and for damage to property, or if Lessee otherwise defaults with respect to any provision of this Agreement, the County may use, apply or retain so much of the security deposit as necessary to fulfill the payment obligation, cure the default or otherwise compensate the County for damage or loss sustained by it resulting from Lessee default. Such use of the security deposit by the County in no way limits its right to pursue the remedies given to it by this Agreement.

If the County applies any portion of the security deposit in accordance with the preceding paragraph, within five (5) business days of receipt of written notice from the County, Lessee shall replenish the security deposit to its original sum.

In addition to the security deposit required hereunder, Lessee shall deliver to the County upon the execution of this Agreement, an irrevocable letter of credit or comparable security in a form acceptable to the County in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) payable to the County at sight upon demand upon Lessee's failure to timely commence or complete the improvements required to be performed by Lessee pursuant to Article 15 below.

ARTICLE 9 AUDIT AND INSPECTION

The County may, itself or through any designated agent, at any reasonable time, audit the Lessee's books and records regarding its operations related to the Airport in order to verify the amount of fees or other monies due it pursuant to this Agreement. It is the intention of the parties that the County's audit will be on an annual basis; however, the County reserves the right to make the audit at any time.

If, as a result of such an audit, the County believes that it has not received the full amount of the fees or other monies due it by Lessee, it shall notify the Lessee in writing and provide the audit findings to Lessee. If the Lessee agrees with the County's audit findings, it shall so notify the County and pay the deficiency within thirty (30) days of notice from the County. If the Lessee does not agree with the County's audit findings, it shall, within sixty (60) days of the notice from the County, furnish the County with an audit conducted by a mutually agreed upon independent Certified Public Accountant, the cost of which shall be borne by the Lessee.

The audit findings of the mutually agreed upon independent Certified Public Accountant shall be conclusive. If the audit findings show a deficiency in fees or other monies due to the County, the Lessee shall pay such amount to the County within thirty (30) days of its receipt of the audit findings. If the audit conducted by the Certified Public Accountant also certifies that the deficiency was not the result of a reasonable mistake by the Lessee, the Lessee shall pay to the County twice the amount determined deficient by the Certified Public Accountant audit.

In addition to the audit rights set forth above, the Lessee shall provide the County auditors access to and furnish them with information, records, and reports regarding powers, duties, activities, organization, property, financial transaction and methods of operation, or any other information records and reports that relate to the operations being conducted at the Airport by Lessee. The Lessee shall also provide access for the County auditors to inspect all property, equipment and facilities that are used or made use of by the Lessee in performing its operations at the Airport, which inspection the County shall coordinate with the Lessee.

Any information, records and reports provided to or obtained by the County pursuant to this Article, or which the County otherwise comes into possession of pursuant to this Agreement, shall be subject to the provisions of Wisconsin's Public Records Law, including provisions regarding limitations upon access based upon trade secret information and state and federal restrictions.

The failure of the Lessee to make any payment required by this Article constitutes a material breach of this Agreement.

ARTICLE 10 MINIMUM STANDARDS ORDINANCE

The County has adopted and enacted an ordinance titled Waukesha County Airport Minimum Standards for Aeronautical Service Providers. A copy of that Ordinance is on file with the Airport and, as it may be modified from time to time, is made a part of this Agreement by reference. The Lessee shall meet all of the standards set forth in the Ordinance as may be amended from time to time for each service it is permitted or required to provide under this Agreement, except to the extent this Agreement elsewhere expressly provides for greater standards or different requirements.

ARTICLE 11 RIGHTS AND PRIVILEGES OF LESSEE

The County hereby grants the Lessee the following rights and privileges in conducting fixed based operator services at the Airport:

1. General Use – To engage in the following businesses: aircraft fuels and oil service; aircraft guidance, parking, tie-down and line service; aircraft, airframe, engine, and accessory maintenance and repair; aircraft lease and rental; aircraft charter and unscheduled air taxi; aircraft storage; the provision of passenger and pilot facilities; flight planning and information services; and flight training. Lessee understands and agrees that it does not have an exclusive right to provide any such services at the Airport.
2. Aircraft Parking and Tie-Down – To park aircraft in designated aircraft parking or tie-down areas, understanding the right to park aircraft in designated aircraft parking areas is a non-exclusive right.
3. Courtesy Cars – To provide through itself, from and to Lessee's premises, automobiles for the transporting of any itinerant or transient air travelers requesting such service. Lessee is, however, prohibited from providing, or allowing to be provided from Lessee's premises automobiles for persons other than Lessee's itinerant or transient air travelers.
4. Aeronautical Facility Use – To use, in common with others, existing and future aeronautical facilities at the Airport. These facilities shall include, but not be restricted to, the landing areas, their extensions and additions, roadways, aprons, and any air navigation facilities or other conveniences for the flying, landing, and taking off of aircraft.
5. Ingress and Egress – Subject to rules and regulations governing the use of the Airport as may be established by the Airport Manager, the Lessee, its employees, suppliers of

materials, furnishers of service, subleases, business visitors, and invitees shall have the right of ingress and egress to and from the Airport.

