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**Agenda for the
MEETING OF THE REGIONAL AIRPORT BOARD
OF THE
COLUMBIA GORGE REGIONAL AIRPORT**

(Established cooperatively between the City of The Dalles, Oregon and Klickitat County, Washington)

Friday, June 17, 2016 @ 7:00am

Meeting to be Held at the Airport Terminal in Dallesport, WA

- I. Call to Order**
- II. Roll Call**
- III. Approval of the Agenda**
- IV. Approval of Minutes: April 15, 2014**
- V. Public Comments (items not on the Agenda)**
- VI. Board Member Comments (items not on the Agenda)**
- VII. Discussion Items**
 - A. Airport Fly In June 18, 2016**
 - B. Airport Projects**
- VIII. Action Items**
 - A. Consideration of extending the Gorge Aviation Services agreement as FBO. Whether to recommend to Klickitat County and the City of The Dalles that the Agreement with Gorge Aviation Services, LLC as FBO be extended.**
- IX. Manager Report - Aeronautical Management, Inc.**
 - A. May Budget Report**
- X. Next Meeting Date: July 15, 2014**
- XI. Adjournment**

**Minutes of the Board of Directors Special Meeting
Regional Airport Authority**

April 1, 2016

Airport Terminal – Dallesport, Washington

CALL TO ORDER

Chairman Jim Wilcox called the meeting to order at 7:01 a.m.

ROLL CALL

Members present: Tim McGlothlin, Debra Turner, Dave Sauter, Terry Trapp, Norm Deo and Jim Wilcox. Absent: Dave Griffith and Terry Trapp.

Staff members present: Rolf Anderson and Chuck Covert of AMI, and Richard Foster of Klickitat County.

APPROVAL OF AGENDA

The Agenda was approved unanimously.

APPROVAL OF MINUTES

The March 18, 2015, Minutes were unanimously approved with the correction for Deb Turner's attendance and reflecting the Board consensus concerning the construction of new T-Hangars at the Airport.

PUBLIC COMMENTS

None

BOARD MEMBER COMMENTS

None

DISCUSSION ITEMS

None

ACTION ITEMS

AMI discussed the need to amend the proposed 2015/2016 Airport budget to reflect seeking a grant from the Washington State Department of Aviation for 5% of the cost of the Taxiway Rehabilitation Project and using Airport funds for the other 5% match for the FAA grant on this project. It appears that the Connect Oregon grant application will not be successful and those funds will not be available for this project so a Budget amendment is necessary to reflect this change. After thorough discussion a motion was made to approve amending the 2015/2016 Airport Budget to allow \$70,000 to be used as a grant match for

the Washington State Aviation Department \$70,000 grant which together would be used as the 10% grant match required by the FAA for the construction of the Taxiway A rehabilitation project. The Board unanimously recommended that the City and County adopt this Budget as amended for the Airport for fiscal year 2016/2017.

NEXT REGULAR MEETING

April 15, 2016

ADJOURNMENT

Chairman Jim Wilcox adjourned the meeting at 7:24 a.m.

Jim Wilcox, Chairman

LEASE
BETWEEN
City of The Dalles, Klickitat County
AND
Gorge Aviation Services, LLC.

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LEASE
BETWEEN
CITY OF THE DALLES, KLICKITAT COUNTY
AND
GORGE AVIATION SERVICES, LLC.
FOR THE USE OF THE UNDERGROUND FUEL FARM
TERMINAL AND HANGAR AT THE
COLUMBIA GORGE REGIONAL THE DALLES MUNICIPAL AIRPORT

1. **PARTIES**

Effective on ~~June~~January 1, 2016 the City of The Dalles, a municipal corporation of the State of Oregon, and Klickitat County, a municipal corporation of the State of Washington, acting solely in their proprietary capacity as the Lessor and not in any governmental capacity unless so stated, hereinafter referred to as "**Landlord**," and Gorge Aviation Services, LLC., an Oregon Limited Liability Company, ~~hereinafter, hereinafter~~ referred to as "**Tenant**," hereby mutually agree and promise as follows:

2. **PURPOSE**

The purpose of this Lease is to provide for the lease of those parcels of real property located at the Columbia Gorge Regional/The Dalles Municipal Airport, described in paragraph 3 of this Agreement, upon which Tenant intends to maintain and operate the underground fuel farm, terminal building and hangar. The Airport is owned by City of The Dalles and Klickitat County.

