CITY OF AZTEC
Airport Advisory Board
Agenda for October 21, 2019, 4:30 pm
Commission Room
201 W. Chaco St., Aztec, NM 87410

I. CALL TO ORDER

II. APPROVAL OF MINUTES
   A. July 15, 2019

III. OLD BUSINESS

IV. NEW BUSINESS
   A. Draft Review of Build to Lease Agreement

V. ITEMS FROM THE FLOOR
   A. Next Meeting December 16, 2019

VI. ADJOURNMENT
I. CALL TO ORDER
Meeting Date: July 15, 2019
Meeting Called to Order: 4:35 pm
Members Present: Dale Rhodes, Chairman
                Doug Beery; Pete Nadon; Steven Michael
Members Absent: Kevin Neville; Jason Walkinshaw; Andrew Glinn
Staff in Attendance: Mayor Snover, Wallace Begay and Sherlynn Morgan
Others in Attendance: See attached sign-in sheet

II. APPROVAL OF MINUTES
April 15, 2019
Motioned by: Doug Beery
Seconded by: Dale Rhodes
Motion Passed: 4 ayes; 0 nays

III. OLD BUSINESS ITEMS
A. CIP Update
   • Trying to acquire the original 150 acres from BLM
   • Need to get the land issues with BLM resolve before we get more Federal Funds
   • 150 acres reverted back to 12 acres when FAA requested BLM land transfer process and somewhere things got lost
   • FAA cannot participate in land transfer, field office here does not want to do the transfer
   • Looking at doing a 20 or 30 year lease
   • Area for hangers is on City Property

   • FAA project manager here 3 weeks ago from Detroit he was impressed with Airport, liked piolet lounge
   • They went over the Annual CIP and grocery list for the next 5 years and this will go back to Congress to use for budgeting on a National level
   • 2021: installation of AWAS
   • 2022: Apron

IV. NEW BUSINESS ITEMS
V. ITEMS FROM THE FLOOR

A. Next Meeting

October 21, 2019

- 2 windsocks replaced
- The missing chain link on the Southside, going to remove rolling system and put in a solid piece
- Will look into maintenance needs for the City owned hangars
- Wallace will work on the building and hangar agreements

VI. ADJOURNMENT

Motioned by: Dale Rhodes
Seconded by: Doug Berry
Motion Passed: 4 ayes; 0 nays

Meeting Adjourned at 5:50pm.

MINUTES APPROVED

Dale Rhodes, Chairman
Sherlynn Morgan, Minute Taker
HANGER LAND LEASE AGREEMENT

BETWEEN

CITY OF AZTEC
AZTEC MUNICIPAL AIRPORT
AZTEC, NEW MEXICO

and

name
address
city state

APRIL 1, 2019
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THIS AGREEMENT (hereafter “Agreement” or “Lease”) made and entered into this 1st day of April, 2019, by and between the City of Aztec, a New Mexico municipal corporation, hereinafter referred to as the “City” or “Lessor”, and First Name Last Name, a Land Lessee hereinafter referred to as “Lessee”. City (Lessor) or Lessee may be referred to individually as “party” or collectively as “parties”.

PRELIMINARY RECITALS

The City is the owner and operator of the Aztec Municipal Airport, an airport situated in San Juan County, New Mexico (the “Airport”). Lessee desires to lease from the City a parcel of land at the Airport to be used for the construction of an aviation related facility. NOW, THEREFORE, in consideration of the mutual promises of the City and Lessee as set forth below, the City and Lessee agree as follows:

ARTICLE 1
TERM and LEASE OPTIONS

A) Lease Term Initial Period and Effective Date: The parties understand and agree that this Agreement shall not be deemed effective for any purpose or binding on either party hereto unless and until it is fully executed by both City and Lessee. The effective date shall be Start Date (“Effective Date”), and initially the Agreement shall be for a period of Time (XX) years commencing on the Effective Date and terminating on End Date (“Initial Period”).