6. Quiet Environment – To peacefully and quietly have, hold, and enjoy the Leased Premises for the term of this Agreement, so long as Lessee meets all of its obligations. Temporary inconveniences, such as noise, disturbances, traffic detours, and the like, caused by or associated with the construction of Airport improvements or Airport events, shall not constitute a breach of quiet enjoyment of the premises.
7. Removal of Fixtures and Equipment – Except for fixtures and equipment that become the property of the County pursuant to this Agreement, to remove from the Airport, or any part thereof, all aircraft, tools, machinery, equipment, and trade fixtures placed, installed or constructed thereon by it; provided, however, that all buildings from which property is removed shall be restored by Lessee in such manner that such buildings are not materially damaged. Lessee shall expeditiously remove all equipment, fixtures, improvements, and systems specified herein upon termination or expiration of this Agreement. Structures, improvements, alterations or additions not removed as specified herein shall become part of the realty upon which they are erected and title thereto shall vest at no cost to the County, unless previously agreed to in writing by the Airport Manager. The County also retains the right to remove or have removed at the expense of Lessee all equipment, fixtures, improvements and systems, and Lessee agrees to pay the County for such expense within fifteen (15) days upon receipt of an invoice.
8. Non-Exclusive Rights – It is understood and agreed by Lessee that nothing in this Agreement shall be construed to grant or authorize the granting of an exclusive right. It is clearly understood by Lessee that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including but not limited to maintenance and repair) that it may choose to perform.

ARTICLE 12 RIGHTS AND PRIVILEGES OF COUNTY

In addition to other rights and privileges, the County has the following rights and privileges:

1. Airport Development – The County reserves the right, but shall not be obligated to Lessee, to develop or improve the landing areas and other portions of the Airport as it sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance. If any such development or improvement requires a change in the location of parts of the Leased Premises, the County has the unilateral right to relocate the Lessee to a new site at the Airport in accordance with Article 21 below.

2. Airport Maintenance and Repair – The County reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publically owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.
3. Aerial Approaches and Transitions – The County reserves the right to take any action it considers necessary to protect the aerial approaches or transition surfaces of the Airport against obstruction, and to prevent the Lessee or sub-lessee from erecting or permitting to be erected any building or other structure on the Airport, which, in the opinion of the Airport Commission, would limit the usefulness of the Airport or constitute a hazard to aircraft.
4. War, National Emergency, Riot or Natural Disaster – During time of war, national emergency, riot or natural disaster, the County shall have the right to lease the entire Airport or any part thereof to the United States or State of Wisconsin for military or National Guard use. In such event, the provisions of this Agreement, insofar as they are inconsistent with the provisions of any lease to any such unit of government, shall be suspended for the term of such government lease.
5. Unrestricted Right of Flight – There is hereby reserved to the County, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises conveyed herein, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.
6. Access to Premises – To the extent necessary to protect the rights and interests of the County, or to investigate compliance with the terms of this Agreement, the Airport Manager or his designee shall at any and all times have the right to inspect all leased and managed premises, including all buildings, structures, and improvements erected thereon.
7. Performance of Acts – To have all acts performable under this Agreement by the County or the Airport Operations Commission, at their option and without the right of objection by Lessee, performed by their designee.
8. Facility Replacement or Abandonment – To replace with like space, or to abandon, any County owned building, hangar or facility, in part or entirety.

**ARTICLE 13
OBLIGATIONS OF LESSEE**

Except as otherwise specifically provided, Lessee shall have the following obligations:

1. FBO Services – To provide each of those services Lessee is given the right to perform under Article 11 (1), (2) and (3) above or otherwise required by this Agreement in accordance with the Minimum Standards and this Agreement in a professional and workmanlike manner, either through its own employees or through subcontracts approved by the Airport Operations Commission with authorized Aeronautical Service Providers for the services being rendered.
2. Rules and Regulations – To observe and obey the rules and regulations governing the conduct and operation of the Airport promulgated from time to time by the Airport Manager. Any violation of this paragraph shall be construed as a material breach of this Agreement authorizing the termination thereof in accordance with Article 18.
3. Storage of Flammable Fluids – To limit the storage of gasoline or other flammable fluids in bulk quantities to the Airport Fuel Farm. Lessee agrees that the storage of all other gasoline or flammable fluids shall be in an approved steel locker(s) labeled “FLAMMABLE”, or in an approved flammable storage facility. The Airport Manager may prohibit or impose restrictions on the storage of said materials if, in the Airport Manager’s opinion, the storage is determined a safety hazard. Lessee shall restrict parking of aircraft fuel trucks to only those areas designated by the Airport Manager.
4. Business Use – To not engage in any activity or business at the Airport, other than those activities and businesses specifically permitted under this Agreement, unless authorized in writing by the Airport Operations Commission.
5. Disturbance – To not disturb the County, or any tenant of the Airport, by creating or permitting any disturbance or any unusual noise, vibration, or other undesirable condition on or about the Airport.
6. Passenger and Pilot Facilities – To make available to the public from 6:00 a.m. to 9:00 p.m. seven (7) days per week, fifty-two (52) weeks per year, unless otherwise approved by the Airport Manager in writing, pilots lounge and restroom facilities in Lessee’s exclusive use terminal building space. The pilots lounge and restroom facilities shall be made available at no charge to users, subject always to usage conditions mutually agreed to by the Airport Manager and Lessee.
7. Flight Planning and Information Services - To make available to the public from 6:00 a.m. to 9:00 p.m. seven (7) days per week, fifty-two (52) weeks per year, unless otherwise approved by the Airport Manager in writing, the flight planning area in Lessee’s exclusive use terminal building space. The flight planning area shall be made available at no charge to users, subject always to usage conditions mutually agreed to by the Airport Manager and Lessee. Additionally, the flight planning area shall be equipped as specified by Section 11, Paragraph 9 of the Waukesha County Airport Minimum Standards for Aeronautical Service Providers, as may be amended from time to time. The County retains the right to locate a

weather computer or comparable system either within the flight planning area of Lessee's exclusive use space or within a publically available area outside of Lessee's exclusively leased area at any time it desires without relieving Lessee of its responsibilities established herein.