3. **LEASED PREMISES**

A. For and in consideration of the rent and faithful performance by Tenant of the terms and conditions and the mutual covenants hereof, Landlord does hereby lease to Tenant, and Tenant hereby leases from Landlord, subject to all easements and encumbrances of record, ~~the, the~~ the following described property:

B. The ground floor of the terminal building, (including the restaurant area and the restrooms); the areas adjacent to the terminal building, including the landscaping and the automobile parking area; the fuel island, fuel pumps, dispensers, tanks and related equipment; including the office/work space and parking areas and ground surrounding the ~~h~~hangar; all tie down parking space areas; and the area where pilots/visitors park their vehicles which is described as the unpaved area east of the terminal building. The Maintenance Hangar east of the Terminal. T hangar B * and B-9 for aircraft maintenance until new maintenance hangar in Section 3B is available. Landlord agrees to use revenue from lease of Large Maintenance Hangar to the west of the terminal building to pay the debt on the new Maintenance Hangar ~~build a new maintenance hangar within one year.~~ The size of the hangar will be determined by the amount of funds that can be obtained in a 10 year loan with annual debt payments not to exceed \$28,000 per year. This hangar will be available to the tenant as long as the full time aircraft maintenance as required in Section 10 is provided.

4. **TERM**

This Lease shall be for a term of five (5) years, and shall commence ~~June~~~~January~~ 1, 201~~6~~~~2~~, which date shall hereinafter be referred to as the "**Commencement Date**" of this Lease and shall be considered to be day one of the original Lease Year, and shall terminate on ~~May~~~~December~~ 31, 2021~~17~~. However, Tenant shall have the right to renew this lease for four additional five year terms so long as Tenant is in compliance with the terms of the lease. During any renewal all rent payments due from Tenant shall be increased by the change in the Consumer Price Index during the prior five years. Failure by Tenant to provide the mechanic services required in Section 10 (Use of Premises) for a period of more than 120 days or more will result in a requirement that Landlord and Tenant immediately commence negotiations for a new lease agreement, and in the event the parties cannot mutually agree upon the terms of a new lease agreement this lease agreement will terminate.

5. **HOLDING OVER**

In the event Tenant shall remain in possession of the Premises herein leased after the expiration of this Lease, such holding over shall not be deemed to operate as renewal or extension of this agreement and Lease, but shall only create a tenancy from month to month which may be terminated at any time by Landlord on thirty (30) days written notice.

6. **RENT**

Tenant shall pay Landlord the sum of \$~~250~~~~4.00~~ per ~~month~~~~year~~ for rent for the use of the leased premises during the term of this Lease in accordance with the following provisions. The first payment shall be made on the 1st day of ~~June~~~~January~~ 201~~6~~~~2~~, with a similar payment to be made on the 1st day of each month~~January~~ thereafter. Tenant shall also pay Landlord a flowage fee in the sum of seven cents (.07) per gallon for all fuel pumped by Tenant at the Airport, with the flowage fee to be paid to Landlord by the 5th day of the following month for the fuel pumped during the previous month. Tenant shall receive the revenue from tie down and parking fees collected by Tenant.

7. **ADDITIONAL PAYMENT PROVISIONS**

- A. Late Payments. In the event Tenant fails to pay to Landlord any amount payable under this Lease within thirty (30) days after such amount falls due, Tenant shall pay to Landlord interest on all unpaid amounts at a rate of one and one-half percent (1½%) per month, from the date said payment was due and payable until paid in full.
- B. Place of Payment. All rents and fees shall be made payable to the CITY OF THE DALLES, and shall be mailed by first class mail, postage prepaid, or personally delivered to City Hall, 313 Court Street, The Dalles, Oregon, 97058, or other addresses as may be designated in writing.

8. **ALTERATIONS AND ADDITIONS**

Tenant shall not make any material external alterations to, or erect any additional structures or make any material improvements on the Premises without prior written consent of the Landlord,

which consent shall not be unreasonably withheld. Any external alteration or addition approved by Landlord shall be constructed at the sole expense of Tenant. Upon approval by Landlord of any such alteration or addition, Landlord shall notify Tenant whether such alterations made shall remain on and be surrendered with the Premises on expiration or termination of the term, or shall be removed from the Premises by Tenant at its sole cost and expense. If Landlord elects to require Tenant to remove any alterations, Tenant at its sole cost, shall remove such alterations and restore the Premises to the conditions existing immediately prior to the addition of such alteration (reasonable wear and tear excepted) on or before the last day of the term of this Lease.

