

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 21, 2016

The Lincoln County Board of County Commissioners met November 21, 2016 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, at 6:30 P.M.

Commissioners Present:

Cecelia A. Martin, Chair
Carrol Mitchem, Vice Chair
Martin Oakes
Bill Beam
Alex E. Patton

Others Present:

Kelly G. Atkins, County Manager
Wesley Deaton County Attorney
Amy S. Atkins, Clerk to the Board

Call to Order: Chair Martin called the November 21, 2016 meeting of the Lincoln County Board of Commissioners to order. She called for a moment of silence and led in the Pledge of Allegiance.

Adoption of Agenda: Chair Martin presented the agenda for the Board's approval.

AGENDA
Lincoln County Board of Commissioners Meeting
Monday, November 21, 2016
6:30 PM

James W. Warren Citizens Center
115 West Main Street
Lincolnton, North Carolina

Call to Order - Chair Cecelia Martin

Moment of Silence

Pledge of Allegiance

1. Adoption of Agenda
2. Consent Agenda
 - Approval of \$15,000 Federal Homeland Security Grant for training/exercise for Emergency Management, Sheriff's Office and Emergency Services Department
 - Resolution #2016-24: Designating Jordan Tubbs as Review Officer for Lincoln County, North Carolina

- Approval of Minutes – October 7, 2016; October 17, 2016; November 6, 2016
- 3. Planning Board Recommendations - Randy Hawkins
- 4. Road Naming Public Hearing - Second Chance Lane - Netta Anderson
- 5. Public Comments (15 minutes allowed per Rules of Procedure - 3 minutes per person)
- 6. Resolution #2016-22: A Resolution Authorizing the Use of a Third Party Law Firm in the Collection of Delinquent Property Taxes - Susan Sain
- 7. Resolution #2016-23: A Resolution Approving Settlement with Allied Manufacturing Technologies, Inc. - Susan Sain
- 8. Motion to Authorize the County Manager to complete negotiations and execute a contract with Little Diversified for design and construction administration of the new PSAP with Mission Critical Partners acting as subconsultant and complete negotiations and execute a contract with Mission Critical Partners for post-construction technology integration - Don Chamblee
- 9. Motion to Authorize the County Manager to complete negotiations and execute a contract with HDR Engineering, Inc. for design and construction administration of the road, site and utilities for a new convenience site at Optimist Club Road for a fee of \$238,180.00 - Don Chamblee
- 10. KBM Hangar Sublease - Wesley Deaton
- 11. Finance Officer's Report

Approval of CPOA #1 and BOA #4

- 12. County Manager's Report
- 13. County Commissioners' Report
- 14. County Attorney's Report
- 15. Vacancies/Appointments
- 16. Calendar
- 17. Other Business

Information Only - No Action Needed

- Register of Deeds Report
- Property Tax Collection Report

- 18. Closed Session

Adjourn

UPON MOTION by Commissioner Beam, the Board voted unanimously to adopt the agenda as presented.

Consent Agenda: **UPON MOTION** by Commissioner Patton, the Board voted unanimously to adopt the consent agenda.

Approval of \$15,000 Federal Homeland Security Grant for training/exercise for Emergency Management, Sheriff's Office and Emergency Services Department

- Resolution #2016-24: Designating Jordan Tubbs as Review Officer for Lincoln County, North Carolina

- Approval of Minutes

*All items listed in the consent agenda are hereby incorporated by reference and are on file in the Clerk's office.

Planning Board recommendations: Randy Hawkins presented the following:

PA #39 Eric Tucker, applicant (Parcel ID# 29741) A request for plat review/sketch plan approval for an 11-lot subdivision involving the extension of approximately 960 linear feet of new roadway into the subject property. The property is located on the north side of Kemp Dellinger Road approximately 1,000 feet east of the intersection with Lee Moore Road in Ironton Township.

The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Beam, the Board voted unanimously to approve the Planning Board's Findings of Fact and Plan Approval #39 Eric Tucker.

CUP #361 Tom and Michelle Sain, applicant (Parcel ID# 92909) A request for a conditional use permit to place a Class B (doublewide) manufactured home in the R-S (Residential Suburban) district. The property is located on the west side of Cat Square Road about 800 feet north of Wells Road in Howards Creek Township.

The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the Planning Board's Finding of Facts and Conditional Use Permit #361 – Tom and Michelle Sain, applicants.

ZMA #629 Scott Gizowski, applicant (Parcel ID# 11529) A request to rezone 5.7 acres from R-R (Rural Residential) to I-L (Light Industrial). The property is located on the west side of Sam Houser Road about 300 feet south of Henry Road in North Brook Township.

The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the Statement of Consistency and Reasonableness as presented by the Planning Board for ZMA #629.

UPON MOTION by Commissioner Oakes, the Board voted to approve ZMA #629 as recommended by the Planning Board.

UDO Proposed Amendments #2016-4 Lincoln County Planning and Inspections Department, applicant. A proposal to amend Section 3.5.2 of the Lincoln County Unified Development Ordinance to provide additional options for the subdivision of property along roads classified by NCDOT as an arterial or major collector.

The Planning Board voted 8-0 to recommend approval.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to adopt the Statement of Consistency and Reasonableness for UDO Proposed Amendments # 2016-4.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve UDO Proposed Amendments #2016-4.

CZ #2016-3 Seth Lehman, applicant (Parcel ID# 75924) A request to rezone 1.1 acres from B-N (Neighborhood Business) to CZ I-G (Conditional Zoning General Industrial) to permit vehicle repair, vehicle service and offices. The property is located on the east side of N.C. 16 Business about 800 feet north of Smith Harbour Drive in Catawba Springs Township.

The Planning Board voted 7-0 to recommend approval.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the Statement of Consistency and Reasonableness for CZ #2016-3 – Seth Lehman, applicant.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve CZ #2016-3 – Seth Lehman, applicant.

PD #2016-5 Hawthorne Development Group, LLC, applicant (Parcel ID# 32848, 32850 and 89714) A request to rezone 73 acres from R-T (Residential Transitional) and R-SF (Residential Single-Family) to PD-R (Planned Development-Residential) to permit a subdivision with up to 180 single-family detached homes. The property borders Triangle Circle, Rufus Road and Airlie Parkway in Catawba Springs Township.

The Planning Board voted 7-1 to recommend approval.

The applicant has amended the plan for the front setback for the homes so that the setback would be 20' front setback.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to adopt the Statement of Consistency and Reasonableness with the added language on the first item to add that the

Lincoln Economic Development Association has determined that the land in question is not suitable for industrial development.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve PD #2016-5 – Hawthorne Development Group, LLC, applicant based on the recommendation from the Planning Board and with the amended plan with the 20' front setback.

PD #2016-6 Queen City Land, LLC, applicant (Parcel ID# 85285) A request to rezone 19.2 acres from R-SF (Residential Single-Family) to PD-R (Planned Development-Residential) to permit an age-restricted subdivision with up to 72 single-family detached homes. The property is located on the south side of Natalie Commons Drive about 1,200 feet west of N.C.

UPON MOTION by Commissioner Oakes, the Board voted 4 – 1 (Mitchem against) to approve the Statement of Consistency and Reasonableness for PD #2016-6 Queen City Land, LLC, applicant.

UPON MOTION by Commissioner Oakes, the Board voted 4 – 1 (Mitchem against) to approve PD #2016-6 – Queen City Land, LLC, applicant.

Public Hearing – Road Naming - Second Chance Lane: Netta Anderson presented the following:

This road is located off of Hog Hill Road and requires naming due to the fact that there are two (2) structures that access Hog Hill Road via this private road. The Road Name Proposed is **Second Chance Lane** and was agreed to by all residents. The name is not a duplicate or sound-alike and has been approved by the Addressing Department.

Chair Martin opened the public hearing concerning the Road Naming of Second Chance Lane. Being no speakers, Chair Martin closed the public hearing.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the road name Second Chance Lane.

Public Comments: Public Comments: Chair Martin opened Public Comments.

Being no speakers, Chair Martin closed Public Comments.