8. Personnel – To provide such trained and responsible personnel as may be necessary to furnish prompt and efficient service to the public, and at all times to have at least one person in charge to act for and on behalf of Lessee. Lessee shall control the conduct and demeanor of its employees at the Waukesha County Airport so that a reasonable person would not find their conduct and demeanor objectionable. Upon notification by the Airport Manager to the Lessee in writing that a person employed by it is, in the Airport Manager's opinion, disorderly or otherwise unsatisfactory, such person shall immediately be lawfully transferred from employment at the Airport and shall not again be employed at the Airport by Lessee without the prior written consent of the Airport Commission.
9. Utilities – To furnish and promptly pay for all heat, electricity, sanitary sewer, water, gas and telephone charges during the term of this Agreement on the premises leased exclusively to it as set forth in Article 3, and the common use garage area as set forth in Article 3. In addition, the Lessee shall pay 65% of all utility costs for the common use lobby area in the Executive Terminal Building.
10. Taxes and Assessments – To pay all taxes or assessments that may be levied against the personal property of the Lessee, and any taxes on buildings built by Lessee.
11. Garbage Removal – To provide for, at its expense, the disposal of garbage, ashes, junk, and other debris from all premises leased to it as specified in Article 3.
12. Cleaning and Janitorial Services – To provide at its own expense such janitor service as is necessary to keep the leased and managed premises in a neat, safe, and orderly condition at all times. The Lessee shall keep the terminal lobby area, together with toilets and washrooms in Lessee's leased area, clean and sanitary. All washroom supplies, such as toilet paper, towels and soap, shall be provided by the Lessee. The Lessee shall further be responsible for the washing of walls, finished ceilings, glass windows and doors, sweeping, mopping and waxing floors, and the periodic painting of walls and ceilings. In the event Lessee fails to comply with this paragraph, the Airport Manager may notify Lessee in writing that such work shall be done, and in the event the Lessee fails to correct the condition within fifteen (15) days of the Airport Manager's written notice, the County may enter the Lessee's Leased Premises and provide the necessary services, and Lessee agrees to pay the County one hundred twenty-five percent (125%) of the County's expenses within fifteen (15) days upon receipt of an invoice.
13. Non-Discrimination – Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration here for, does hereby covenant and agree that (1)

no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of the Leased Premises or managed premises, (2) that in the construction of any improvements on, over, in or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, physical handicap, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) Lessee shall use the leased and managed premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle 1, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

14. Affirmative Action – To undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, sex, creed, color or national origin be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. Lessee assures that it will require that its covered sub-organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations as required by 14 CFR, Part 152, Subpart E, to the same effect.
15. Premises to be Operated for Use and Benefit of Public – In accordance with FAA Grant Assurance #22, furnish good, prompt, and efficient service adequate to meet all demands for Lessee's service at the Airport and to furnish all services on a fair, equal and just basis to all users thereof, and to charge fair and reasonable prices for each unit of sale or service. Lessee shall be allowed, however, to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers, or classes of purchasers.
16. Based Aircraft Report – To maintain and furnish upon request by the Airport Manager a report of all aircraft based at its Leased Premises and managed hangars, showing the name of the owner, the make and model of the aircraft, its registration or license number, and billing address.
17. Signage and Illumination – To not paint upon, attach, exhibit or display in or about the Airport any sign without the prior written consent of the Airport Manager.
18. Special Events – To not conduct or hold air shows, races, similar events, or other special events, including those of a non-aeronautical nature, at the Airport without written authorization from the Airport Manager in advance, which approval shall not be unreasonably withheld.

19. Fuel Farm Operation – To operate the fuel farm consistent with all manufacturer’s instructions and Airport guidelines, in existence or which may be established by the Airport Manager from time to time.
20. Restroom Facility Provision – To construct and provide restroom facilities in the Gold Hangar (Hangar 505) which meet all State and Federal construction and access requirements. These restroom facilities shall be constructed no later than one year from the commencement date of this Agreement.
21. Maintenance Hangar Repairs – To perform, at its expense, repairs to the Aircraft Maintenance Hangar (503 Bluemound) identified in Exhibit 3. Said repairs shall be completed no later than November 1, 2016. Said repairs shall be completed in a professional and workmanlike manner to the County’s satisfaction. Failure to complete these repairs shall constitute a material breach of this Agreement entitling the County to terminate this Agreement. Upon completion of the repairs and acceptance of the repairs by the County, Lessee’s right of occupancy and use to the Aircraft Maintenance Hangar shall cease and Lessee’s obligations with respect to the Aircraft Maintenance Hangar shall cease, except for any outstanding payment obligations. Notwithstanding the foregoing, Lessee shall remain obligated to provide all services required by this Agreement.