9. **MAINTENANCE, REPAIR AND STORAGE**

A. Tenant shall, at its sole cost and expense throughout the term of this Lease, maintain the interior walls of the Premises in the condition at least equivalent to the condition it was in on the Commencement date of this lease. All painted interior surfaces and surfaces requiring treatment of any kind shall be maintained in at least as good condition as they exist at the beginning of this lease and shall be repainted or treated as often as reasonably required in the sole discretion of Tenant. All maintenance, repairs, and replacements shall be of a quality substantially equal to the original materials and workmanship.

If the Tenant fails to comply with the terms of this lease, then upon written notice by Airport, Tenant shall perform the maintenance required by this lease. If said maintenance is not undertaken and diligently pursued by Tenant within thirty (30) days after receipt of written notice, Landlord shall have the right to enter upon the Premises and perform such necessary maintenance, the cost of which shall be reimbursed by Tenant to Landlord as additional rent, without offset, upon Tenant's receipt of Landlord's request for said reimbursement.

B. Except for the Tenant's responsibilities set out in paragraph 9(A) above, Landlord shall be responsible for the maintenance and repair of the leased Premises. By way of example but not limitation, Landlord shall be responsible for all maintenance and repairs related to the installed fuel farm, pumps and dispensers, except for repair or replacement of damage caused by an act or abuse or negligence committed by Tenant or any of Tenant's employees or agents. All repairs to the Premises related to the structure, foundation, roof, exterior walls, electrical system, plumbing and sewer systems, heating and air conditioning that exist on the Premises at the start of the lease, shall be the sole responsibility of the Landlord.

10. **USE OF PREMISES**

Except as otherwise provided herein, Tenant shall use the Premises for the non-commercial and commercial use of aircraft and related services and materials related to the use, sale, storage, maintenance and repair of such aircraft, including but not necessarily limited to, flight planning, flight training and study, and other mechanical and clerical functions associated with the use, storage, maintaining, owning, flying, leasing, ~~chartering~~ and reasonably offering to maintain ~~maintaining~~ currency of aircraft and pilots ~~without limitations~~; operation of the installed fuel farm including the following required minimum services: full service Jet A and 100LL seven days per week, jet fuel truck, catering services, courtesy crew car, rental car services, pilot supplies, snacks

and coffee, flight instruction, aircraft rental for flight school, airport advisories over the Unicom radio, start cart, and generator. Tenant may, but is not required to, use the Premises for activities related to leasing, renting, sales, chartering airplanes and trips and all other uses related in any manner to those activities reasonably related to providing services to the aviation community and surrounding geographic area. ~~Tenant shall provide full-time aircraft maintenance by a certified aircraft mechanic, commencing January 1, 2012.~~

11. **UNLAWFUL USE**

No building, structure, or improvements of any kind shall be erected, placed upon operated or maintained on the Premises, nor shall any business or operation be conducted or carried on in violation of any applicable ordinance, law, statute, by-law, order, or rule of any governmental agency.

12. **UTILITIES**

Tenant shall pay, on Tenant's own account, for all utilities used or consumed on the Premises, including but not limited to, electricity, garbage disposal, sanitary storm, janitorial services, and telephone services. Landlord shall reimburse Tenant for utilities used in the second story of the terminal building. The amount of that reimbursement shall be one-half of Tenant's cost of utilities, water and sewer for the Terminal building.

13. **WASTE, QUIET CONDUCT, HAZARDOUS SUBSTANCES AND PROPERTY INSPECTION**

Tenant shall not commit, or suffer to be committed, any waste upon the Premises. Tenant shall at all times comply with all applicable laws, rules and regulations of federal, state or local governmental agencies. Tenant shall not permit any activity on the Premises which directly or indirectly produces unlawful amounts or levels of air pollution (gases, particulate matter, or smoke), water pollution, noise, glare, heat emissions, radioactivity, electronic or radio interference with navigational and communication facilities for the operation of the Airport and its use by aircraft, trash or refuse accumulation which is hazardous or dangerous by reason or risk of explosion or fire.

- A. **Condition of the Premises.** Except as otherwise expressly stated in this Lease, the Premises are conveyed in an "as is" physical condition with no warranty, express or implied, on the part of Airport as to the condition of the existing improvements, the condition of the soil or the geology of the soil.