Resolution #2016-22: A Resolution Authorizing the Use of a Third Party Law Firm in the Collection of Delinquent Property Taxes - Susan Sain, Tax Administrator, presented the following:

In order to fulfill the Tax Administrator's obligation to pursue the collection of delinquent taxes by mortgage-style foreclosure method, it is necessary to seek legal assistance from The Kania Law Firm of Asheville NC. This is a professional association of attorneys whose "mainstay" is professional tax foreclosure, collection and default management legal services for North Carolina County and Municipal governments.

**RESOLUTION #20____-____ : A RESOLUTION AUTHORIZING THE USE
OF A THIRD-PARTY LAW FIRM IN THE COLLECTION OF DELINQUENT PROPERTY TAXES**

WHEREAS, on August 2, 2010, Resolution (#2010-40) was approved and adopted by the Board of Commissioners of Lincoln County authorizing and directing the Lincoln County Tax Administrator to pursue the collection of delinquent taxes by In Rem foreclosures as set forth in N.C.G.G. 105-375 and mortgage-style foreclosures as set forth in N.C.G.S. 105-374, using the method the Tax Administrator deems most appropriate on each case; and

WHEREAS, the Tax Administrator, in fulfilling this obligation, has found the need to seek legal assistance with regard to the pursuit of mortgage-style foreclosures; and

WHEREAS, The Kania Law Firm, of Asheville, NC, is a professional association of attorneys providing quality legal services for over 30 years through the entire state of North Carolina with their "mainstay" being the professional tax foreclosure, collection and default management legal services for North Carolina County and Municipal governments; and

WHEREAS, The Kania Law Firm will work alongside the collection and mapping staff of Lincoln County to ensure prompt, courteous and professional handling of each case; and

WHEREAS, the Tax Administrator is desirous of using of The Kania Law Firm to assist with the pursuit of mortgage-style foreclosures; and

WHEREAS, in order to employ The Kania Law Firm, the Board of Commissioners must authorize the Tax Administrator to use their services.

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners hereby authorize and direct the Lincoln County Tax Administrator to employ The Kania Law Firm, of Asheville, NC, to assist with the pursuit of mortgage-style foreclosures.

ADOPTED this the _____ day of _____, 20____.

LINCOLN COUNTY BOARD OF COMMISSIONERS

BY: _____, Chairman

ATTEST:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Beam, the Board voted unanimously to approve Resolution #2016-22 as presented.

Resolution #2016-23: A Resolution Approving Settlement with Allied Manufacturing Technologies, Inc. - Susan Sain presented the following Resolution for the Board's approval:

RESOLUTION #2016-_____
RESOLUTION APPROVING SETTLEMENT AGREEMENT WITH
ALLIED MANUFACTURING TECHNOLOGIES, INC.,

WHEREAS, the Lincoln County Tax Assessor assessed 2012 through 2016 personal property taxes against Island Forest Industrial LLC, in the amount of \$43,307.56 to be paid to Lincoln County ("County"), and the taxes were not paid;

WHEREAS, pursuant to N.C.G.S. & 105-366, the County may exercise its right to levy on the personal property in effort to collect the unpaid taxes;

WHEREAS, Allied Manufacturing Technologies, Inc. ("Creditor") is in possession of the collateral personal property;

WHEREAS, the attached Release and Settlement Agreement (Exhibit "A") was executed by the County Manager in order to allow Creditor to retain possession of said personal property, unimpeded by the County's right to levy on the personal property in effort to collect taxes for years 2012 through 2016;

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners hereby approves the attached Release and Settlement Agreement with Creditor.

That this amendment shall become effective on _____.

ADOPTED this the _____ day of _____, 20____.

LINCOLN COUNTY BOARD OF COMMISSIONERS

BY: _____, Chair

ATTEST:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve Resolution #2016-23 as presented.

Motion to Authorize the County Manager to complete negotiations and execute a contract with Little Diversified for design and construction administration of the new PSAP with Mission Critical Partners acting as subconsultant and complete negotiations and execute a contract with Mission Critical Partners for post-construction technology integration:

Don Chamblee presented the following:

E-911 Communications and Public Works are requesting that the Board of Commissioners authorize the County Manager to complete negotiations and execute a contract with Little Diversified for design and construction administration of the new PSAP with Mission Critical Partners as a subconsultant.

Communications and Public Works are also requesting that the Board of Commissioners authorize the County Manager to complete negotiations and execute a contract with Mission Critical Partners for granting reporting, post-construction technology integration.

Lincoln County has received a PSAP grant from the NC 911 Board for the construction of a new 5,800 sq. ft. Communication Center as part of the overall project to relocate County departments. Little Architectural has submitted a proposal for the design and construction administration of the new Communication Center, utilizing Mission Critical Partners as a subconsultant, for a fee of \$393,425.00. Mission Critical has submitted a separate proposal for required technology integration, for a fee of \$112,668.00.

UPON MOTION by Commissioner Beam, the Board voted unanimously to authorize the County Manager to complete negotiations and execute a contraction with Little Diversified for design and construction administration of the new PSAP with Mission Critical Partners as subconsultant.

Motion to Authorize the County Manager to complete negotiations and execute a contract with HDR Engineering, Inc. for design and construction administration of the road, site and utilities for a new convenience site at Optimist Club Road for a fee of \$238,180.00 -
Don Chamblee presented the following:

Public Works is requesting that the Board of Commissioners authorize the County Manager to complete negotiations and execute a contract with HDR Engineering, Inc. for design and construction administration of the road, site, and utilities for a new convenience site at Optimist Club Road.

Lincoln County Public Works purchased 7 acres for the construction of a new convenience site on Optimist Club Road. HDR Engineering has submitted a proposal for the design and construction administration of the convenience site for a fee of \$238,180.00.

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to authorize the County Manager to complete negotiations and execute a contract with HDR Engineering, Inc for design and construction administration of the road, site, and utilities for a new convenience site at Optimist Club Road for a fee of \$238,180.00.

KBM Hangar Sublease - Wesley Deaton stated that the Board has been negotiating with KBM for a long term Airport lease for hangar space. He presented a draft of the lease that has been negotiated, which is hereby incorporated by reference and attached to the end of this document.

The Board discussed the lease in great detail including the sale of additional gas at the airport due to this jet. They also spoke concerning the fact that this hangar was always part of the Airport Business Park and this gives a tenant and tax dollars from the time it is built.

A MOTION by Commissioner Oakes to approve the lease and sublease with the terms the County Attorney laid out. Commissioner Oakes amended his motion to authorize the County Attorney to go ahead with the lease but exclude utilities.

VOTE: 4 – 1 AYES: Oakes, Beam, Patton, Martin
NOES: Mitchem

Human Resource Request on Exempt Employees: Candy Burgin presented a request from Human Resources on Exempt Employees with a payout of \$34,107.31 to the wrongly classified employees under the Fair Labor Standards Act.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve the payout for the wrongly classified employees.

Finance Officers' Report: Deanna Rios presented the Finance Officer's Report.

UPON MOTION by Commissioner Oakes, the Board voted unanimously to approve CPOA #1 and BOA #4 as presented.

County Manager's Report: Mr. Atkins announced the orientation dates for the newly elected Board members. He informed the Board of the first Budget Retreat on December 15, 2016 at 9 a.m. Mr. Atkins said he will be conducting interviews soon for the position of Veterans Service Officer.

County Attorney's Report: Nothing reported.

County Commissioners' Report: Nothing reported

Vacancies/Appointments: Commissioner Patton presented the following appointments:

Recreation Commission:

Appoint Karen Duncan - North Brook Township

Board of Health:

Reappoint Kathy Caudle

Library Board:

Move Wanda Hallman to NorthBrook Township

Appoint Rebecca Powell to At Large position (vacated by moving Wanda to North Brook seat)

DSS Board: Alex Patton

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the appointments as presented.

Commissioners Beam, Oakes and Mitchem thanked Chair Martin and Commissioner Patton for their service and contributions to the Board.

Other Business: Commissioner Patton said as his last item of business as a County Commissioner, he would like to make a motion to approve the request of the Hesed House, the homeless shelter in Lincoln County.

UPON MOTION by Commissioner Patton, the Board voted unanimously to make a donation of \$10,000 to the Hesed House and add them to the list of budget requests each year.