**ARTICLE 14
OBLIGATION TO BUILD AIRCRAFT STORAGE HANGAR
AMENDMENT OF GRAY HANGAR LEASE**

Lessee acknowledges that a significant consideration upon which the County has agreed to enter into this Agreement is Lessee’s commitment to complete construction of a hangar from which Lessee will base additional corporate aircraft and to expand its existing hangar located at 2611 Aviation Drive. Accordingly, upon execution of this Agreement, Lessee shall execute, perform and maintain with the County, a lease option agreement to lease Lot # 2621 Aviation Drive from the County consisting of 84,270 square feet and adjoining 58,300 square feet of ramp space (the “Hanger Parcel”). Within three (3) years from the commencement date of this Agreement, Lessee shall have executed a hanger land lease with the County for the lease of the Hanger Parcel for a term expiring in 2048 and shall have completed construction of a corporate aircraft hangar with leasable office space on the Hanger Parcel. Should Lessee fail to complete construction of a hangar on the Hanger Parcel within three (3) years from the commencement date of this Agreement (unless such failure is caused by a delay of the County or other circumstances beyond the reasonable control of Lessee) the County shall assess, and Lessee shall immediately pay to the County, an amount equal to the three (3) year rental rate for the Hanger Parcel. The annual rental rate shall be calculated at \$0.31/sq. ft. x 84,270 square feet for the hangar lot plus \$0.12/sq. ft. x 58,300 square feet for the ramp space in 2016 and thereafter shall be increased annually by CPI in accordance with the formula in Article 4 above. Notwithstanding the foregoing, the annual increase shall not be less than 3.5% and not more than 10%.

Lessee and County also agree that as a further condition of this Agreement, the parties will work in good faith to amend Lessee's current hangar land lease for 2611 Aviation Drive (the "Gray Hangar") dated October 1, 2004 to extend through September 30, 2048 or otherwise negotiate a replacement hangar land lease for the Gray Hangar on terms consistent with the County's standard hangar land lease provisions to similarly expire on September 30, 2048. The amendment or new lease as the case may be shall expand the existing leased premises thereunder to include a total of not less than 83,316 sq. ft. charged at the current hangar land lease rate and not less than 77,440 sq. ft. of adjoining ramp space charged at the current ramp lease rate.

**ARTICLE 15
ALTERATION AND IMPROVEMENTS
TERMINAL RENOVATION**

Lessee shall make no alterations or improvements on or to any part of the Airport without the prior written approval of the County. This includes erection of structures, signs, poles, wires, aerials, antennae and any other change to any part of the Airport.

If Lessee desires to erect anything upon any part of the Airport, it must first submit such plans, specifications and other documentation as required by the County. All such documentation must be reviewed by the County, the Airport Operations Commission and any local municipality with authority, and must be consistent with the Airport development plans. Nothing may be erected without written approval of the County.

Consistent with the foregoing, and as further consideration for the County granting Lessee the rights and privileges contained herein, Lessee shall, within one (1) year from the commencement date of this Agreement, complete a renovation of the Executive Terminal Building generally consisting of renovations to the lobby, museum space, pilot lounge, reception desk, internet café, pilot briefing area, rest rooms, conference rooms and interior/exterior signage to render the Executive Terminal Building a first class executive terminal in a manner substantially comparable and similar to renovations and rebuilds completed by Atlantic Aviation at its Reno, Nevada, Portland, Oregon and Chicago Executive facilities. Total renovation costs shall not be less than \$750,000 without the County's consent nor greater than \$1,000,000 without Lessee's consent (the "Terminal Improvement Project").

Lessee shall consult with and consider the desires of the County, and with respect to the museum space, the Waukesha Aviation Club, when designing and implementing the Terminal Improvement Project. The County retains the right to review and approve all designs, plans, specifications and other documentation relating to the Terminal Improvement Project. In performing the Terminal Improvement Project, Lessee shall require its contractor(s) to provide a payment and performance bond in the amount of 100% of the total Terminal Improvement Project costs. The County shall be named as an additional payee on said bonds. Lessee shall not permit any liens to be placed upon County property and shall promptly act to remove any such liens. Lessee shall require lien waivers from its contractor(s) and all entities that supply labor or materials for the Terminal Improvement Project. Lessee shall require that its

contractor(s) carry proper insurance, the types and amounts of which shall be approved by the County. The County shall be named as an additional insured on any policy so required by the County, and the County shall be provided with certificates of insurance demonstrating the required coverages and additional insured status prior to any construction taking place on the Terminal Improvement Project.

Notwithstanding any other provision of this Agreement, all improvements made to the Executive Terminal Building, and all furniture and fixtures placed within the Executive Terminal Building in association with the Terminal Improvement Project shall become the property of the County upon the termination of this Agreement.

Any failure to complete the Terminal Improvement Project within the time set forth herein, unless such failure is caused by a delay of the County or other circumstances beyond the reasonable control of Lessee, shall constitute a material breach of this Agreement entitling the County to avail itself of the proceeds of the letter of credit required under Article 8 hereof, terminate this Agreement, and/or pursue any other remedies available to it at law or in equity.

ARTICLE 15A DEVELOPMENT OF EAST TERMINAL BUILDING LOT

During the term of this Agreement, in order to avoid congestion and for other safety reasons, the County agrees that the existing building lot immediately to the east of the Executive Terminal Building as depicted on Exhibit 2 and designated in the current Airport Master Plan as an expansion of the current Executive Terminal Building footprint to accommodate additional airport services shall not be occupied or used by another aircraft fuels and oil service provider, unless such provider is providing only authorized services other than fuel and oil services from that location not otherwise provided by Lessee. Upon development of this lot, the County shall have the right to remove so much of the Lessee's Executive Terminal Ramp preferential use space as desirable to accommodate the development and use of the lot. Upon removal, Lessee's obligation to the pay rent under Article 4 above for the ramp space removed shall terminate.