14. **STORMWATER DISCHARGE**

Tenant shall assure that no pollution or hazardous material, as defined in Section 13. Waste, Hazardous Substances, of any type will be discharged by Tenant into the stormwater system at the Columbia Gorge Regional/The Dalles Municipal Airport, and shall be held responsible for any such discharge either by Tenant or by any of Tenant's subtenants, agents, or employees, during the entire term of this Lease. Any fine or cost of remedial action required of the Landlord as a result of Tenant's activities, by any agency or agencies having jurisdiction thereover, as a result of actions on or discharges from the Premises, will be charged to Tenant, and Tenant shall reimburse Landlord for these costs upon demand. In addition, any discharge of

pollutants or hazardous materials, as defined herein, on or from the Premises shall be considered a default of this Lease and shall be grounds for its termination. Tenant shall have no liability for any pollution or hazardous material and/or equipment present, including but not limited to the fuel farm, on the Premises at the Commencement Date of this lease, or its discharge from the Premises at any time and Landlord shall reimburse Tenant for all costs Tenant incurs related to any pollution or hazardous materials or equipment located on, in or under the Premises as a result of the actions and/or omissions of anyone other than Tenant.

15. **RULES AND REGULATIONS**

Tenant agrees to observe and obey all policies, rules, and regulations promulgated and enforced by Landlord and any other appropriate authority having jurisdiction over the Columbia Gorge Regional/The Dalles Municipal Airport and the Premises described in this Lease, during the term of this Lease.

16. **SECURITY**

If at any time during the term of this Lease, additional security requirements are imposed on the Airport by the FAA or any other agency having jurisdiction over Airport, Tenant agrees to comply with said security requirements upon being notified of such requirements in writing by Landlord. If the cost of such security requirements exceeds \$500.00 the Landlord shall be responsible for the total of such costs. If Landlord is fined by FAA for a security violation caused by intentional negligence of Tenant, or any of Tenant's sub-tenants, Tenant shall reimburse Landlord upon demand.

17. **HOLD HARMLESS AND INDEMNIFICATION**

Tenant shall indemnify, defend, save, protect, and hold harmless the Landlord, its officers, agents and employees from any and all claims, costs, and liability, including reasonable attorneys' fees, for any damage, injury, or death, including without limitation all consequential damages from any cause whatsoever, to persons or property arising directly or indirectly from or connected with Tenant's performance of its operations, the acts, errors or omissions of Tenant, its agents, contractors, guests, or employees, or the use and possession of the Premises, by Tenant, its agents, contractors, guests, or employees, save and except claims or litigation arising through (and only to the extent of) the sole negligence or willful misconduct/omission of the Landlord, its officers or employees, and, if required by the Landlord, will defend any such actions at the sole cost and expense of the Tenant.

18. **INSURANCE**

Tenant shall at all times carry and maintain liability insurance in a company or companies rated in the current edition of Best's General Ratings as at least A (Excellent) or better, and Financial Size category of not less than Class X, or better, or in such other company or companies not so rated which may be acceptable to Landlord, insuring Tenant against all claims for damages for personal injury, including death, and against all claims for damage and destruction of property, which may arise by the acts of negligence of the Tenant, its agents, employees, or servants, in accordance with the coverage limits set forth below. The Landlord and the Regional Airport Board shall be named in all such policies as an additional insured. The policies shall provide that

the policies cannot be canceled without the company first giving Landlord at least thirty (30) days written notice.

Coverage shall be provided with the following limits:

Airport Premises Liability* \$2,000,000 combined single limits

* coverage must include entire Airport premises
and not be limited to leased premises

Hangarkeeper's Liability* \$100,000 per aircraft per occurrence

* coverage must include entire Airport premises

Fire legal or Tenant Legal coverage \$50,000

On-Airport Premises Automobile Liability \$2,000,000 combined single limits

Products/Completed Operations \$2,000,000 combined single limits

Contractual Liability* \$2,000,000 combined single limits

* coverage must be listed by endorsement on
policy and included on certificate of insurance covering the lease agreement

Worker's Compensation* Statutory Coverage

* Coverage needs to provide a waiver of
subrogation in favor of the City, County, and
Regional Airport Board

19. **TAXES**

Tenant agrees to pay before delinquency all personal taxes, assessments, license fees, and other charges which are levied and assessed upon Tenant's personal property installed or located in or on the Premises by Airport, or other legally authorized governmental authority. Landlord shall pay all real property or other taxes related to the Premises imposed by Klickitat County or any other governmental authority upon the Premises, ~~except that Tenant will pay property taxes for Large Maintenance Hanger.~~

20. **INSPECTION, ACCESS AND NOTICE**

Landlord and any of its agents shall at any time upon reasonable notice to Tenant have the right to go upon and inspect the Premises and Improvements, erected or constructed, or in the course of being erected or constructed, repaired, added to, rebuilt or restored thereon. Landlord shall have the right to serve or to post and to keep posted on the Premises, or on any part thereof, any notice permitted by law or by this Lease, any other notice or notices that may at any time be required or permitted by law or by this Lease. Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, or other damages arising out of Landlord's entry on the Premises as provided in this Section.