Closed Session: **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to enter Closed Session pursuant to NCGS 143.318.11 (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

Chair Martin announced that no action was taken in Closed Session.

Adjourn: **UPON MOTION** by Commissioner Oakes, the Board voted unanimously to adjourn.

Amy S. Atkins, Clerk
Board of Commissioners

Cecelia Martin, Chair
Board of Commissioners

**SUBLEASE AGREEMENT
WITH
THE LINCOLNTON-LINCOLN
COUNTY AIRPORT AUTHORITY,
LINCOLN COUNTY
AND
ARTICLE I. KBM, LLC**

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**COUNTY OF LINCOLN
STATE OF NORTH CAROLINA**

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (the "Agreement") is made and entered into by and among the Lincolnton-Lincoln County Airport Authority (the "Authority"); Lincoln County, a body corporate and politic authorized by the State of North Carolina (the "Lessor"); and KBM, LLC, a North Carolina limited liability company with its principal place of business in Lincoln County, North Carolina (the "Lessee").

W I T N E S S E T H:

WHEREAS, the Authority is the duly constituted operator of the Lincolnton-Lincoln County Regional Airport (hereinafter referred to as the "Airport") and all of the improvements thereon; and

WHEREAS, by lease dated _____, the Authority leased to Lessor that ground area at the Airport shown on Exhibit "A-1," attached hereto (the "Leased Land"), upon which the Lessor shall make improvements and create a hangar, a portion of which shall be subleased to the Lessee;

WHEREAS, Lessor and Lessee are mutually desirous of entering into a sublease for the use and occupancy of certain areas within the Leased Land at the Airport, to which sublease the Authority is made a party to evidence its consent thereto and to provide certain provisions for the benefit of the Authority;

NOW, THEREFORE, for and in consideration of the respective promises and mutual agreements made by the parties hereto hereinafter set forth, Lessor hereby grants to Lessee the right to use and occupy the ground area at the Airport shown on Exhibit "A-2" together with all buildings, structures, improvements, additions and permanent installations constructed and installed therein or thereon (hereinafter called the "Leased Premises") during the term of this Agreement upon the following terms and conditions and it is hereby agreed by all parties as follows:

SECTION 1

TERM

1.1 The term of this lease shall be for a twenty (20) year period commencing on February 1, 2017, and expiring on January 31, 2037 unless sooner terminated in accordance with the provisions hereof, and subject to those Options to Renew contained in Section 1.2 herein.

1.2 Provided that the Lessee is not in default in the terms of this Agreement, the Lessee shall have Options to renew this Agreement for two consecutive five-year terms. Each such Option, to be exercised, must be submitted in writing by the Lessee to the Lessor no later than 180 days prior to the termination of the current lease term.

SECTION 2
LEASED PREMISES

2.1 The Leased Premises are shown on Exhibit "A-2," attached hereto and made a part hereof. Exhibits "A-1" and "A-2" are taken from a map prepared by W.K. Dickson & Co., Inc.

SECTION 3
USE OF LEASED PREMISES

3.1 Lessee shall continuously occupy and use the Leased Premises for the following purposes and for no other purpose whatsoever:

3.1.1 To store aircraft owned by Lessee, including, but not limited to, the Jet as defined herein;

3.1.2 To maintain and otherwise service aircraft owned and operated by Lessee.

SECTION 4
RENTS AND FEES

4.1 For Use and Occupancy of the Leased Premises herein granted, and the costs of all utilities of the Leased Premises, Lessee agrees to pay to Lessor during the period commencing February 1, 2017, and ending January 31, 2037, a monthly rent of \$794.00.

4.2 The monthly rent shall be paid on the first day of each month in advance at the office of the County Manager or at such other office as may be directed in writing by Lessor.

4.3 Should the Lessee exercise one or more Options to extend this Agreement, the rental shall be increased by 50 percent (50%) from the previous lease period.

4.4 Lessee shall receive discounted fuel prices in an amount determined between Lessee and the Authority, as more specifically described in Schedule 4.4 attached hereto.

SECTION 5
ACCEPTANCE, CARE, MAINTENANCE
IMPROVEMENTS AND REPAIR

5.1 Lessee warrants that it shall inspect the Leased Premises and will enter into possession of the Leased Premises and accept the improvements thereon "as is" in its then-present condition (subject, however, to the Lessee's right to terminate this Agreement pursuant to subsection 20.1.3), and subject to all limitations imposed upon the use thereof by the rules and regulations of the Federal Aviation Administration and by ordinances of Lessor, and admits its suitableness and sufficiency for the uses permitted hereunder. Except as may otherwise be provided for herein, Lessor shall not be required to maintain nor to make any improvements, repairs nor restorations upon or to the Leased Premises or to any of the improvements presently located thereon. Lessor shall never have any obligation to repair, maintain or restore, during the term of this Agreement, any improvements placed upon the Leased Premises by Lessee, its successors and assigns. Notwithstanding the foregoing, however:

5.1.1 Lessor's maintenance and repair obligations. Lessor shall maintain and repair, throughout the term of this Agreement, the roof and outer walls of the Leased Premises, except for any damage thereto arising from acts or omissions of the Lessee, its agents, employees or invitees;

5.1.2 Authority's maintenance and repair obligations. The Authority shall maintain and repair, throughout the term of this Agreement, the [description of foam fire suppressant system], except for any damage thereto arising from the acts or omissions of the Lessee, its agents, employees or invitees.

5.2 Except as provided in subsections 5.1.1 and 5.1.2 above, Lessee shall throughout the term of this Agreement assume the entire responsibility, cost and expense, for all repair and maintenance whatsoever on the Leased Premises and all improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Additionally, Lessee, without limiting the generality hereof, shall:

- 5.2.1 Keep at all times, in a clean and orderly condition and appearance, the Leased Premises, all improvements thereon and all of Lessee's fixtures, equipment and personal property which are located on any part of the Leased Premises;
- 5.2.2 Provide and maintain on the Leased Premises all obstruction lights and similar devices, and safety equipment required by law;
- 5.2.3 Repair any damage caused by Lessee to paving, soils, water or other surfaces of the Leased Premises caused by any oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon;
- 5.2.4 Take measures to prevent erosion, including but not limited to, the planting and replanting of grasses with respect to all portions of the Leased Premises not paved or built upon, and in particular shall plant, maintain and replant any landscaped areas; and
- 5.2.5 Be responsible for the maintenance and repair of all utility service lines placed on the Leased Premises and used by Lessee exclusively, including, but not limited to, water lines, gas lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers.

5.3 In the event Lessee fails: (a) to commence to maintain, clean, repair, replace, rebuild or repaint, within a period of thirty (30) days after written notice from Lessor to do any maintenance or repair work required to be done under the provisions of this Agreement, other than preventive maintenance, (b) or within a period of ninety (90) days if the said notice specifies that the work to be accomplished by Lessee involves preventive maintenance only; (c) or to diligently continue to completion any repairs, replacement, rebuilding, painting or repainting as required under this Agreement; then, Lessor may, at its option, and in addition to any other remedies which may be available to it, enter the Leased Premises, without such entering causing or constituting a cancellation of this Agreement or an interference with the possession of the Leased Premises, and repair, replace, rebuild or paint all or any part of the Leased Premises or the improvements thereon, and do all things reasonably necessary to accomplish the work required, and the cost and expense thereof shall be payable to Lessor by Lessee on demand as additional rent. Provided, however, if in the opinion of Lessor, Lessee's failure to perform any such maintenance endangers

the safety of the public, the employees or property of Lessor or other tenants at the Airport, and Lessor so states same in its notice to Lessee, Lessor may, at its sole option, in addition to all other remedies which may be available to it, elect to perform such maintenance at any time after the giving of such notice, and Lessee agrees to pay to Lessor the cost and expense of such performance on demand as additional rent. Furthermore, should Lessor, its officers, employees or agents undertake any work hereunder, Lessee hereby waives any claim for damages, consequential or otherwise, as a result therefrom except for claims for damages arising from Lessor's sole gross negligence. The foregoing shall in no way affect or alter the primary obligations of Lessee as set forth in this Agreement, and shall not impose or be construed to impose upon Lessor any obligations to maintain the Leased Premises, unless specifically stated otherwise herein.