ARTICLE 16 INSURANCE

Lessee shall, at its expense, maintain insurance in full force and effect during the term of this Agreement, in such amounts and coverages as to meet the minimum limits of liability specified below. The insurance shall be placed with companies or under-writers authorized to do business in the State of Wisconsin and satisfactory to the County. The County, its boards, commissions, agencies, appointed and elected officials, employees, and representatives shall be named as additional insureds. Certificates of Insurance evidencing the required insurance shall be filed with the County's Airport Manager. Upon request, certified copies of the required insurance policies shall be provided. The Certificates of Insurance and all such policies shall contain a provision that coverages will not be cancelled or non-renewed during the term of this

Agreement unless thirty (30) days advance notice in writing has been given to the County in the manner specified in this Agreement.

1. General Comprehensive Liability Insurance (shall not exclude any operations required by this Agreement)

Coverages Required:

Premises and Operations
Products and Completed Operations
Personal and Advertising Injury
Fire Damage
Blanket Contractual
Independent Contractors
Hangarkeepers

Limits of Liability Not Less Than:

General Aggregate	\$1,000,000
Products and Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Hangarkeepers (Each Loss)	Total Value of Aircraft Stored
Hangarkeepers (Each Aircraft)	Largest Individual Value Aircraft Stored

2. Aircraft Liability

Coverage Required:

All aircraft owned, leased or operated by Lessee
Passenger Liability
Student and Renters Liability

Limits of Liability Not Less Than

Each Occurrence	\$1,000,000
Student and Renters	\$ 500,000

3. Automobile Liability Insurance

Business auto policy form covering all owned, hired, and non-owned private passenger autos and commercial vehicles.

Lessee will carry not less than a combined single limit of \$1,000,000 each accident.

4. Worker's Compensation and Employers Liability

Lessee will be responsible for Worker's Compensation benefits up to the statutory limits for its employees through a purchased insurance policy.

Lessee will carry Employers Liability coverage with a minimum of \$100,000 each claim.

Lessee agrees to require subcontractors not protected under existing insurance to obtain and maintain Workers Compensation Insurance as specified above. Lessee will maintain a certificate of such coverage on premises.

5. Environmental Impairment Liability

Environmental impairment or pollution liability insurance covering Lessee's operations at Waukesha County Airport.

Lessee will carry a limit of liability not less than \$1,000,000 per occurrence.

The aforesaid limits of liability may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or laws which would materially increase or decrease the County's or Lessee's exposure to risk.

**ARTICLE 17
INDEMNIFICATION AND HOLD HARMLESS**

The Lessee will not hold the County liable for any damage to property or injury or death to person when such damage, injury or death is in any way connected or related to the Lessee's performance of, or its obligations under, this Agreement, or its use, occupancy or management of any premises or the operations permitted or required by the Agreement, unless the damage, injury or death was the result of an intentional act of the County.

If any demand, claim, lawsuit or proceeding is brought against the County and is in any way connected or related to the Lessee's performance of, or its obligations under this Agreement, or its use, occupancy or management of any premises or the operations permitted or required by this Agreement, the Lessee shall fully defend the County against the demand, claim, lawsuit or proceeding. The County shall give the Lessee prompt notice of any such demand, claim, lawsuit or proceeding. If such demand, claim, lawsuit or proceeding is brought the County shall have the right, but not the duty, to (1) investigate and settle the demand, claim, lawsuit or proceeding and (2) participate in the defense of the demand, claim, lawsuit or proceeding.

If a demand, claim, lawsuit or proceeding as described in the preceding paragraph is brought, the Lessee shall pay all expenses, costs, losses, damages, fees, including attorney fees, fines, forfeitures, judgments and awards that result from the demand, claim, lawsuit or proceeding.

In this Article, "County" includes Waukesha County and the Waukesha County Airport Operations Commission and all of their members, employees, officials, officers and agents.

ARTICLE 18 DEFAULTS AND REMEDIES

The occurrence of any one or more of the following events shall constitute a material default in breach of this Agreement by the Lessee.

1. The filing by Lessee of a voluntary petition in bankruptcy.
2. The institution of proceedings in bankruptcy against Lessee and the adjudication of Lessee as a bankrupt pursuant to such proceedings.
3. The taking by a court of Lessee and its assets pursuant to proceedings brought under the provisions of any Federal Reorganization Act.
4. The filing of any lien against the Airport or any of its property as the result of any act or omission of Lessee, if the lien is not discharged or contested in good faith by Lessee (as determined by the County) within fifteen (15) days of Lessee's receipt of notice of the lien, unless Lessee posts a bond within this time period equal to the amount of the lien.
5. The voluntary abandonment by Lessee of its operations at the Airport for a period of ten (10) days or more.
6. The appointment of a receiver of Lessee's assets, or any general assignment for the benefit of Lessee's creditors.
7. The transfer of Lessee's interest herein by other operation of law.
8. The failure by Lessee to make any payment required by this Agreement for a period of fifteen (15) days after the time such payment becomes due, where such failure continues for a period of fifteen (15) days after written notice from the County.
9. The falsification by the Lessee of any of its records or figures so as to deprive the County of any of its rights under this Agreement.
10. The failure by Lessee to perform any of the covenants, conditions, or obligations imposed on it by this Agreement where the failure continues for a period of fifteen (15) days after written notice from the County, unless a shorter time is specified in this Agreement.
11. A sale or other transfer of stock in Lessee's corporation which divests the present stockholders of controlling interest without the written approval of the County, such approval not to be unreasonably withheld.
12. The transfer of assignment, or attempted transfer or assignment of this Agreement by Lessee, without securing prior written approval of the County, such approval not to be unreasonably withheld. It shall be understood for the purpose of this part that negotiations by Lessee for the assignment or transfer of this Agreement shall not be construed as "attempted transfer".