21. ASSIGNMENT, SUBLETTING, SALE, AND ENCUMBRANCE

Tenant shall not sublease, sell, voluntarily assign, or encumber its interest in this Lease, in the Leased Premises, or allow any other person or entity (except Tenant's authorized representatives) to occupy all of the Premises, without first obtaining Landlord's written consent, which consent shall not be unreasonably withheld. If a response is not received within 15 working days, Tenant may assume that the request has been approved. Any such assignment, encumbrance, sale, or sub-lease by Tenant without Landlord's prior written consent shall be voidable and, at Landlord's election, shall constitute a default of this Lease. No consent to any assignment, encumbrance, sale, or sub-lease shall constitute a further waiver of the provisions of this Section or of the Lease. Irrespective of the foregoing, it is agreed that Tenant may, without any further prior consent of Landlord, sublease portions of the Terminal building for the use of restaurant or aviation activities, and the Tenant may sublease portions of the Hangar not being used for aircraft maintenance to other sublessees at Tenant's discretion. Any sublease currently in place may continue without additional approval.

22. SURRENDER OF POSSESSION

Title to all Improvements permanently constructed by Tenant upon the Premises, and all alterations or additions thereto required by Landlord to remain, shall transfer to Landlord upon the expiration, cancellation, or other earlier termination of this Lease.

Title to personal property belonging to Tenant shall at all times during the term of this Lease, or any extension thereof, remain in Tenant, and Tenant shall have the right at any time to remove any or all personal property of every kind and nature whatsoever which Tenant may have placed, affixed, or installed upon the Premises, provided that upon Tenant's removal of such personal property, Tenant restores the Premises to its original condition. Tenant shall have the right to remove same provided that upon any such removal, Tenant shall repair, at its own expense, any damages resulting therefrom and leave the Premises in a clean and neat condition, with all other improvements in place.

If tenant elects to remove improvements, this must be done within ninety (90) days after termination or cancellation. If tenant fails to remove improvements, Landlord may take possession of premises. If Tenant fails to remove or surrender the Premises to Landlord on expiration or ninety (90) days after termination or cancellation of the Lease as required by this Section, Tenant shall defend, indemnify, and hold Landlord harmless from all claims, liability, costs, and damages resulting from Tenant's failure to surrender the Leased Premises, including without limitation, claims made by a succeeding lessee or sublessee.

23. DEFAULT

The occurrence of any of the following shall constitute a default by Tenant:

- A. Failure to pay rent when due, if the failure continues for thirty (30) days after written notice has been given to Tenant.

- B. Abandonment and vacation of the Premises. Failure to occupy and operate the Premises for thirty (30) consecutive days during any period shall be deemed an abandonment and vacation of the Premises.
- C. Failure to undertake maintenance required of Tenant under the terms of this Lease, if the failure continues for thirty (30) days after written notice has been given to Tenant, unless a serious safety matter exists, in which case Tenant shall have ten (10) days from receipt of such written notice to commence repairs. However, Tenant shall be deemed to have complied with the terms of this requirement if it commences repairs within the stated time and proceeds to complete the repairs in due diligence.
- D. Insolvency, and adjudication of Tenant as bankrupt, or the loss of possession of the Premises, or any portion thereof, by virtue of any attachment, execution or receivership, if the bankruptcy proceedings are not terminated in Tenant's favor within, or the insolvency of the loss of possession continues for, sixty (60) days thereafter.
- E. Assignment for the benefit of creditors.
- F. Failure to comply with any of the provision of Section 29.A. Non-Discrimination.
- G. Failure to perform any other provision of this Lease if the failure to perform is not cured within thirty (30) days after written notice has been given to Tenant and Tenant has failed to make measureable efforts in good faith to cure the default.
- H. In any case in which a default cannot reasonably be cured within the period provided for such herein, Tenant shall not be in default of this Lease if Tenant commences to cure the default within the period in which Tenant may cure such default and diligently and in good faith continues to cure the default. Tenant shall commence and diligently and in good faith prosecute the cure of any safety hazard immediately upon Tenant's acquisition of actual knowledge of the existence of such safety hazard.
- I. Written notices given under this Section shall specify the alleged default and the applicable lease provisions, and shall demand that Tenant perform the provisions of this Lease or pay the rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Lease unless Landlord so elects in the notice.

