
MEMORANDUM



TO: City Council & Airport Advisory Board
FROM: Robert Barbian, City Adm. & Airport Mgr.
SUBJECT: **Hanger leasing terms**
DATE: September 1, 2020

BACKGROUND

A new hanger prospect would like a longer-term land lease for financing purposes and to have rights to rent the land the hanger is to be placed on. Currently the city offers two lease options. A 5-year lease at 8 cents or a 10-year lease at 10 cents. The prospect would like rights to the land for an extended period, 20 years at a maximum lot rental rate.

Currently the lease calls out in section 29 a right of first refusal on a land lease and in section 5 a clause calling for a right of Revision of Rents. A clarification of the meaning of these two sections has been requested from the City Attorney. Upon gaining greater clarification, modification(s) to the terms may be appropriate depending upon the outcome of the City Council discussion.

The practice of the City has been to allow renewals at what ever terms are available when requested. For example, if a party wished to have their lease rewrote for five or ten years now it would be able to be rewrote at eight cents or ten cents respectively. The current lease rate, according to a memo from 2004 has been in place for at least 33 years. For your information, an imperfect survey of lease rates conducted by another airport is attached. In addition, tenants are responsible for paying personal property tax collected by the County. Research on typical amounts is being researched.

ANALYSIS

With new buildings often times a longer term is needed for financing as well as to encourage investment. Establishing rights on land rentals to place a hanger will provide an owner greater predictability. A question that comes up is how long of a period of time would the City be willing to consider for land rental rights and how long of time period is the City comfortable with to establish a rate?

The hanger owner mentioned above is requesting, a 20-year lease, with the first ten years at 10 cents and thereafter not to exceed 20 cents per square foot.

Recommendation:

The City Council may consider the request above and or provide staff general direction and discussion.

The current lease and rate survey results are attached.

CITY OF PRINCETON, MINNESOTA
AIRPORT LOT LEASE

GENERAL STORAGE HANGAR

THIS INDENTURE, made this 1st day of May, 2018, between the CITY OF PRINCETON, a municipal corporation, party of the first part, LESSOR, (hereinafter referred to as the CITY), and _____ party of the second part, LESSEE:

LESSEE'S address: EMAIL:

LESSEE'S telephones: Work: - - Home: - - Cell: - -

WITNESSETH:

1. Description of Property

The CITY hereby leases to the LESSEE and the LESSEE hereby hires and takes from the CITY the following described premises situation upon the Princeton Municipal Airport, a public airport owned and operated by the CITY, located in the Counties of Mille Lacs and Sherburne, State of Minnesota, to wit:

Tier , Lot -

Together with said land and buildings and improvements leased to the LESSEE, the LESSEE, shall have the privilege of using the public portions of the said airport, such as runways and other public facilities there provided, upon such terms and under such rules and regulations as now exist or may hereafter be enacted by the CITY, and subject to such charges for such use as may be established from time to time by the CITY either by ordinance or agreement with said LESSEE.

2. Lease Term

The term of this lease shall be approximately five years commencing May 1st, 2018, unless sooner or later terminated as hereinafter provided.

3. Use of Premises

Any building to be built on the above premises shall be constructed in compliance with all applicable building codes and be located upon the leased premises in the following manner:

Storage of aircraft, aircraft related equipment, and other personal items specifically approved by the CITY pursuant to the process noted hereinafter.

The leased premises and the building thereon or to be built thereon by the LESSEE shall be used for the storage of aircraft and for no other purpose by the LESSEE or by other parties to whom the LESSEE may, during the terms of this lease, lease or sell storage space for aircraft.

Use of the leased premises for any purpose not hereinbefore expressly provided shall constitute default hereunder and shall not be permitted except upon such terms as may be agreed General Lease

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upon between the parties hereto, and upon the approval of the CITY given in writing to the LESSEE.

The LESSEE shall be considered in default if the LESSEE stores or otherwise allows the keeping of items in the hangar or on the leased property described herein other than aircraft or aircraft related equipment without the express written approval of the CITY.

The LESSEE shall be considered in default of this lease if the LESSEE allows the leased property to remain void of a hangar for a period of twelve (12) months. However, if extenuating conditions exist, the LESSEE may request an extension of time from the CITY.

The minimum sized hangar allowed to be constructed on the leased property shall be twohundred fifty (250) square feet.

4. Rent

Annual rent shall be paid in cash, in advance, and shall be due and payable on or before January 1 of each year. For payments 90 days late, a late fee as listed in the City's fee schedule will apply. Rental may be prorated for midyear lease.