In the event of any default by the Lessee, the County shall have the right to declare this Agreement terminated. If this Agreement is so terminated, the County shall be entitled to make use of the security deposit in Article 8, and any other payments made to the County shall be forfeited to the County and Lessee shall have no rights to recover such amounts or the amount of the security deposit. This forfeiture shall not diminish nor limit the County's right to recover such damages as may result from the default by the Lessee.

In addition to the termination and forfeiture right described in the preceding paragraph, the County shall have the following rights and remedies upon default by Lessee:

1. The recovery of any unpaid rent, fees and other payments due and owing at the time of termination, plus any unpaid rent and fees that would have been earned and other payments what would have been made if the Agreement had not been breached by Lessee.
2. The recovery of any damages, costs, fees and expenses incurred by the County as a result of the breach of the Agreement by Lessee.
3. The removal of all persons from the Airport, and the removal and storage at Lessee's expense of all of its property on the Airport.
4. Any other right or remedy, legal or equitable, that the County is entitled to under applicable law.

In the event of any such termination as described above, the County shall have the right at once and without further notice to the Lessee to enter and take full possession of all property and space occupied by the Lessee under this Agreement. Upon the termination of this Agreement for any reason, Lessee shall yield up all property, space, equipment and facilities to the County in the same condition as when received, reasonable and ordinary wear and tear and damage by the elements excepted. In the event of the failure on the part of the Lessee upon the termination of this Agreement to immediately remove from the Airport all property owned by it, the County may effect such removal and store such property at Lessee's expense. Lessee shall pay and discharge all reasonable costs, attorney's fees, and expenses that are incurred by the County in enforcing the terms of this Agreement.

The failure of the County to declare this Agreement terminated for any of the reasons set out above shall not bar the right of the County to subsequently terminate this Agreement for any of the reasons set out above. Further, the acceptance of rental or fees by the County for any periods after a default by Lessee shall not be deemed a waiver of any right on the part of the County to terminate this Agreement.

ARTICLE 19 ADDITIONAL TERMINATION RIGHTS

In addition to the termination rights set forth in the preceding Article, the County may also terminate this Agreement if any of the following events occur:

1. A determination by the Waukesha County Board of Supervisors, by resolution or ordinance, that termination is necessary to secure federal funding for Airport development.
In this event, the County shall give Lessee sixty (60) days written notice, and at the

expiration of such sixty (60) day period, title to any and all improvements made by Lessee upon any Airport land shall immediately vest in the County without further proceedings or conveyances, and the County may immediately enter and take possession. However, in such event, the County shall make payment to the Lessee in a sum sufficient to cover the fair market value of any structure it has erected upon such land, minus a depreciation allowance.

2. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part of parts thereof, in such manner as to substantially restrict Lessee, for a period of at least sixty (60) days, from its FBO operations.

It is also expressly understood and agreed that the County may, upon sixty (60) days written notice, terminate this Agreement to such land as may be necessary for permanent building purposes and compensate Lessee for the fair market value of any structure it has erected upon such land, minus a depreciation allowance.

ARTICLE 20 REMEDIES CUMULATIVE; NO WAIVER

All of the rights and remedies given to the County in this Agreement are cumulative and no one is exclusive of any other. The County shall have the right to pursue any one or all of such remedies or any other remedy or relief that may be provided by law, whether stated in this Agreement or not.

The failure of the County to take action with respect to any breach by Lessee of any covenant, condition or obligation in this Agreement shall not be a waiver of such covenant, condition or obligation or a subsequent breach of the same of any other covenant, condition or obligation. The acceptance by the County of any rent or other payment shall not be a waiver by it of any breach by Lessee of any covenant, condition or obligation.

ARTICLE 21 RELOCATION OF SPACE

Lessee understands that the County may, and has the unilateral right to, replace any of the structures, buildings, or pavement areas leased to Lessee in Article 3 with new or different structures or areas, or discontinue the use of said structures. If the change is solely for the benefit of the County, the Airport Manager will negotiate reimbursement with Lessee for any necessary expense caused by its relocation. If the County requires discontinuance of the structures, buildings, or pavement areas, Lessee and County shall be relieved of any responsibilities for those areas.

ARTICLE 22
DAMAGE BY CASUALTY OR OTHER FACTORS

If at any time, any part of the leased or managed premises is damaged or destroyed by fire, earthquake, tornado, windstorm or other casualty, the County shall be under no obligation to rebuild or repair the damaged or destroyed part. The County shall have no obligation to the Lessee or any sublessee or subcontractor for any damage or destruction to their property caused by fire, earthquake, tornado, windstorm or other casualty, or caused by any other factor except for the sole negligence of the County.