24. **LANDLORD'S REMEDIES**

Landlord shall have the following remedies if Tenant commits a default. These remedies are not exclusive; they are cumulative and in addition to any remedies now or later allowed by law or equity.

- A. Landlord can terminate this Lease and Tenant's right to possession of the Premises. No act by Landlord, other than giving written notice to Tenant, shall terminate this Lease. Acts of maintenance, efforts to re-let the Premises, or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. In the event Landlord elects to terminate this Lease because of a default arising under Section

23. Default, Subsections D. or E., this Lease shall not be treated as an asset of Tenant.

- B. Landlord, at any time after Tenant commits a default, can cure the default at Tenant's cost. If Landlord at any time, by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due from Tenant to Landlord immediately from the time the sum is paid upon notice given by Landlord to Tenant, and if paid by Tenant at a later date, shall bear interest at a rate of twelve percent (12%) per annum from the date the sum is paid by Landlord until Landlord is completely reimbursed by Tenant. The sum, together with interest on it, shall be additional rent.
- C. Upon termination by default by Tenant, Landlord has the right to recover from Tenant any amount and court cost necessary to compensate Landlord for all actual costs incurred by Landlord caused by Tenant's improper termination of lease.

25. **TENANT'S REMEDIES**

Tenant shall have the following remedies if Landlord fails to fulfill its obligations under this lease or Landlord terminates this lease without a default by Tenant. These remedies are not exclusive; they are cumulative and in addition to any remedies now or later allowed by law or equity. If Landlord terminates this Lease during its term for convenience, eminent domain, or other purposes except by default by Tenant, the Tenant has the right to recovery and be full reimbursed at fair market value at the time of termination for all the improvements on the land made by Tenant. All terminations of any kind must be in writing. In the event Landlord elects to terminate this Lease, it will be treated as an asset of Tenant. On termination, except by default by Tenant, Tenant has the right to recover from Landlord any amount and court costs necessary to compensate Tenant for all detriment proximately caused by Landlord's termination of lease. The above remedies shall not apply in the event the Landlord relocates the hangar pursuant to Section 27. Relocation of Hangar or the U.S. Government exercises rights pursuant to Section 29.C.5. Non-Discrimination, Development of Premises.

26. **DISPUTES**

- A. Any controversy or claim arising out of or relating to this lease or the breach thereof, if not resolved by the parties within 15 days, shall be submitted to an experienced mediator who shall promptly initiate formal, non-binding mediation of the dispute for up to five (5) business days before an action is initiated in Court. The parties shall mutually select the mediator and shall mutually share the costs of the mediator. If, during the mediation, a party makes a written offer of compromise to another party which is not accepted by said party and the refusing party fails to obtain a more favorable judgement, the refusing part shall pay the offering party all costs and expenses, including reasonable attorney's fees, incurred from the time the offer is refused, notwithstanding any other provisions of this lease governing costs and expenses.
- B. This lease shall be enforceable solely in Wasco County Oregon or Klickitat County Washington if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein.

27. **RELOCATION OF TERMINAL BUILDING**

If at any time during the term of this lease, the Landlord requires that the terminal building be relocated to another portion of the airport, all costs of relocation will be paid for by the Landlord. If at any time during the term of this lease any building is constructed on the Airport, including but not limited to, a new FBO style and/or terminal style building and owned by the Airport or the City of The Dalles or Klickitat County, the Tenant shall have the first right to lease such building(s). If a new FBO style and/or terminal style building is constructed on the airport during the term of this lease Tenant shall have the option to terminate this lease by providing 60 days notice of such election to Landlord. Landlord shall have no such right to terminate this lease.

28. **DESTRUCTION**

If a substantial portion of the Improvements on the Premises are damaged or destroyed in the amount of at least twenty-five percent (25%) of the replacement cost of construction, Tenant shall have the option to either terminate this Lease or to replace and rebuild the Improvements and structures so they are in substantially the same condition as they were in immediately before damage or destruction. Tenant shall give written notice of such election to Landlord within forty-five (45) days of the date of the loss or destruction of the Improvements and structures. If Tenant elects to terminate this Lease under this Section, this Lease shall terminate. If Tenant elects to rebuild, rent will be abated in an amount proportional to the damage for a period not to exceed three (3) months from date of such written notice.