- 5.4 Plans and specifications for all major repairs, constructions, alterations, modifications, additions or replacements (hereinafter referred to as "improvements"), including, without limitation the new facility to be constructed by Lessee pursuant to Section 5.5 below, undertaken by Lessee shall be submitted to and receive the written approval of Lessor, and no such work shall be commenced until such written approvals are obtained from Lessor, which approval shall not be unreasonably withheld or delayed. Lessor shall advise Lessee within thirty (30) days after receipt of the written request, together with copies of the plans and specifications for the proposed improvements in sufficient detail to make a proper review thereof, of its approval or disapproval of the proposed work, and in the event it disapproves, stating its reasons therefore.
- 5.5 If Lessee makes any improvements without Lessor approval, then, upon notice to do so, Lessee shall remove the same or at the option of Lessor cause the same to be altered to the satisfaction of Lessor. If Lessee fails to comply with such notice within thirty (30) days or to commence to comply and pursue diligently to completion, Lessor may effect the removal or change and Lessee shall pay the cost thereof to Lessor. Lessee expressly agrees in the making of all improvements that, except with the written consent of Lessor, it will neither give nor grant, nor purport to give or grant any lien upon the Leased Premises or upon any improvements thereupon or which is in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party would be entitled, as a matter of law, to a lien against said Leased Premises and improvements thereon, and Lessee will discharge any such lien within thirty (30) days after notice of filing thereof. Notice is hereby given by Lessor to all persons that no lien attaches to any such improvements.

SECTION 6
TITLE TO IMPROVEMENTS AND REPAIRS

6.1 Lessee's improvements erected or constructed upon the Leased Premises shall remain the property of Lessee for as long as this Agreement shall remain in effect, but such improvements shall become the property of Lessor upon expiration or termination of this Agreement, free and clear of all claims on the part of Lessee on account of any repair or improvement work done under the terms hereof by Lessee. The vesting of title in Lessor at the time specified is a part of the consideration for this Agreement. Lessor shall not be liable to Lessee or Lessee's contractors or sub-Lessees for the value of any improvements constructed or located on the Leased Premises.

SECTION 7
ADDITIONAL OBLIGATIONS OF LESSEE

7.1 Lessee is the owner of that 2016 Cessna _____, Number _____ (the "Jet") which is scheduled for delivery to Lessee on December 26, 2016, and has been purchased for a price exceeding \$14,500,000.00. On or before December 31, 2016, and continuing at all times during the term of this Agreement and all renewals thereof, Lessee shall maintain the Jet's local base for taxing purposes within Lincoln County, and list the same with the Lincoln County Tax Collector on a no less than annual basis as property of the Lessee which is located within Lincoln County. The parties acknowledge that a portion of the consideration for this Agreement is for the Lessee to cause the Jet to be taxed by the Lincoln County Tax Collector within Lincoln County, and for Lessor to receive the tax benefits of said listing.

7.2 At all times during this Agreement, and any renewals thereof, Lessee shall maintain, or cause to be maintained, within Lincoln County, at least two individuals employed full-time for the purposes of maintaining, repairing and/or piloting the Jet, at pay schedules greater than the then-existing median pay for residents of Lincoln County.

7.3 Lessee shall, concurrently with the execution of this Agreement, cause _____ (an entity related to, affiliated with or under common ownership of, Lessee) to execute that Guaranty Agreement attached hereto as Exhibit "B."

- 7.4 Lessee shall conduct its operations hereunder in an orderly and proper manner, considering the nature of such operation so as not to unreasonably annoy, disturb, endanger or be offensive to others.
- 7.5 Further, Lessee shall take all reasonable measures not to produce on the Airport any disturbance that interferes with the operation by the Authority or the Federal Aviation Administration of air navigational, communication or flight equipment on the Airport.
- 7.6 Lessee shall control the conduct and demeanor of its officers, agents, employees, invitees and, upon objection from Lessor or the Authority concerning the conduct, or demeanor of any such person, Lessee shall immediately take all lawful steps necessary to remove the cause of the objection.
- 7.7 Lessee shall comply with all environmental, health, and safety laws and requirements and any other federal, state, or municipal laws, ordinances, rules, regulations and requirements, applicable to the Leased Premises and the improvements thereon and its operations at the Airport hereunder. Lessee agrees to allow Lessor or the Authority access to the Leased Premises and to Lessee's records to investigate compliance with all applicable laws if there is reason to suspect negligence.
- 7.8 Lessee shall comply with all written instructions of Lessor and the Authority for the disposal of non-hazardous trash and refuse, and Section 40 of the Code of Federal Regulations mandated by the Environmental Protection Agency in disposing of trash, garbage, and other refuse and the frequency of removal thereof from the Airport premises shall at all times be subject to the rules, regulations and approval of Lessor and the Authority. All disposal of trash, garbage, refuse and wastes shall be at the expense of Lessee.
- 7.9 Lessee shall not commit, nor permit to be done, anything which may result in the commission of a nuisance, waste, or injury on the Leased Premises.
- 7.10 Lessee shall not do, nor permit to be done, anything which may interfere with the effectiveness or accessibility of the drainage system, sewerage system, fire protection system, sprinkler system, alarm system and fire hydrants and hoses, if any, installed or located on the Leased Premises.
- 7.11 Lessee shall take measures to ensure security in compliance with Federal Air Regulations.

7.12 Lessee shall not do, nor permit to be done, any act or thing upon the Leased Premises which may constitute a hazardous condition so as to increase the risks attendant upon the operations permitted by the Agreement.

7.13 Lessee shall neither use nor store any more than a working supply of flammable liquids within any covered or enclosed portion of the Leased Premises. The term "working supply" as used in this Section shall mean the amount consumed by Lessee during any normal work day. Any other supplies of such liquids shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories.

7.14 Except for services permitted under Section 3 hereof to be performed by Lessee or Lessee's subcontractors, Lessee shall provide prompt written notice to Lessor of any person, firm or corporation performing aircraft maintenance work, flight instruction of any sort, air taxi, aircraft charter or aircraft leasing of any sort on the Leased Premises for commercial purposes without a valid permit from the Authority and written permission from Lessor.

7.15 It is the intent of the parties hereto that noise, including but not limited to, noise caused by aircraft engine operation, shall be held to a minimum. To this end, Lessee will conduct its operations in such a manner as to keep the noise produced by aircraft engines and component parts thereof or any other noise to a minimum by the use of such methods or devices as are practicable, considering the extent and type of the operations of Lessee, but in no event less than those devices or procedures that are required by Federal, State or local law. In addition, Lessee shall use its best efforts to minimize prop or jet blast interference to aircraft operating on or to buildings, structures and roadways, now located on or which in the future may be located on areas adjacent to the Leased Premises.

SECTION 8
INGRESS AND EGRESS

8.1 Lessee shall have the right of ingress and egress to and from the Leased Premises and the public landing areas at the Airport by means of connecting taxiways, to be used in common with others having rights of passage thereon, except when the Airport is closed to the public, and in such

event Lessee shall have such rights of ingress and egress if the Authority's director consents thereto in writing.

8.2 The use of any such roadway or taxiway shall be subject to the Rules and Regulations of the Airport which are now in effect or which may hereafter be promulgated. The Authority may, at any time, temporarily or permanently, close or consent to or request the closing of, any such roadway or taxiway and any other way at, in or near the Leased Premises presently or hereafter used as such, so long as a reasonable means of ingress and egress as provided above remains available to Lessee. Lessee hereby releases and discharges Lessor, its officers, employees and agents; and all municipalities and other governmental authorities and their respective successors and assigns, of and from any and all claims, demands, or causes of action which Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any street, roadway or other area, provided that a reasonable means of access to the Leased Premises remains available to Lessee whether within the Leased Premises or outside the Leased Premises at the Airport unless otherwise mandated by safety considerations or lawful exercise of police power. Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the Leased Premises or in any streets or roadways near the Leased Premises.