B) Lease Option: Provided that this Agreement is in effect and Lessee is not in default of any provision hereunder, City and Lessee may extend this Agreement for one (1) additional one (1) year period (“Extended Period”). Any Extended Period shall be agreed upon by the parties in writing (using forms acceptable by the parties), approved by authorized agents, on the same terms and conditions as in the Initial Period, term except as such terms and conditions are amended in writing and agreed upon by the parties. Any such extension requires written notice to City of Lessee’s intent to extend the Agreement not less than sixty (60) day prior to the expiration of the Initial Period no more than ninety (90) day prior to said Initial Period expiration. After receipt of Lessee’s notice of its intent to extend the Agreement and upon written approval be the parties’ authorized agents, the Agreement shall be deemed to be renewed for an additional one (1) year period commencing with the date of expiration of the Initial Period.

C) Holding Over: In the event that Lessee shall hold over and remain in possession of the Premises after the Expiration Date of the Initial Period or the Extended Period of this Agreement without any written renewal thereof, such holding over shall not be deemed to operate as a renewal or extension of the
Agreement, but shall create only a tenancy at will upon the rental herein reserved which may be terminated at any time by Lessor after first giving no more than ten (10) days prior written notice of such termination.

ARTICLE 2
LEASED PREMISES; PURPOSE

The City hereby leases to the Lessee the following described portion of the Airport which, unless specifically stated otherwise, is referred to in this Agreement as the “Leased Premises” or “Premises”.

The Premises is further described as a parcel of land approximately Width wide by Length and containing approximately Product square feet, which is more specifically shown on Exhibit 1 attached to and made a part of this Agreement. This parcel of land will be used for the construction of an aviation related facility (hangar) by Lessee which will be used only for the following described purposes: To erect an aircraft hangar which shall be used to hangar, maintain, and service aircraft belonging to the Lessee, unless Lessor shall, in writing, authorize other use of the premises. It is further agreed that the above described property, including the hangar constructed thereon shall not be used for commercial purposes unless first approved in writing by Lessor and only in accordance with applications submitted to and approved by Lessor.

Lessee is fully informed of the location and condition of the Premises, and is satisfied as to the suitability of the Premises for the proposed and described purpose. Lessee expressly waives any and all claims against City relative to the nature, condition, or suitability of the Premises.

Ownership of and title to any real property improvements to the aviation related facility constructed upon said Premises at any time during the Initial Period or during an Extended Period, excluding machinery, tools, equipment and all personal property attached to or used in connection with the Premises, shall vest in the City (Lessor) from the time that such facility shall be erected upon the Premises. Upon termination of this Agreement, for any reason whatsoever, any real property
constructed by Lessee on the Premises shall not be altered or removed nor shall City be obligated in any way to compensate Lessee for the real property improvements to the aviation related facility vacated by Lessee. Any debt incurred by Lessee for construction of an aviation related facility (real property) or any improvements to the Premises shall remain with the Lessee regardless of any termination of this Agreement.
ARTICLE 3
FEES AND RENTALS

A) Annual Rent: Lessee for and in consideration of the Leased Premises, shall pay to City the annual sum of: $\text{Annual Sum}$ which is equivalent to Annual Rate per square foot per year, as Annual Rent (or “Rent”) for the Premises, without deduction, offset, prior notice, or demand. Lessee agrees to pay such Rent on a monthly basis in advance on the first day of each calendar month during any term of this Agreement the sum of $\text{Monthly Sum}$ in lawful money of the United States. The monthly rent shall be paid at City’s principal business office: 201 W Chaco St, Aztec, New Mexico, 87410, Attn: Airport Manager; or at such place or places or to such person or persons as may be designated from time to time by City. Monthly rent payments shall be made in the form of a check or money order.

B) Adjustment of Rent: The monthly rent to be paid by Lessee pursuant to Article 3 (A) shall be adjusted as of the first day of July biennially throughout the term of this Agreement, commencing on July 1, 20XX, according to changes in the Consumer Price index, Table 1, Consumer Price Index for All Urban Consumer (CPI-U): U.S. Cities Average, by expenditure category and commodity and service group.

C) Lowering of Rent Prohibited: The adjusted monthly rent pursuant to Article 3 (B) shall never be reduced to an amount less than the previous monthly rent rate.