ARTICLE 23
DAMAGE TO PREMISE AND PROPERTY
BY LESSEE AND OTHERS

If any part of the leased or managed premises and all of its related property and any Airport property is damaged by the act or omission of the Lessee, its agents, officers, employees, contractors, sublessee and subcontractors, the Lessee shall pay to the County, upon demand, any amount which the County reasonably determines is necessary to repair or replace the premises or the property. The Lessee may, at its option, repair or replace the damaged property but only if done to the satisfaction of, and within a reasonable time period specified by, the County.

ARTICLE 24
SUBLEASE; SUBCONTRACTS

The Lessee shall not sublease the Leased Premises nor any part of the Leased Premises, nor subcontract any operation or service it performs or is permitted to perform, without the express written consent of the County. At a minimum, the County will require, prior to giving any consent, (1) all information required by pertinent sections of the Minimum Standards Ordinance, if applicable to the requested sublease or subcontract, including but not limited to sections 4 and 5 of that Ordinance, and (2) a written agreement between the Lessee and the sublessee or subcontractor which must be approved by the County.

The Lessee shall at all times assume total responsibility for the acts and omissions of a sublessee and subcontractor.

ARTICLE 25
COUNTY REPRESENTATIVE

The Airport Manager is the official representative of the County for the administration and enforcement of this Agreement.

**ARTICLE 26
SUBORDINATION**

This Agreement is and shall be subordinate to any existing or future Agreement between the County and the United States regarding the operation or maintenance of the Airport.

**ARTICLE 27
COMPLIANCE WITH THE LAW**

At its own expense, the Lessee shall comply with all laws of the United States and the State of Wisconsin, all applicable local ordinances, and all rules and requirements of any law enforcement, fire department or other municipal agency. At its own expense, the Lessee shall obtain any and all permits and licenses which may be necessary for any activity at the Airport for which a license or permit is required. The Lessee shall not do or allow to be done anything at the Airport which is in violation of, or prohibited by, any law, ordinance, rule, requirement, permit or license. If the attention of the Lessee is called to any such violation, the Lessee will immediately desist from or cause to be corrected such violation.

**ARTICLE 28
GOVERNING LAW
VENUE FOR DISPUTES**

This Agreement shall be deemed to have been made in, and shall be construed in accordance with the laws of the State of Wisconsin. Any lawsuit related to or arising out of disputes under this Agreement shall be commenced and tried in the circuit court of Waukesha County, Wisconsin, and the County and the Lessee submit to the jurisdiction of the circuit court for such lawsuits.

**ARTICLE 29
COUNTERPARTS**

This Agreement may be executed in several counterparts, each of which shall be taken to be an original, and all collectively but one instrument.

**ARTICLE 30
SEVERABILITY**

In the event that any provision in this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision in this Agreement, provided that the invalidity of any such provision does not materially prejudice either the County or Lessee in their respective rights and obligations contained in the valid provisions of this Agreement.

**ARTICLE 31
INDEPENDENT CONTRACTOR STATUS**

Nothing in this Agreement is intended to nor shall be construed as in any way creating or establishing the relationship of partners between the County and Lessee or as constituting the Lessee as the agent or representative or employee of the County for any purpose of in any manner whatsoever. The relationship of the Lessee to the County is that of an independent contractor.

**ARTICLE 32
SURVIVAL OF OBLIGATIONS**

The Lessee shall be responsible for the obligations in Article 17 in perpetuity. Additionally, any payment obligations and repair obligation that exists as of the termination date of this Agreement shall extend until the obligation is satisfied.

**ARTICLE 33
ENTIRE AGREEMENT**

This Agreement contains and embodies the entire Agreement between the County and the Lessee and supersedes and replaces any and all prior agreements, understandings and promises on the same subject, whether they are written or oral.

**ARTICLE 34
NO ASSIGNMENT**

This Agreement may not be assigned, nor may any part of it be assigned, without the express written consent of the County.

**ARTICLE 35
HOLDOVER POSSESSION OF PREMISES BY LESSEE**

In the event that Lessee should hold over and remain in possession of any premises after the expiration of this Agreement or termination for any cause, the holding over shall be deemed not to operate as a renewal or extension of this Agreement and shall create a tenancy from month to month which may be terminated at any time by the Airport Manager or Lessee, upon notice as required to end month to month tenancies.

**ARTICLE 36
PARAGRAPHS HEADINGS**

All paragraph and subparagraph headings contained in this Agreement are for convenience in reference only, and are not intended to define or limit the scope of any provision.

**ARTICLE 37
NOTICES**

Notices to the County or Lessee provided for in this Agreement shall be hand delivered or sent by certified mail, postage prepaid, addressed to:

County

Airport Manager
Waukesha County Airport
2525 Aviation Drive
Waukesha, WI 53188

Lessee

Waukesha Flying Services, Inc.
2525 Aviation Drive
Waukesha, WI 53188

Or to such other addresses as the parties may designate to each other in writing from time to time, and such notices shall be deemed to have been given when so sent.

All payments shall be made payable to Waukesha County Airport and sent to the attention of the Airport Manager at the County's address stated above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers, this ____ day of _____, 2016.

Signed in the Presence Of:

WAUKESHA COUNTY

BY:

Kurt Stanich
Airport Manager

Signed in the Presence Of:

WAUKESHA FLYING SERVICES, INC.

BY:

Name:
Title:
Waukesha Flying Services, Inc.