SECTION 9

INSURANCE, DAMAGE OR DESTRUCTION

9.1 To safeguard the interest of Lessee, Lessee at its sole cost and expense shall procure and maintain throughout the term of this Agreement insurance protection for damage to or liability arising from the Jet, in the full amount of the value thereof, from insurance companies licensed to do business in the State of North Carolina, with an A.M. BEST's rating of at least "A." If said insurance company becomes financially incapable of performing under the terms of said policy, Lessee shall promptly obtain a new policy issued by a financially responsible carrier and shall submit such new policy as previously provided.

9.2 In the event any improvements, insurable or uninsurable, on the Leased Premises are damaged or destroyed (except damage or destruction caused by Lessee or as set forth in 9.6 hereof) to the extent they are unusable by Lessee for the purposes for which they were used prior to such

damage, or same are destroyed, Lessor shall promptly repair, rebuild, or replace the damaged or destroyed portion of the Leased Premises as they were immediately prior to such casualty, except for requirements of construction codes, which shall be as of the time of repair or replacement.

- 9.3 In the event of damage or destruction to any of the improvements upon the Leased Premises, Lessor shall have no obligation to repair or rebuild the improvements or any fixtures, equipment or other personal property installed by Lessee pursuant to this Agreement.
- 9.4 Omitted.
- 9.5 Lessee shall, at its expense, repair and replace any and all fixtures, equipment and other personal property necessary to properly and adequately continue its airport business in the airport, but in no event shall Lessee be obligated to provide equipment and fixtures in excess of those existing prior to such damage or destruction. During such period of repair or reconstruction, the rentals provided for elsewhere herein shall be proportionately abated during the period from the date of such damage, destruction or loss until the same is repaired, replaced, restored or rebuilt, provided, Lessee does not use said damaged Leased Premises or the location thereof for any purposes other than the repair or rebuilding of same. Such abatement shall not exceed the actual time required for arranging for and the doing of such work. The proportional amount of reduction of rentals will be determined by Lessor. Lessee agrees that such work will be promptly commenced and prosecuted to completion with due diligence; subject to delays beyond Lessee's control.
- 9.6 In the event the improvements on the Leased Premises are damaged or destroyed by fire or other cause by reason of any act or omission of Lessee or its employees, this Lease Agreement shall continue in full force and effect, notwithstanding the provisions of Sections 9.2, 9.3, 9.4 and 9.5 hereof, and Lessee shall repair or rebuild the improvements so damaged or destroyed, at Lessee's own cost and expense, in a good workmanlike manner to the same standards existing at the time of the casualty, subject to applicable building codes existing at the time of repair or rebuilding.

SECTION 10 **LIABILITIES AND INDEMNITIES**

- 10.1 Lessor shall not in any way be liable for any cost, liability, damage or injury, including cost of suit and reasonable expenses of legal services, claimed or recovered by any person whomsoever,

or occurring on the Leased Premises, or the Airport, or as a result of any operations, works, acts or omissions performed on the Leased Premises, or the Airport, by Lessee, its Lessees or tenants, or their guest or invitees, unless caused in whole or in part by the negligence of Lessor.

- 10.2 Lessee agrees to indemnify, save and hold harmless, Lessor, its officers, commissioners, agents, servants and employees, of and from any and all costs, liability, damage and expense (including costs of suit and reasonable expenses of legal services) claimed or recovered, justly or unjustly, false, fraudulent or frivolous, by any person, firm or corporation by reason of injury to, or death of, any person or persons, and damage to, destruction or loss of use of any and all property, including Lessor's personnel and Lessor's property, directly or indirectly arising from or resulting from, any operations, works, acts or omissions of Lessee, its agents, servants, employees, contractors, Lessees or tenants. Provided, however, that upon the filing with Lessor by anyone of a claim for damages arising out of incidents for which Lessee herein agrees to indemnify and hold Lessor harmless, Lessor shall notify Lessee of such claim and in the event that Lessee does not settle or compromise such claim, then Lessee shall undertake the legal defense of such claim both on behalf of Lessee and behalf of Lessor. It is specifically agreed, however, that Lessor, at its own cost and expense, may participate in the legal defense of any such claim. Any final judgment rendered against Lessor for any cause for which Lessee is liable hereunder shall be conclusive against Lessee as to liability and amount upon the expiration of the time for appeal.
- 10.3 In addition to Lessee's undertaking, as stated in this Section, and as a means of further protecting Lessor, its officers, commissioners, agents, servants and employees, Lessee shall at all times during the term of this Agreement obtain and maintain in effect Public Liability and other Liability Insurance coverage as set forth in Exhibit "B" attached hereto and made a part hereof. Lessee agrees to require its contractors doing work on the Leased Premises, and Lessee's tenants and Lessees, to carry adequate insurance coverage, and if Lessee so desires, it may accomplish same by an endorsement to Lessee's policies to include such persons or parties as additional named insureds.

10.3.1 Lessor reserves the right to increase the minimum liability insurance set forth in Exhibit "B" when in Lessor's opinion the risks attendant to Lessee's operations hereunder have increased.

- 10.4 Lessee represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under or in anywise

connected with this Agreement. Lessee agrees to save and hold Lessor, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of Lessee under or in any wise connected with this Agreement.

- 10.5 Lessee represents and warrants that no broker has been concerned on its behalf in the negotiation of this Agreement and that there is no such broker who is or may be entitled to be paid a commission in connection therewith. Lessee shall indemnify and save harmless Lessor of and from any claim for commission or brokerage made by any such broker when such claim is based in whole or in part upon any act or omission of Lessee.

SECTION 11 **RULES AND REGULATIONS**

- 11.1 From time to time Lessor or the Authority may adopt and enforce rules and regulations with respect to the occupancy and use of the Airport. Lessee agrees to observe and obey any and all rules and regulations and all other Federal, State and municipal rules, regulations and laws and to require its officers, agents, employees, contractors, and suppliers, to observe and obey the same. The Authority reserves the right to deny access to the Airport and its facilities to any person, firm or corporation that fails or refuses to obey and comply with such rules, regulations or laws. Lessee hereby acknowledges receipt of a current copy of such rules and regulations.
- 11.2 Lessee is allowed to park vehicles and/or a recreational vehicle on the Leased Premises from time to time when Lessee deems necessary, provided said actions do not violate any applicable FAA rules or regulations, and further provided said actions do not violate any rules or regulations of the Authority. Lessee hereby indemnifies and holds Lessor and the Authority harmless from any loss, cost, fees, fines, damages or expense (including reasonable attorneys' fees) arising from Lessee's parking of any non-aeronautical vehicles within the Leased Premises.

SECTION 12 **SIGNS**

12.1 Lessee shall have the right to install and maintain one or more signs on the Leased Premises identifying it and its operations, provided, however, the subject matter, type, design, number, location and elevation of such signs, and whether lighted or unlighted, shall be subject to and in accordance with the written approval of Lessor and any governing agency with authority over the installation and use of signage on the Leased Premises. No sign will be approved that may be confusing to aircraft pilots or automobile drivers or other traffic or which fails to conform to the architectural scheme of the Airport or meet the requirements of Lessor or the Authority.

SECTION 13
ASSIGNMENT AND SUBLEASE

13.1 Lessee covenants and agrees that it will not sell, convey, transfer, mortgage, pledge or assign this Agreement or any part thereof, or any rights created thereby, without the prior written consent of Lessor and the Authority. Lessee further covenants and agrees that it will offer to Lessor the First Right of Refusal at the fair market value of the leasehold estate and improvements, adjusted for the remaining term of the lease, prior to any request for assignment of this Agreement. Any attempted assignment or transfer in violation of this Section shall entitle Lessor at its option to forthwith cancel this Agreement.

13.2 Any assignment of this Agreement approved and ratified by Lessor and the Authority shall be on the condition that the assignee accepts and agrees to all of the terms, conditions and provisions of this Agreement, and agrees to accept and discharge all of the covenants and obligations of Lessee hereunder, including but not limited to the payment of all sums due and to become due by Lessee under the terms hereof.

13.3 If Lessee assigns, sells, conveys, transfers, mortgages, or pledges this Agreement or sublets any portion of the Leased Premises in violation of the foregoing provisions of this Section, or if the Leased Premises are occupied by anyone other than Lessee, Lessor may collect from any assignee, Lessee, or anyone who claims a right to this Agreement or who occupies the Leased Premises any charges or fees payable by it and may apply the net amount collected to the rents herein reserved; and no such collection shall be deemed a waiver by Lessor of the agreements contained in this Section nor of acceptance by Lessor of any assignee, claimant or occupant, nor as a release of Lessee by Lessor from the further performance by Lessee of the agreements contained herein.