D) Security Deposit: If requested by Lessor, Lessee shall pay a deposit with City, upon execution of this Agreement, $\text{Deposit}$ (3 months’ rent) as a security for Lessee’s faithful performance of Lessee’s obligations hereunder. If Lessee fails to pay the monthly rental or other charges due hereunder, or otherwise defaults with respect to any provision of the Agreement, City may use, apply or retain all or any portion of the deposit as is reasonably necessary to compensate City for any default of Lessee in payment of monthly rental, of liquidated damages for such default, or for any default of Lessee regarding its obligation to keep the Premises in good order, condition, and repair. If City so uses or applies all or any portion of the said deposit, Lessee shall within ten (10) calendar days after written demand, deposit cash with City in an amount sufficient to restore the deposit to the full amount hereinafore stated and Lessee’s failure to do so shall be a material breach of the Agreement. City shall not be required to keep the deposit from its general accounts. If Lessee performs all of Lessee’s obligations hereunder, the deposit, or so much of it has not theretofore been applied by City, shall be returned without payment of interest or other increment for its use, to Lessee (or, at City’s option, the assignee, if any, of Lessee’s interest hereunder) at the expiration of the final term hereof, and after
Lessee has vacated the Premises. No trust relationship is created herein between City and Lessee with respect to the Security Deposit.

E) Late Charges: Lessee acknowledges that late payment of monthly rent by Lessee to City will cause City to incur costs not contemplated by this Agreement, the exact amount of such costs being extremely difficult and impracticable to remedy. Therefore, if any installment of monthly rent due from Lessee is not received by City by the tenth day of each month, that monthly rent is due, Lessee shall pay to City an additional sum of 10 percent (10%) of the overdue Rent as a late charge. The parties agree that this late charge represents a fair and reasonable estimate of the costs that City will incur by reason of late payment by Lessee. Acceptance of any late charge shall not constitute a waiver of Lessee’s default with respect to the overdue amount, nor prevent City from exercising any of the other rights and remedies available to City in equity, at law, or by contract.

ARTICLE 4
STANDARDS FOR GENERAL AVIATION OPERATORS

The provisions set forth in Exhibit 2, entitled Aztec Municipal Airport Minimum Standards for Aeronautical Service Providers, are made a part of this Agreement as are any amendments thereto made from time to time. If this Agreement and the Aztec Municipal Airport Minimum Standards for Aeronautical Service Providers are in conflict in what they require of the Lessee, or in what they obligate the Lessee to do or not to do, the Aztec Municipal Airport Minimum Standards for Aeronautical Service Providers shall control.
ARTICLE 5
RIGHTS AND PRIVILEGES OF LESSEE

Subject to the terms and conditions set forth herein, Lessee is hereby given the following rights and privileges.

1. Storage - Lessee has the right to store aircraft on Lessee's Leased Premises; however, Lessee shall not engage in any other business or operation without the written consent of the City. Lessee understands that a violation of this paragraph is a material default and breach of this Agreement which gives the City the rights set forth in Article 11.

2. Aeronautical Facility Use - Lessee shall be permitted to use, in common with others, existing and future aeronautical facilities at the Airport as they may exist or be modified, augmented, or deleted from time to time. 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. Nothing herein shall prohibit the City from modifying, augmenting, or eliminating any such facilities.

3. Ingress and Egress - Subject to rules and regulations governing the use of the Airport as may be established by the Airport Manger, the Lessee, its employees, suppliers of materials, furnishers of services, subleases, business visitors, and invites shall have the right of ingress and egress to and from the Premises leased to Lessee.

4. Quiet Enjoyment - The City covenants that upon Lessee paying the monthly rental and performing the covenants and conditions herein contained, Lessee shall peacefully and quietly have, hold, and enjoy the Leased Premises for the term (Initial Term and Extended Term, if any) of this Agreement. Lessee agrees that 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 quite enjoyment of the Leased Premises.
ARTICLE 6
RIGHTS AND PRIVILEGES OF CITY

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

1. **Airport Development** - The City has 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 the development of the Airport requires it, the City has the right to either (1) substitute another parcel of land for the Leased Premises, and relocate Lessee’s improvement(s) to that new parcel at no cost to the Lessee, or (2) purchase Lessee’s improvements at fair market value, and terminate this Agreement. In the event of a substitution and relocation or a purchase and Agreement termination as permitted by this section, the City shall have no liability to the Lessee for any loss, expense, damage or cost of any nature whatsoever that results from or is occasioned by the substitution and relocation or the purchase and Agreement termination, including consequential or other indirect damages.