EXHIBIT 2 (FBO Leased/Managed Space Diagram)

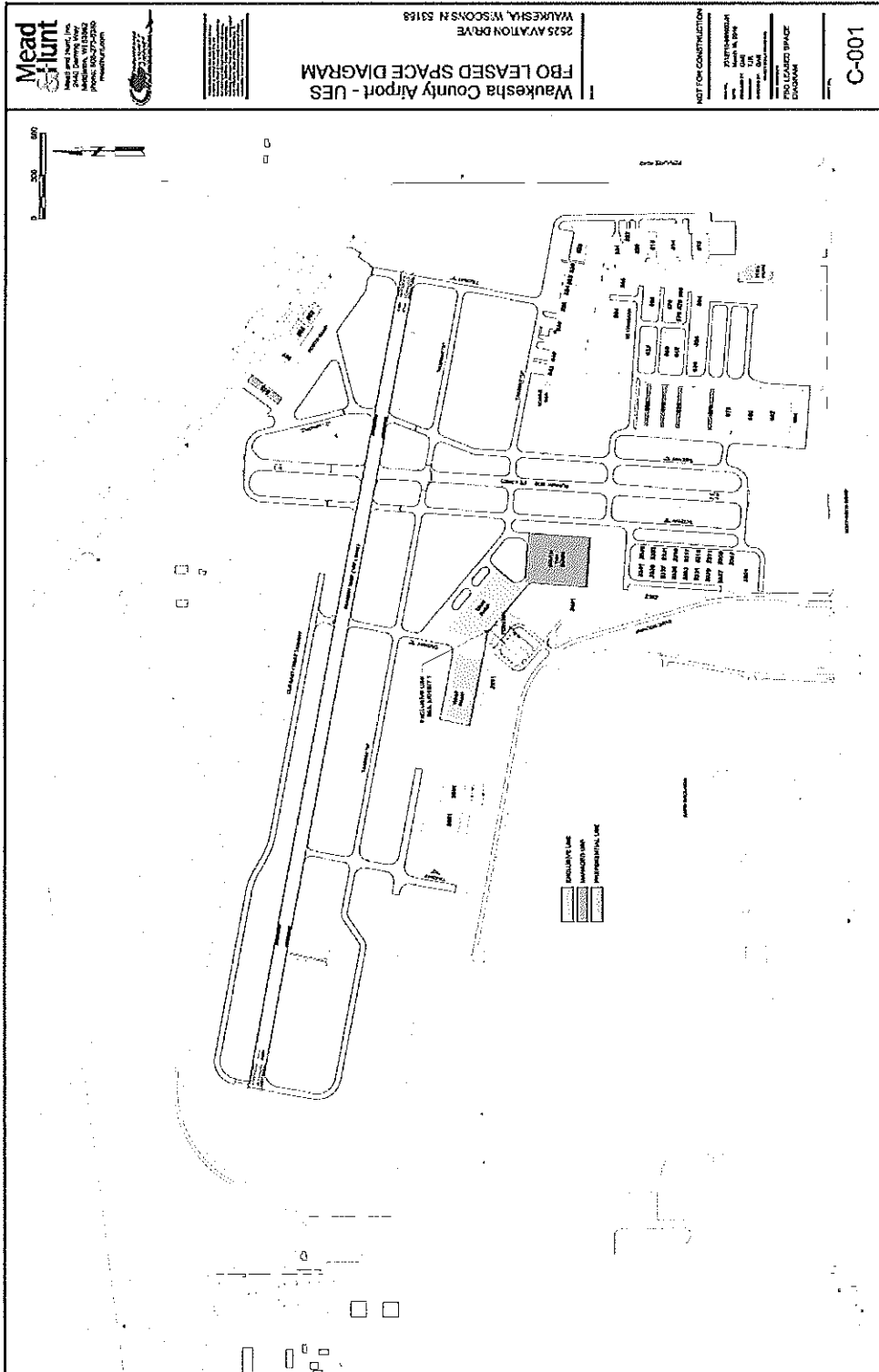


EXHIBIT 3
(Maintenance Building Repairs)

1. Windows on east side of building need glazing
2. At least 1 window on east side of building is cracked and needs to be replaced
3. Multiple light bulbs unlit throughout hangar
4. Multiple insulation tiles on hangar bay ceiling are missing and need replacement
5. Bottom of man-door frame on south side of building has corroded and needs repair
6. Weather stripping on outside of overhead doors needs replacement
7. Sheet metal on southwest corner of hangar needs repair
8. Gutter downspouts need to be extended away from building
9. Several areas need tuck pointing
10. Need to get copies of inspection reports for Modine heaters
11. Multiple electrical receptacles need to be upgraded to GFCI receptacles. Current GFCI receptacles should also be replaced as needed.

D1 - Kolb	AYE		D14 - Wood	AYE
D2 - Zimmermann	Notified		D15 - Mitchell	AYE
D3 - Morris	AYE		D16 - Crowley	AYE
D4 - Batzko	AYE		D17 - Paulson	(2) AYE
D5 - Dondlinger	AYE		D18 - Nelson	AYE
D6 - Walz	AYE		D19 - Cummings	AYE
D7 - Grant	AYE		D20 - Schellinger	AYE
D8 - Michalski	AYE		D21 - Zaborowski	AYE
D9 - Heinrich	(M) AYE		D22 - Wysocki	AYE
D10 - Swan	AYE		D23 - Hammitt	AYE
D11 - Howard	AYE		D24 - Whittow	AYE
D12 - Wolff	AYE		D25 - Johnson	AYE
D13 - Decker	AYE			

171-0-040

Passed (24 Y - 0 N - 1 Absent)

Majority Vote