SECTION 14
CONDEMNATION

14.1 In the event that the Leased Premises or any material part thereof shall be condemned and taken by authority of eminent domain for any purpose during the term of this Agreement, rentals for that portion of the Leased Premises so taken shall be abated from the date that Lessee is dispossessed therefrom; provided, however, if, in Lessee's judgment, the remaining portion of the Leased Premises is insufficient for Lessee's operations authorized hereunder, Lessee may terminate this Agreement and all of its rights and unaccrued obligations hereunder effective as of the date it is dispossessed of the condemned portion (or effective as of any date thereafter and within ninety (90) days of the date of such dispossession) by giving Lessor thirty (30) days written notice of such termination.

SECTION 15
NON-DISCRIMINATION

15.1 Lessee, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Premises that Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed 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 amended.

15.2 Lessee, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Leased Premises that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over, or under such Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that 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 amended.

- 15.3 Lessor reserves the right to take whatever action it might be entitled by law to take in order to enforce the provisions of this Section, which shall be considered as a covenant on the part of Lessee, a breach of which, continuing after notice by Lessor to cease and desist, will constitute a material breach of this Agreement and will entitle Lessor, at its option, to exercise its right of termination as provided for herein, or take any action that it deems necessary to enforce compliance herewith.
- 15.4 Lessee shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than Lessee, operates any facility at the Leased Premises providing service to the public and shall include thereon a provision granting Lessor, a right to take such action as the United States may direct to enforce such covenant.
- 15.5 Lessee shall indemnify and hold harmless Lessor from any claims and demands of third persons including the United States of America resulting from Lessee's noncompliance with any of the provisions of this Section and Lessee shall reimburse Lessor for any loss or expense incurred by reason of such noncompliance.

SECTION 16 GOVERNMENTAL REQUIREMENTS

- 16.1 Lessee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over Lessee's operations at the Leased Premises which may be necessary for Lessee's operations thereat.
- 16.2 Lessee shall pay all taxes, license, certification, permit and examination fees and excise taxes which may be assessed, levied, exacted or imposed on the Leased Premises or operation hereunder or on the gross receipts or income to Lessee therefrom, and shall make all applications, reports and returns required in connection therewith.

SECTION 17

RIGHTS OF ENTRY RESERVED

- 17.1 The Authority, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times to enter upon the Leased Premises for any and all purposes, provided, such action by the Authority, its officers, employees, agents, representatives and contractors does not unreasonably interfere with Lessee's use, occupancy, or security requirements of the Leased Premises.
- 17.2 Without limiting the generality of the foregoing, Lessor, by its officers, employees, agents, representatives, contractors and furnishers of utilities and other services, shall have the right, at its own cost and expense, whether for its own benefit, or for the benefit of others than Lessee at the Airport, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Leased Premises at all reasonable times to make such repairs, replacements or alterations thereto, as may, in the opinion of Lessor, be deemed necessary or advisable, and from time to time to construct or install over, in or under the Leased Premises such systems or parts thereof and in connection with such maintenance use the Leased Premises for access to other parts of the Airport otherwise not conveniently accessible, provided, however, that in the exercise of such right of access, repair, alteration or new construction, Lessor shall not unreasonably interfere with the actual use and occupancy of the Leased Premises by Lessee. It is specifically understood and agreed that the reservation of the aforesaid right by Lessor shall not impose or be construed to impose upon Lessor any obligation to repair, replace or alter any utility service lines now or hereafter located on the Leased Premises for the purpose of providing utility services only to the Leased Premises.
- 17.3 In the event that any personal property of Lessee shall obstruct the access of Lessor, its officers, employees, agents or contractors, or the utility company furnishing utility service to any of the existing utility, mechanical, electrical and other systems, and thus shall interfere with the inspection, maintenance or repair of any such system, Lessee shall move such property, as directed by Lessor or said utility company, in order that access may be had to the system or part thereof for inspection, maintenance or repair. If Lessee shall fail to so move such property after direction from Lessor or said utility company to do so, Lessor or the utility company may move it, and Lessee hereby agrees to pay the cost of such moving upon demand, and further Lessee hereby waives any claim for damages as a result therefrom, except for claims for damages arising from Lessor's gross negligence or intentionally wrongful acts.

- 17.4 At any reasonable time, and from time to time during the ordinary business hours, Lessor, by its officers, agents and employees, whether or not accompanied by a prospective lessee, occupier or user of the Leased Premises, shall have the right to enter thereon for the purpose of exhibiting and viewing all parts of the same, subject to Lessee's reasonable security requirements.
- 17.5 Exercise of any or all of the foregoing rights, by Lessor, or others under right of Lessor, shall not be, nor be construed to be, an eviction of Lessee, nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

SECTION 18

ADDITIONAL RENTS AND CHARGES

- 18.1 Except as provided in Section 5.3 (b), in the event Lessee fails within thirty (30) days after receipt of written notice from Lessor to perform or commence to perform any obligation required herein to be performed by Lessee, Lessor may enter the Leased Premises (without such entering causing or constituting a cancellation of this Agreement or an interference with the possession of such Leased Premises by Lessee) and do all things reasonably necessary to perform such obligation, charging to Lessee the cost and expense thereof, and Lessee agrees to pay to Lessor upon demand such charge in addition to other amounts payable by Lessee hereunder. Provided, however, that if Lessee's failure to perform any such obligation endangers the safety of the public or employees or property of Lessor, or other tenants of the Airport, and Lessor so states in its notice to Lessee, Lessor may perform such obligation of Lessee at any time after the giving of such notice, and charge to Lessee the reasonable cost and expense thereof which Lessee shall pay upon demand.
- 18.2 If Lessor elects to pay any sum or sums or incur any obligation or expense by reason of the failure, neglect or refusal of Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement, or as the result of any act or omission of Lessee contrary to said conditions, covenants or agreements, Lessee hereby agrees to pay the sum or sums so paid or expense so incurred by Lessor as the result of such failure, neglect or refusal of Lessee, including interest, not to exceed the greater of fifteen percent (15%) per annum or the rate which is four percent (4%) per annum above the prime rate as published by the Wall Street Journal, together with all costs, damages and penalties. In such event, the total of such amounts may be added to any installment of rent thereafter due hereunder, and each and every part of the

same shall be and become additional rent recoverable by Lessor in the same manner and with like remedies as if it were originally a part of the rent provided for in this Agreement.

SECTION 19
TERMINATION BY LESSOR

- 19.1 In the event of a default on the part of Lessee in the payment of rents, or any other charges required by this Agreement to be paid to Lessor, Lessor shall give written notice to Lessee of such default, and demand the cancellation of this Agreement, or the correction thereof. If, within fifteen (15) days after the date Lessor gives such notice, Lessee has not corrected said default, and paid the delinquent amount in full, this Agreement and all rights and privileges granted hereby in and to the Leased Premises shall terminate.
- 19.2 This Agreement together with all rights and privileges granted in and to the Leased Premises shall terminate automatically, upon the happening of any one or more of the following events:
 - 19.2.1 The filing of Lessee of a voluntary petition in bankruptcy, or any assignment for the benefit of creditors of all or any part of Lessee's assets; or
 - 19.2.2 any institution of proceedings in bankruptcy against Lessee; provided, however, that Lessee may defeat such termination if the petition is dismissed within thirty (30) days after the institution thereof; or
 - 19.2.3 the filing of a petition requesting a court to take jurisdiction of Lessee or its assets under the provisions of any Federal reorganization act; or,
 - 19.2.4 the filing of a request for the appointment of a receiver or trustee of Lessee's assets by a court of competent jurisdiction, or the request for the appointment of a receiver or trustee of Lessee's assets by a voluntary agreement with Lessee's creditors; or
 - 19.2.5 the abandonment by Lessee of the conduct of its authorized Airport business at the Airport, and in this connection suspension of operations for a period of sixty (60) days will be considered abandonment in the absence of a satisfactory explanation which is accepted in writing by Lessor.
- 19.3 Upon the default by Lessee in the performance of any covenant or conditions required to be performed by Lessee, and the failure of Lessee to remedy such default for a period of thirty (30) days after receipt from Lessor of written notice to remedy the same (except as otherwise provided

in Section 5.3 (b) above) and, except for default in the timely payment of any money due Lessor, Lessor shall have the right to terminate this Agreement for such cause.