2. **Aerial Approaches** - The City has the right to take any action it considers necessary to protect the aerial approaches and transition surfaces of the Airport against obstruction, together with the right 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 Advisory Commission would limit the usefulness of the Airport or constitute a hazard to aircraft.

3. **War, National Emergency, Riot, or Natural Disaster** - During time of war, national emergency, riot or natural disaster, the City shall have the right to lease the entire Airport or any part thereof to the United States or State of New Mexico for
military or national Guard use and, 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.

4. Access to Leased Premises - To the extent necessary to protect the rights and interests of the City, 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 the Leased Premises, including all buildings, structures, and improvements erected thereon.

5. Unrestricted Right of Flight - The City, for the use and benefit of the public, has a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises, 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.

ARTICLE 7
OBLIGATIONS OF LESSEE

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

1. Condition of Leased Premises - Lessee accepts the Leased Premises in its present condition and, without expense to the City, will maintain any installations thereon.

2. Construction - Lessee shall construct an aviation related facility (hangar) on the Leased Premises. Lessee shall have all construction plans, including site preparation approved by the Airport Manager prior to any construction occurring on the Leased Premises, such approval not to be unreasonably withheld. Lessee is prohibited from deviating from the City approved construction plans without written permission from the City. Construction must begin within six (6) months from the Effective Date of this Agreement and must be completed within six (6) months from the time construction begins. Construction scheduling and operations shall be coordinated with, and approved by the Airport Manager before construction shall begin, such approval not to be unreasonably withheld. Lessee understands and agrees that restoration of any and all portions of the Airport which are disturbed by Lessee or its contractors during construction shall be restored at Lessee’s sole expense to the same condition as before construction began. If Lessee does not begin and complete construction within the twelve month period, this Agreement shall terminate without further notice to Lessee. No further action on the part of the City shall be required.
3. Maintenance, Exterior Storage, and Housekeeping - Lessee shall at its expense, keep, maintain, and repair the Leased Premises, any improvements thereto, and all equipment and buildings in a presentable and operable condition, consistent with good business practices, and in a manner to preserve and protect the general appearance and value of other premises in the immediate vicinity.

This shall include, but not be limited to: roof, exterior painting, all doors, paved areas, lighting, grass, and landscaped areas within lease lines.

Lessee further agrees that there will be no outside storage of equipment, materials, supplies, or damaged or partially dismantled aircraft on the Leased Premises, and will remove at its expense all trash, garbage, and oil, and not deposit the same on any part of the Airport except temporarily in conjunction with collection or removal.

In the event Lessee does not keep the Leased Premises in a presentable condition and acceptable to the Airport Manager, the City has the right to issue a written notice to remedy the condition forthwith. Should Lessee fail to perform satisfactorily within ten (10) days of such notification, or show cause for extension of said time period, the City shall have the right to perform, or have performed by an outside contractor the necessary work without liability, and Lessee agrees to pay the City one hundred twenty five percent (125%) of such expenses within fifteen (15) days upon invoice receipt.

In the event of fire or any other casualty to buildings or other structures owned by Lessee, Lessee shall either repair or replace the building or remove the damaged building and restore the Leased Premises to its original condition; such action must be accomplished within one hundred twenty (120) days of the date the damage occurred. Upon petition by Lessee, the City may grant an extension of time if it appears such extension is warranted.

4. Additions or Alterations - Lessee is prohibited from making alterations, attaching external fixtures, or making other changes to the aviation related facility (hanger) unless approved in advance and in writing by the Airport Manager.

5. Signage and Illumination - Lessee shall not paint upon, attach, exhibit or display in or about said Leased Premises any sign without the written consent of the Airport Manager first obtained regarding the nature and construction of said sign, provided always that the Lessee may erect across the front of the building an appropriate sign containing the name of the Lessee with Airport Manager approval, said approval not to be unreasonably withheld.