29. **NON-DISCRIMINATION**

A. **Non-discrimination**

(1) The Tenant for itself, its heirs, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Premises described in this lease agreement for a purpose for which a Department of Transportation ("**DOT**") program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Sub-title A, Office of the Secretary, Part 21, Non-discrimination 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.

(2) The Tenant for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: 1) no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to, discrimination in the use of said facilities, 2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise

subjected to discrimination, and 3) that the Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, DOT, Sub-title A, Office of the Secretary, Part 21, Non-discrimination 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.

- (3) In the event of breach of any of the above non-discrimination covenants, Landlord shall have the right to terminate this Lease agreement and to re-enter and repossess said Premises and the facilities thereon, and hold the same as if said lease agreement has never been made or issued. This provision does not become effective until the procedures of 49 CFR Part 21 are followed and completed, including expiration of appeal rights.
- (4) Noncompliance with Subsection 29.A above shall constitute a material breach thereof and, in the event of such noncompliance, Landlord shall have the right to terminate this Lease and the estate hereby created without liability therefor or, at the election of the City or County or the United States, either or both said Governments shall have the right to judicially enforce the provisions of said Subsection 29.A.

B. Airport Use and Development

- (1) The Landlord reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of the Tenant and without interference or hindrance.
- (2) The Landlord reserves the right, but shall not be obligated to the Tenant to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of the Tenant in this regard. If the landing area of the Airport become unusable by aircraft for any reason Tenant shall have the right to terminate this lease at no cost or further liability to Tenant.
- (3) This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Landlord and the United States, relative to the development, operation, and maintenance of the Airport.
- (4) There is hereby reserved to the Landlord, its successors, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Columbia Gorge Regional/The Dalles Municipal Airport.
- (5) Any physical taking of the subject Premises for use by the Landlord, other than as provided herein, shall be considered a taking pursuant to the governmental power of eminent domain

C. Development of Premises

- (1) Tenant agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulation in the event future

construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

- (2) Tenant agrees that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises to exceed the established height contours. In the event the aforesaid covenants are breached, the Landlord reserves the right to enter upon the Leased Premises hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Tenant.
- (3) Tenant, by accepting this Lease, agrees that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from Columbia Gorge Regional/The Dalles Municipal Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, Landlord reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of Tenant.
- (4) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).
- (5) This Lease and all the provisions hereof shall be subject to whatever right of the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, and taking over of the Columbia Gorge Regional/The Dalles Municipal Airport by the United States during the time of the war or national emergency.

30. **OPERATION OF AIRPORT**

- A. Aviation Hazards. Landlord reserves the right to take any action it considers necessary to protect the aerial approaches of the Columbia Gorge Regional/The Dalles Municipal Airport against obstructions, together with the right to prevent Tenant from erecting or permitting to be erected any building or other structure on the Premises which, in the opinion of Landlord or the Federal Aviation Administration, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- B. Navigational Aids. Landlord reserves the right during the term of this Lease or any renewal and/or extension thereof to install air navigational aids including lighting, in, on, over, under, and across the Premises in the exercise of any of the rights hereof. Landlord agrees to give Tenant no less than ninety (90) days' written notice of its intention to install such air navigational aids.

31. **USE OF AIRPORT FACILITIES**

- A. Tenant, shall have the rights of access to and use of all areas and facilities of the Columbia Gorge Regional/The Dalles Municipal Airport which are intended for the common use of all Tenants and occupants of the Airport, including but not limited to the take-off and landing areas, taxi areas, reasonable access thereto from the Premises, and air control facilities. Such areas and facilities are hereinafter referred to collectively as the "**Airport Facilities**".
- B. For the purposes of this Subsection, the following definitions shall apply:
- (1) "**Airplanes or Aircraft**" shall mean airplanes and/or aircraft of any type, including but not limited to, fixed wing, helicopters, unmanned aerial vehicles and blimps which use the runways at the Airport and can take off and land at the Airport as of the commencement date of this Lease and which use the Premises.
 - (2) "**Use**" shall mean any use consistent with the use as described in Section 10. Use of Premises, of this Lease.
 - (3) "**Wholly unusable**" shall mean that there is no reasonable access for airplanes from the Premises to the runways at the Airport or that all runways at the Airport are reasonably unusable by airplanes.
 - (4) "**Partially Unusable**" shall mean the runways and related facilities and landing areas are restricted to the extent that neither Tenant nor Tenant's subtenants can make reasonable use of the Premises for the stated purposes of the Lease for a period of at least sixty (60) days.