- 19.4 Upon the default of Lessee, and the giving of notice by Lessor to cancel this Agreement as provided for elsewhere herein, said notice of termination shall be final; provided however, that should Lessor determine that Lessee is diligently remedying such default to completion, and so advises Lessee in writing, said notice of termination shall be held in abeyance. If, however, Lessor determines that such default is no longer being diligently remedied to conclusion, Lessor shall so advise Lessee in writing, and said notice of termination shall no longer be held in abeyance for any reason and shall become final without further notice to Lessee. The determination of Lessor in this regard shall in all events be conclusive and binding upon Lessee.
- 19.5 Upon the cancellation or termination of this Agreement for any reason, all rights of Lessee, tenants and any other persons in possession shall terminate, including all rights or alleged rights of creditors, trustees, assigns, and all others similarly so situated as to the Leased Premises. Upon said cancellation or termination of this Agreement for any reason, the Leased Premises, except for such personal property which may be removed from said Leased Premises as provided for elsewhere herein, shall be free of all encumbrances and all claims of Lessee, its tenants, creditors, trustees, assigns and all others, and Lessor shall have immediate right of possession to the Leased Premises.
- 19.6 Failure by Lessor to take any authorized action upon default by Lessee of any of the terms, covenants or conditions required to be performed, kept and observed by Lessee shall not be construed to be, nor act as, a waiver of said default nor of any subsequent default of any of the terms, covenants and conditions contained herein to be performed, kept and observed by Lessee. Acceptance of rentals by Lessor under the terms hereof, for any period or periods after a default by Lessee of any the terms, covenants and conditions herein required to be performed, kept and observed by Lessee shall not be deemed a waiver or estoppel of any right on the part of Lessor to cancel this Agreement for any subsequent failure by Lessee to so perform, keep or observe any of said terms, covenants or conditions.

SECTION 20
TERMINATION BY LESSEE

20.1 In addition to any other right or cancellation herein given to Lessee, or any other rights to which it may be entitled to by law, equity or otherwise, as long as Lessee is not in default in payment to Lessor of any amounts due Lessor hereunder this Agreement, Lessee may terminate this Agreement and thereby terminate all of its rights and unaccrued obligations hereunder, by giving Lessor written notice upon or any the happening of the following events:

20.1.1 Issuance by a court of competent jurisdiction of an injunction which in any way substantially prevents or restrains the use of the Leased Premises, or any part thereof necessary to Lessee's business operations on the Airport, and which injunction remains in force for a period of at least thirty (30) days after the party against whom the injunction has been issued has exhausted or abandoned all appeals or one-hundred twenty (120) days whichever is shorter, if such injunction is not necessitated by or issued as a result of an act or omission of Lessee; or

20.1.2 The assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and its facilities, or any substantial part thereof, in such a manner as substantially to restrict Lessee from operating its authorized Airport business for a continuous period of at least ninety (90) days; or

20.1.3 Lessor fails to complete the construction of the hangar on the Leased Premises pursuant to those plans and specifications attached hereto in Exhibit "A-3" on or before [date].

20.1.4 The death or permanent disability of Kyle T. Busch, the principal of Lessee. As used herein, "permanent disability" shall be defined as a disability determined by the Social Security Administration as a qualifying permanent disability for Kyle T. Busch.

SECTION 21
SURRENDER AND RIGHT OR RE-ENTRY

21.1 Upon the cancellation or termination of this Agreement pursuant to any terms hereof, Lessee agrees peaceably to surrender up the Leased Premises to Lessor in the same condition as they are at the time of the commencement of the term hereof, and as they may hereafter be repaired and improved by Lessee; save and except, (a) such normal wear and tear thereof as could not have

been prevented by ordinary and usual repairs and maintenance, (b) obsolescence in spite of repair, and (c) damage to or destruction of the leasehold improvements for which insurance proceeds are received by Lessor. Upon such cancellation or termination, Lessor may re-enter and repossess the Leased Premises together with all improvements and additions thereto, or pursue any remedy permitted by law for the enforcement of any of the provisions of this Agreement, at Lessor's election. Furthermore, upon such cancellation or termination, and for a reasonable time thereafter (not exceeding thirty (30) days after such cancellation or termination, and for which period Lessee will pay to Lessor current lease rentals), or during the term of this Agreement, if Lessee is not in default in rentals or any other charges or obligations due Lessor, Lessee shall have the right to remove its personal property, fixtures and trade equipment which it may have on the Leased Premises, provided the removal thereof does not impair, limit or destroy the utility of said Leased Premises or building for the purpose for which they were constructed or improved, and provided, further, that Lessee repairs all damages that might be occasioned by such removal, and restores the building and site to the condition above required.

SECTION 22

SERVICES TO LESSEE

- 22.1 The Authority covenants and agrees that during the term of this Agreement it will operate the Airport as such for the use and benefit of the public provided, however, that the Authority may prohibit or limit any given type, kind, or class of aeronautical use of the Airport if such action is necessary for the safe operation of the Airport or necessary to serve the civil aviation needs of the public. The Authority further agrees to use its best efforts to maintain the runways and taxiways in good repair. The Authority agrees to keep in good repair hard surfaced public roads for access to the Leased Premises. The Authority agrees to maintain its water and sanitary sewer facilities in areas designated for utilities or easements adjacent to the Leased Premises for access thereto by Lessee in accordance with the Authority's Ordinances governing same.
- 22.2 Lessee will contract with and obtain all required permits from the appropriate departments for any utility services provided by Lessor, paying any required connection fees, including those to be paid by owners.

22.3 Lessor will also contract with the furnishers of all other utilities for the furnishing of such services to the Leased Premises and shall pay for all water, gas, electricity, sanitary sewer service, other utilities, telephone, burglary and fire protection services furnished to the Leased Premises.

SECTION 23

SURVIVAL OF THE OBLIGATIONS OF LESSEE

23.1 In the event that the Agreement shall have been terminated in accordance with a notice of termination as provided in Section 19 hereof, all of the obligations of Lessee under this Agreement shall survive such termination, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to Lessor to the same extent, at the same time or times, and in the same manner as if no termination, re-entry, regaining or resumption of possession had taken place. Lessor may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term of the Agreement.

23.2 in the event of an early termination of this Lease by the Lessee (except for a termination caused by a breach of the Lessor), the Lessee shall pay to the Lessor the amount of damages for the period of time subsequent to termination (or re-entry, regaining or resumption of possession) on account of Lessee's rental obligations, which shall be the sum of the following:

23.2.1 The amount of the total of all installments thereof payable prior to the effective date of termination except that the credit to be allowed for the installment payable on the first (1st) day of the month in which the termination is effective shall be prorated for the part of the month the Agreement remains in effect on the basis of the total days in the month;

23.2.2 An amount equal to all expenses incurred by Lessor in connection with regaining possession, restoring the Leased Premises, acquiring a new lease for the Leased Premises, legal expenses (including but not limited to attorney's fees), putting the Leased Premises in order, maintenance and brokerage fees;

23.2.3 The Expenditure Recapture Amount, as said term is defined in Section 23.2.5; and

23.2.4 An amount equal to any deficiency for the remaining term of the Lease, computed in accordance with the provisions of Section 23.1, except that the Lessee shall receive a credit for any lease payments paid by a third party on the Leased Premises during that period of time during which the Leased Premises are re-leased by the Lessor prior to what would have been the end of the Lease period.

23.2.5 The Expenditure Recapture Amount, as used herein, shall be calculated by determining the total capital expenditure of the Lessor attributable to the Leased Premises, minus all tax payments made by the Lessee to Lincoln County for taxes assessed against the Jet.