6. Utilities - Lessee agrees to provide its own connections with utilities and to make separate arrangements with the agencies responsible for these utilities. Lessee shall pay for all utility service supplied to the Leased Premises, and if
required by the utility agencies as a condition of providing the services, Lessee will install and pay for standard metering devices for the measurement of such services. In the event it shall become necessary to make utility service or facility changes, Lessee will either make such changes and installations, at its expense, as directed and required by the utility organizations, or pay the utility organization for such changes made. The City shall have the right, without cost to Lessee, to install and maintain in, on or across the Leased Premises, sewer, water, gas, electric, and telephone lines, electric substations, or other installations necessary to the operation of the Airport, or to service other tenants of the City; provided, however, that the City shall carry out such work and locate any above-ground structures in a manner so as not to unreasonably interfere with Lessee's use of the Leased Premises.

7. Discrimination - Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration thereof, does hereby covenant and agree that a) 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 said facilities, b) that in the construction of any improvements on, over, or under such land and the furnishings 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 c) that the Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, 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 mended.

8. Costs of Enforcement - Lessee covenants and agrees to pay and discharge all reasonable costs, attorneys' fees, and expenses that shall be made and incurred by the City in enforcing the covenants and provisions of this Agreement.

9. Taxes, Licenses, and Permits - Lessee shall obtain and keep current all municipal, County, State and Federal licenses and permits that may be required in its operation. Also, Lessee will bear, pay, and discharge all taxes, assessments and levies of every nature and kind which may be taxed, charged or assessed lawfully against the Leased Premises and improvements thereon, or which may be lawfully levied or imposed upon the leasehold by a governmental agency.

10. Liens - Lessee agrees to promptly pay all sums legally due and payable on account of any labor performed on, or materials furnished pursuant to the Leased
Premises or any improvements thereto. Lessee shall not permit any liens to be placed against the Leased Premises on account of labor performed or material furnished, and in the event such a lien is placed against the Leased Premises, Lessee agrees to save the City harmless from any and all such asserted claims and liens and to remove or cause to be removed any and all such asserted claims or liens as soon as reasonably possible. Lessee’s failure to comply with this provision may be considered a material breach and thereby cause City to, among other rights and remedies at law, in equity, or under this Agreement, terminate this Agreement without notice.

11. Parking - Lessee agrees to prohibit vehicle parking on the Airport premises other than those vehicles specifically associated with the use of the Leased Premises, and no other. Lessee, its employees, sub-lessees, guests and invites shall park only on Lessee’s Leased Premises, or other publicly designated parking areas. Lessee, its agents or guests are expressly prohibited from operating any vehicle on any area of the Airport designated as a "movement area". Lessee shall at all times comply with posted signs regulating the movement of vehicles.

12. Laws, Ordinances, Rules and Regulations - Lessee agrees to observe and obey the rules and regulations governing the conduct and operation of the Airport facilities promulgated from time to time by the Airport Manager, Airport Advisory Commission, City of Aztec City Commission, and/or San Juan County. Lessee shall also comply with, at its own cost and expense, all applicable Federal, State, and local laws and ordinances.

13. Storage of Flammable Fluids - Lessee agrees that the storage of gasoline or other flammable fluids in bulk quantities shall be limited to the Airport Fuel Farm or to such area as designated by the Airport Manager. Lessee agrees that the storage of all other gasoline or flammable fluids shall be in an approved steel locker labeled "FLAMMABLE". The Airport Manager may, in his or her discretion, prohibit or impose restrictions on the storage of said materials if, in the Airport Manager’s opinion, the storage is determined a safety hazard. The disposal of any hazardous chemicals or fluids on the Airport premises is prohibited.