If the Airport becomes Wholly or Partially Unusable by Tenant for any reasons, including, but not limited to, Casualty as set out in Section 28, but excluding weather, the provisions of this Subsection shall govern.

After sixty (60) days during which the Airport becomes Wholly Unusable, Tenant shall be permitted to fully abate rent otherwise payable under this Lease upon written notice given by Tenant to Landlord . If the Airport shall be Wholly Unusable for a period of six (6) months or more, Tenant may terminate this Lease on written notice to Landlord. In such event, Landlord shall not be responsible for the reimbursement of the value of Tenant's personal property or improvements to Tenant.

In the event the Premises become Partially Unusable, Tenant shall be entitled to a prorate reduction in rent based on the percentage of Tenant's loss of income in relation to the rent payable under this Lease for the period of time during which the runways and related facilities and landing areas are Partially Unusable.

32. **NOTICES**

Any and all notices given under this Lease, or otherwise, may be served by enclosing same in a sealed envelope addressed to the party intended to receive same, at its address, and deposited in the United States Post Office as certified mail with postage prepaid. When so given, such notice shall be effective forty-eight (48) hours from the date of the mailing of the same. For the purposes thereof, unless otherwise provided in writing by the parties hereto, the address of Landlord, and the proper party to receive any such notices on its behalf is:

City Manager
313 Court Street
The Dalles, OR 97058

and the address of Tenant is:

Gorge Aviation Services, Inc.
17786 NW Elkcrest Ct.
Portland, OR 97229

33. **INVALID PROVISIONS**

It is expressly understood and agreed by and between the parties hereto that in the event any covenant, condition, or provision contained herein is held to be invalid by a court of competent jurisdiction, such invalidity shall not invalidate any other covenant, condition, or provision of this Lease, provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either Landlord or Tenant in their respective rights and obligations contained in the valid covenants, conditions, and provisions of this Lease.

34. **PROVISIONS**

All provisions, whether covenants or conditions, on the part of Tenant and/or Landlord shall be deemed to be both covenants and conditions.

35. **MECHANIC'S AND MATERIALMAN'S LIENS**

Neither Tenant nor Landlord shall permit any mechanic's, materialman's, or other lien against the Premises or the property of which the Premises forms a part in connection with any labor, materials, or services furnished or claimed to have been furnished. If any such lien shall be filed against the Premises or property of which the Premises forms a part, the party charged with causing the lien will cause the same to be discharged, provided, however, that either party may contest any such lien, so long as the enforcement thereof is stayed.

36. **WAIVER**

The waiver by Landlord of performance by Tenant of any covenant, term, or condition of this Lease shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

37. **MEMORANDUM OF LEASE**

A Memorandum of Lease shall be prepared by Landlord and shall be executed and recorded by the parties hereto. This will be in lieu of recording the entire instrument.

38. **LEASE COUNTERPARTS**

This Lease may be executed in one or more counterparts, each of which shall be deemed a duplicate original, but all of which together shall constitute one and the same instrument.

39. **WRITTEN AGREEMENT**

Neither party has relied on any promise or representation not contained in this Lease. All previous conversations, negotiations, and understandings are of no further force or effect. This Lease may be modified only in writing signed by both parties. The headings of the paragraphs are for convenience only and are not a part of this Lease; nor shall they be considered in construing the intent of this Lease.

40. **FURTHER ASSURANCES**

Whenever and so often as requested to do so by the other party, Landlord and Tenant will promptly execute and deliver, or cause to be executed and delivered, all such further assurances, documents, or instruments and will promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to carry out, give effect to, and comply with the terms and intent of this Lease.

41. **CONSENTS**

Whenever consent is required, it shall not be unreasonably withheld.

42. **TIME**

Time is of the essence of each and every provision of this Lease.

43. **BINDING ON SUCCESSORS**

The covenants and conditions herein contained shall, subject to the provisions as to assignment, apply to and bind their heirs, successors, executors, administrators, and assigns of all the parties hereto.

SIGNATURES

CITY OF THE DALLES

ATTEST

By _____
Julie Krueger~~Nolan K. Young~~, City Manager
City Clerk, CMC/AAE

By _____
~~Julie Krueger~~Izetta Grossman

APPROVED AS TO FORM

By _____
Gene Parker, City Attorney

**BOARD OF COUNTY COMMISSIONERS
Klickitat County, Washington**

GORGE AVIATION SERVICES, LLC.

Chairman

Member

Commissioner

Commissioner

Attest: _____