SECTION 24

USE SUBSEQUENT TO CANCELLATION OR TERMINATION

24.1 Lessor, upon termination or cancellation pursuant to Section 19 hereof, may occupy the Leased Premises or may enter into an agreement with another lessee and shall have the right to permit any person, firm or corporation to enter upon the Leased Premises and use the same. Such use may be of part only of the Leased Premises or of the entire Leased Premises, together with other premises, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement.

24.2 Lessor shall also, upon said termination or cancellation, or upon re-entry, regaining or resumption of possession, have the right to repair and to make structural or other changes in the Leased Premises, including changes which alter its character and the suitability thereof for the purpose of Lessee under this Agreement, without affecting, altering or diminishing the obligations of Lessee hereunder, provided, that any structural changes shall not be at Lessee's expense.

24.3 In the event either of use by others or of any actual use and occupancy by Lessor, there shall be credited to the account of Lessee against its survived obligations hereunder any net amount

remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said Leased Premises or portion thereof during the balance of the term of use and occupancy as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the Leased Premises as Lessor may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by Lessor in connection therewith. No such use and occupancy shall be or be construed to be an acceptance of a surrender of the Leased Premises, nor shall such use and occupancy constitute a waiver of any rights of Lessor hereunder. Lessor will use its best efforts to minimize damages to Lessee under this Section.

SECTION 25

LIMITATION OF RIGHTS AND PRIVILEGES GRANTED

- 25.1 Except for the exclusive right of Lessee to possession of the Leased Premises, no exclusive rights at the Airport are granted by this Agreement and no greater rights or privileges with respect to the use of the Leased Premises or any part thereof are granted or intended to be granted to Lessee by this Agreement, or by any provision thereof, than the rights and privileges expressly and specifically granted hereby.

SECTION 26

NOTICES

- 26.1 All notices, consents and approvals required or desired to be given by the parties hereto shall be sent in writing, and shall be deemed sufficiently given when same is deposited in the United States Mail, sufficient postage prepaid, registered or certified mail, return receipt requested, addressed to the recipient at the address set forth below:

To Lessor: Lincoln County
Attn: County Manager
115 W. Main St.
Lincolnton, NC 28092

To Lessor: Airport Manager

Lincolnton-Lincoln County Regional Airport
716 Airport Drive
Iron Station, N.C. 28080

To Lessee: KBM, LLC
5343 Highway 150 E
Lincolnton, NC 28092

26.2 Such addresses shall be subject to change from time to time to such other addresses as may have been specified in written notice given by the intended recipient to sender.

SECTION 27
HOLDING OVER

27.1 No holding over by Lessee after the termination of this Agreement shall operate to extend or renew this Agreement for any further term whatsoever; but Lessee will by such holding over become the tenant at will of Lessor. After written notice by Lessor to vacate such premises, continued occupancy thereof by Lessee shall constitute Lessee a trespasser.

27.2 Any holding over by Lessee beyond the thirty (30) day period permitted for removal of fixtures without the written consent of Lessor shall make Lessee liable to Lessor for damages equal to double the rentals provided for herein and which were in effect at the termination of the Agreement.

27.3 All insurance coverage that Lessee is required under the provisions hereof to maintain in effect shall continue in effect for so long as Lessee, or any of Lessee's Lessees or tenants occupy the Leased Premises or any part thereof.

SECTION 28
INVALID PROVISIONS

28.1 The invalidity of any provisions, articles, paragraphs, portions, or clauses of this Agreement shall have no effect upon the validity of any other part or portion hereof, so long as the remainder shall constitute an enforceable Agreement.

SECTION 29
MISCELLANEOUS PROVISIONS

Remedies to be Non-Exclusive.

29.1 All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of, or exclusive of, each other, or of any other remedy available to Lessor, or Lessee, at law or in equity, and the exercise of any remedy, or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

Non-Waiver of Rights.

29.2 The failure by either party to exercise any right, or rights accruing to it by virtue of the breach of any covenant, condition or agreement herein by the other party shall not operate as a waiver of the exercise of such right or rights in the event of any subsequent breach by such other party, nor shall other party be relieved thereby from its obligations under the terms hereof.

Force Majeure.

29.3 Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority or other circumstances for which it is not responsible or which is not in its control provided, however, that this Section shall not excuse Lessee from paying the rentals herein specified.

Non-liability of Individuals.

29.4 No director, officer, agent or employee of either party hereto shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of any supplement, modification or amendment to this Agreement because of any breach thereof, or because of his or their execution or attempted execution of the same. This Section 29.4 shall have no application to any independent guaranty or other assumption of the obligations of Lessee which may be obtained by Lessor relative to this Lease.

Quiet Enjoyment.

29.5 Lessor covenants that as long as Lessee is not in default of any provision of this Agreement, Lessee shall and may peaceably and quietly have, hold and enjoy the Leased Premises exclusively to it during the term hereof unless sooner cancelled as provided in this Agreement.

General Provisions.

29.6 Lessee shall not use, or permit the use of, the Leased Premises, or any part thereof, for any purpose or use other than those authorized by this Agreement.

29.7 This Agreement shall be performable and enforceable in Lincoln County, North Carolina, and shall be construed in accordance with the laws of the State of North Carolina.

29.8 This Agreement is made for the sole and exclusive benefit of Lessor, the Authority and Lessee, and their respective successors and assigns, and is not made for the benefit of any third party.

29.9 In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

29.10 All covenants, stipulations and agreements in this Agreement shall extend to and bind each party hereto, its legal representatives, successors and assigns.

29.11 The titles of the several articles of this Agreement are inserted herein for convenience only, and are not intended and shall not be construed to affect in any manner the terms and provisions hereof, or the interpretation or construction thereof.

29.12 Nothing herein contained shall create or be construed to creating a co-partnership between Lessor and Lessee or to constitute Lessee an agent of Lessor. Lessor and Lessee each expressly disclaim the existence of such a relationship between them.

SECTION 30
SUBORDINATION CLAUSES

30.1 This Agreement is subject and subordinate to the following:

30.1.1 The Authority reserves the right to develop and improve the Airport as it sees fit,

regardless of the desires or view of Lessee, and without interference or hindrance by or on behalf of Lessee, provided, Lessee is not deprived of the use of or access to the Leased Premises;

30.1.2 The Authority reserves the right to take any action it considers necessary to protect the aerial approaches to the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on the Airport which, in the opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft;

30.1.3 This Agreement is and shall be subordinate to the provisions of existing and future agreements between Lessor and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the obtaining or expenditure of Federal funds for the benefit of the Airport;

30.1.4 During time of war or national emergency, Lessor shall have the right to lease all or any part of the landing area or of the Airport to the United States for military or naval use, and if any such lease is executed, the provisions of this Agreement insofar as they may be inconsistent with the provisions of such lease to the Government, shall be suspended, but such suspension shall not extend the term of this Agreement. Abatement of rentals shall be determined by Lessor in proportion to the degree of interference with Lessee's use of the Leased Premises; and

30.1.5 Except to the extent required for the performance of any obligations of Lessee hereunder, nothing contained in this Agreement shall grant to Lessee any rights whatsoever in the airspace above the Leased Premises other than those rights which are subject to Federal Aviation Administration rules, regulations and orders currently or subsequently effective.

SECTION 31

ENTIRE AGREEMENT

31.1 The Agreement consists of Sections 1 - 31, inclusive, and Exhibit A and Exhibit B.

31.2 This Agreement constitutes the entire Agreement of the parties hereto and may not be changed, modified, discharged or extended except by written instrument duly executed by all parties hereto. The parties agree that no representations or warranties shall be binding upon Lessor or Lessee unless expressed in writing in this Agreement of Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this the _____ day of _____, 2016.

LINCOLNTON-LINCOLN COUNTY AIRPORT AUTHORITY

David Lowe, Chairman

LINCOLN COUNTY

_____, Chairman of the Board of Commissioners

KBM, LLC

_____, Manager

EXHIBIT “A-1”
(LEASED LAND)

EXHIBIT “A-2”
(LEASED PREMISES)

EXHIBIT “A-3”
(PLANS AND SPECIFICATIONS)

EXHIBIT “B”
(INSURANCE COVERAGE)

EXHIBIT "C"
(GUARANTY AGREEMENT)

SCHEDULE 4.4
Fuel Discount Schedule