14. Snow Plowing - Lessee agrees to be responsible for the plowing of snow within its Leased Premises including parking lot(s) and aircraft parking apron(s). The City shall provide snow removal on all movement areas consistent with priorities established and specified in the Aztec Municipal Airport Snow and Ice Control Plan.
ARTICLE 8
INSURANCE

Lessee shall, at Lessee’s own cost and expense, procure and maintain in full force and effect during the term of this Agreement, a broad form comprehensive coverage policy of public liability insurance by an insurance company licensed by the State of New Mexico, of recognized reputation in the aviation marketplace insuring Lessee and City against loss or liability caused by or connected with Lessee’s occupation and use of the Leased Premises under this Agreement. Lessee shall furnish City a current certificate(s) of insurance which clearly states: a) on all policies except Workers’ Compensation Insurance, the City of Aztec is named as additional insured, b) Lessee and its insurers waive subrogation rights in favor of the City, c) on all
applicable policies, cross liability provisions are included, and d) at least thirty (30) calendar days notice shall be provided to the City in the event of any material changes (including cancellation) with respect to any insurance provided by Lessee under this Agreement. City shall be provided with a copy of such insurance policies upon request.

(a) **General and Automobile Liability insurance** with coverage in the amount of One Million Dollars ($1,000,000) combined single limit for bodily injury and property damage per occurrence plus,

(b) **Commercial General Liability; Hangar Keepers’ Legal Liability; Aircraft and Passenger Liability; Products Liability; Premises Liability; Professional Liability, and Environmental Liability**, with coverage(s) in the minimum amounts specifically described in **Appendix A - Airport Minimum Standards, Insurance Requirements** attached hereto and made a part hereof by this reference.

(c) **Workers’ Compensation and Employers’ Liability insurance**, in accordance with the laws of the State of New Mexico, Lessee shall comply with the provisions of the Workers’ Compensation Act, the Subsequent Injury Act, and the New Mexico Occupational Disease Disablement Law. Lessee shall procure and maintain during the life of this Agreement, complete Workers’ and Employer’s Liability Insurance in accordance with New Mexico laws and regulations. Such insurance shall include coverage permitted under Sec. 52-1-10 NMSA 1978 for safety devices. Workers’ Compensation coverage shall include a waiver of subrogation in favor of the Lessor. The Lessor, its officers, or employees, will not be responsible for any claims or actions occasioned by the failure of the Lessee to comply with the provisions of this sub-article.

(d) **Aircraft Liability Insurance**, for all owned or leased aircraft which are operated at Aztec Municipal Airport.

Lessee shall provide written evidence of a written obligation on the part of any insurance company to notify City in writing at least 30 days prior to any cancellation or material adverse amendment of the policy and of any delinquency in premium payments. Lessee agrees that, if Lessee does not procure and maintain the required insurance or keep the same in full force and effect, City may procure and maintain the necessary insurance and pay the premium and Lessee shall repay to City the amount so paid by having such amount deemed to be additional monthly rent payable as such in the next monthly rental payment due.
It is expressly understood that the City has no responsibility for Lessee’s owned or leased equipment (including aircraft).

ARTICLE 9
INDEMNIFICATION AND HOLD HARMLESS

The Lessee will not hold the City liable for any damage to property or injury or death to person when the damage, injury or death is in any way connected or
related to the Lessee’s obligations under or its performance of this Agreement, its use or occupancy of the Leased Premises, or any of its operations permitted or required by this Agreement.

If any demand, claim, lawsuit or proceeding is brought against the City and is in any way connected or related to the Lessee’s performance of, or its obligations under this Agreement, its use or occupancy of the Leased Premises, or the operations permitted or required by this Agreement, Lessee shall fully defend the City against the demand, claim, lawsuit or proceeding. The City shall give the Lessee prompt notice of any such demand, claim, lawsuit or proceeding. If such demand, claim, lawsuit or proceeding is brought, the City 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. If the demand, claim, lawsuit or proceeding was settled by the City, the Lessee shall have no payment obligation unless it approved the settlement.

In this Article, “City” includes the City of Aztec and the Aztec Municipal Airport and all of their members, employees, officials, officers and agents.

ARTICLE 10
SUBLEASES; RESPONSIBILITY FOR SUBLESSEE

The Lessee shall not sublease the Leased Premises, nor any part of the Leased Premises without the express written consent of the City, such consent to not be unreasonably withheld. At a minimum, the City will require that any sublease agreement be in writing and that it include: that the sublease agreement be subject to the terms and conditions of this Agreement; that sublessees maintain aircraft liability insurance in the amounts the City sees fit; that sublessees maintain other insurance coverages and amounts as the City prescribes; and that sublessees hold the City harmless.

Lessee shall accept full responsibility and liability for the acts and omissions of its sublessees.

ARTICLE 11
DEFAULTS AND REMEDIES

The occurrence of any one or more of the following events shall constitute a material default and 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 City or 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 City) within fifteen (15) calendar 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 City.

9. The falsification by the Lessee of any of its records or figures so as to deprive the City 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) calendar days after written notice from the City, 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 City, whereby such approval will not to be unreasonably withheld.

12. The transfer or assignment, or attempted transfer or assignment of this Agreement by Lessee, without securing prior written approval of the City, 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 City shall have the right to declare this Agreement terminated. In addition to the termination right described in the preceding paragraph(s), the City 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 monthly 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 City 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 City is entitled to under applicable law.

In the event of any such termination as described above, the City shall have the right at once and without further notice to the Lessee to enter and take full possession of all property (personal or real) 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 City 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 personal property owned by it, the City may affect 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 City in enforcing the terms of this Agreement.
The failure of the City to declare this Agreement terminated for any of the reasons set out above shall not bar the right of the City to subsequently terminate this Agreement for any of the reasons set out above. Further, the acceptance of rental or fees by the City for any period after a default by Lessee shall not be deemed a waiver of any right on the part of the City to terminate this Agreement.

ARTICLE 12
ADDITIONAL TERMINATION RIGHTS

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

1. A determination by the City of Aztec City Commission, by resolution or ordinance, that termination is necessary to secure federal funding for Airport development. In this event, the City shall give Lessee sixty (60) days written notice, and at the expiration of such sixty day period, title to any and all improvements made by Lessee upon any Airport land or Premises shall immediately vest in the City without further proceedings or conveyances, and the City may immediately enter and take possession. However, in such event, the City may make payment to Lessee in a sum sufficient to cover the fair market value of any structure it has constructed or 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 or parts thereof, in such manner as to substantially restrict Lessee, for a period of at least sixty (60) days, from its operations.

ARTICLE 13
CANCELLATION BY LESSEE

Lessee may cancel this Agreement at any time that it is not in default in its obligations by giving the Airport Manager thirty (30) days written notice to be served as hereinafter provided after the happening of any of the following events, if such event materially impairs the conduct of Lessee’s normal business on the Airport Premises:

1. The issuance by a court of competent jurisdiction of any injunction in any way preventing or restraining normal use of the Airport or any substantial part of it, for a period of sixty (60) consecutive calendar days; such injunction not being the result of any fault of Lessee;
2. The inability of Lessee to use, for a period of six (6) consecutive calendar months, the Airport or any substantial part of it due to enactment or enforcement of any law or regulation, or because of fire, earthquake or similar casualty or Acts of God or the public enemy; or

3. The lawful assumption by the United States Government of the operation, control or use of the Airport or any substantial part of it for military purposes in time of war or national emergency for a period of at least ninety (90) calendar days.

Failure of Lessee to declare this Agreement canceled for any of the reasons set out above shall not operate to bar or destroy the right of Lessee to cancel this Agreement by reason of any subsequent occurrence of the described events.

Under no circumstances shall the City assume any debt for improvements made to the Premises by Lessee if Lessee cancels this Agreement or if City terminated this Agreement.

ARTICLE 14
WAIVER OF SUBROGATION

The City and Lessee hereby release each other from any and all responsibility to the other for any loss of damage to property caused by fire or other peril if the property is insured for such loss or damage in any policy of insurance, even if such loss or damage is caused by the fault or negligence of the other party or anyone for whom such party is responsible. The City and the Lessee agree that to the extent any such policy of insurance provides a right of subrogation in the insurer, or to the extent a right of subrogation exists independent of such policy, each will indemnify and hold the other harmless for any loss, claim or expense suffered as the result of any action taken pursuant to the right of subrogation. To the greatest extent possible, the City and the Lessee will, in furtherance of the intent of this provision, make every effort to obtain from its insurance carrier a waiver of subrogation for the matters here described in any such policy of insurance.

ARTICLE 15
REMEDIES CUMULATIVE; NO WAIVER

All of the rights and remedies given to the City in this Agreement are cumulative and no one is exclusive of any other. The City 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 City 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 or any other covenant, condition or obligation. The acceptance by the City of any monthly rent or other payment shall not be a waiver by it of any breach by Lessee of any covenant, condition or obligation.

ARTICLE 16
DAMAGE TO PROPERTY OF LESSEE AND OTHERS

The City shall have no liability to the Lessee or its sublessees, contractors, guests or invitees for any damage to their property caused by fire, tornado, earthquake, windstorm or other casualty, not for any damage caused by the act or omission of a third party.

ARTICLE 17
DAMAGE TO PREMISES AND PROPERTY BY LESSEE AND OTHERS

If any part of any Airport property is damaged by the act or omission of the Lessee, its agents, officers, employees, contractors, sub lessee and subcontractors, the Lessee shall pay to the City (or cause to be paid to the City), upon demand, any amount which the City reasonably determines is necessary to repair or replace the Airport property.

ARTICLE 18
CITY REPRESENTATIVE

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

ARTICLE 19
SUBORDINATION

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

ARTICLE 20
COMPLIANCE WITH LAW
At its own expense, the Lessee shall comply with all laws of the United States and the State of New Mexico, 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 21
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 New Mexico. Any lawsuit related to or arising out of disputes under this Agreement shall be commenced and tried in the circuit court of San Juan County, New Mexico, and the City and the Lessee submit to the exclusive jurisdiction of the circuit court for such lawsuits.

ARTICLE 22
COUNTERPARTS

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

ARTICLE 23
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 City or Lessee in their respective rights and obligations contained in the valid provisions of this Agreement.

ARTICLE 24
SURVIVAL OF OBLIGATIONS/
SUCCESSORS AND ASSIGNS BOUND

The Lessee shall be responsible for the obligations in Article 9 in perpetuity. Additionally, any payment obligation and repair obligation that exists as of the termination or cancellation of this Agreement shall extend until the obligation is
satisfied. All of the provisions, covenants, and stipulations in this Agreement shall extend to and bind the legal representatives, successors and assigns of the respective parties.

ARTICLE 25
ENTIRE AGREEMENT

This Agreement contains and embodies the entire agreement between the City 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 26
NO ASSIGNMENT

This Agreement may not be assigned, nor may any part of it be assigned, without the express written consent of the City, such consent not to be unreasonably withheld.

ARTICLE 27
RIGHTS UPON EXPIRATION OR TERMINATION

Upon expiration of this Agreement or upon termination of this Agreement, the City may, in its sole discretion, do any of the following:

1. Negotiate a new agreement with Lessee;
2. Take title to all structures located on the Leased Premises; or
3. Order and require Lessee to remove all structures located on the Lease Premises and restore the site to its original condition within (60) days.

ARTICLE 28
HOLDOVER POSSESSION OF PREMISES BY LESSEE

In the event that Lessee should hold over and remain in possession of the Leased 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 29**
**PARAGRAPH 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 30**
**NOTICES**

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

**City**  
Airport Manager  
Aztec Municipal Airport  
201 W. Chaco St.  
Aztec, NM 87410

**Lessee**

x

x

x

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 the City of Aztec and sent to the attention of the Airport Manager at the City's address stated above.

In witness whereof, the parties have caused this lease to be executed to be effective upon the date herein above first written and upon multiple copies, any one of which may be considered to be an original.
LESSOR
CITY OF AZTEC
A Municipal Corporation

By: ____________________________
Title: Airport Manager
Date

LESSEE

By: ____________________________
Duly Authorized Signature

By: ____________________________
(Printed Name)

Title: ____________________________

Date
Property Description

Located at Aztec Municipal Airport, directly west of Hangar H-15 and directly east of Hangar H-1. The land is approximately 55 ft x 35 with indirect public street access off Airport Dr. (See Exhibit 1, an attached aerial photo)