The rent for the lot herein leased shall be the sum of XXXXXXXX dollars (\$1.00) cash per year, payable annually in advance for the years commencing January 1, 2015, to December 31, 2017, inclusive. LESSEE's leasing properties after the first of the year will have their rent prorated proportionately.

As additional rent, LESSEE shall be responsible for all real and personal property taxes assessed against the demised premises or any property located thereon and shall be responsible for all utilities and insurance. If LESSEE fails to make such payment, the CITY may make the payment(s) and charge the LESSEE therefore. If, following such payment by the CITY, the LESSEE does not pay the CITY within ten (10) days of the date of such charge, LESSEE shall be in default of this Lease and the CITY may terminate the Lease, as provided hereinafter.

5. Revision of Rents

Under Minnesota Statutes Section 473.651, CITY has the authority to determine the charges for the use of property under its management and control, and thereunder CITY reserves the right, from time to time, to amend rents and charges hereunder, either upwards or downwards, to conform the same to rents, charges, and assessments imposed on other lessees at the airport carrying on similar operations pursuant to agreement on CITY's Aircraft Storage Lease form. It is understood, consistent with said Minnesota Statutes Section 473.651, that any such revisions in rents or charges shall be reasonable and uniform covering LESSEE's lease rights with those charged to other users at the airport in the same class of users as LESSEE, and giving due regard to the value of the property leased and the improvements used and expense of operation of the CITY.

6. LESSEE's Commitment to Construction Building

The LESSEE agrees that any building to be constructed by LESSEE shall be constructed upon the leased premises as provided herein and at no cost to the CITY, and that construction of said building shall commence within thirty (30) days after approval by the CITY of the proposed location of the building upon the leased premises and shall be completed within one (1) year from the date of commencement of construction or by such later date as CITY approves in writing.

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A. Before commencing any building, erection, rebuilding, enlargement, or extension, and before commencing any repair or alteration costing in excess of \$1,000.00, the LESSEE will furnish to the CITY for approval the plans for such work, the expense of completing the work, and unless waived by the CITY, a bond or other security in amount, form, and with surety satisfactory to the CITY, conditioned for the commencement and completion and payment for such work, and against loss or damage by reason of mechanics liens, and an insurance policy in an insurance company approved by the CITY protecting the CITY from all liability to persons or property for damages arising out of the contemplated work. The LESSEE shall only proceed with the location of a building upon the leased premises after approval by the CITY of the plans.

B. Whether or not the foregoing bonds, security, and insurance shall be waived, the LESSEE shall:

1) Procure from the necessary authority any building permits that may be required. 2) Do or cause the work to be done in a good and workmanlike manner and to be completed within a reasonable time and in conformity with such building codes, zoning ordinances, or regulations and orders of any lawful authority applicable to the airport. 3) Keep said premises and every building, structure, and improvement on said premises free and clear from all liens for the labor performed and materials furnished therefore. 4) Defend, at its own cost and expense, each and every lien asserted or filed against said land or any part thereof, or against building, structure, or improvement thereon, and pay each and every judgment made or given against said land or building or any part thereof. 5) Indemnify and save harmless the CITY from each and every claim, demand, action, and cause of action (including counsels' and attorneys' fee), arising out of or in connection with any act or omission of the LESSEE, or of any agent, employee, or contractor of the LESSEE, in or about the removal, erection, alterations, enlargement, or extension of any building, structure, or improvement on the said leased premises, or arising out of or in connection with the assertion or filing of any lien on said land or against any building, structure, or improvement thereon.

7. Building Maintenance

The LESSEE, at its own cost and expense, shall take good care of the demised premises and the buildings, structures, and improvements at any time located thereon and all agencies and instrumentalities thereof and therein, and shall keep and maintain the same in good order and repair and in a clean and neat condition, and the LESSEE shall not suffer or permit any waste or nuisance on the demised premises or anything thereon which shall interfere with the rights of

other lessees, the CITY, or the public in connection with the use of portions of said airport not leased to the LESSEE hereunder.

It shall be the duty of the LESSEE to provide adequate security for all property owned, leased, or otherwise held by the LESSEE, its employees, agents, subsidiaries, licensees, or sublessees.

8. Insurance on Buildings

The LESSEE will keep all buildings on the leased premises, continuously during the term of this lease, insured against fire and extended coverage, vandalism and malicious mischief, and windstorm loss or damage for an aggregate amount equal to one hundred percent (100%) of their replacement cost, and any money received from said insurance shall be di
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vided between LESSEE and CITY as their interests may appear; such policies shall be in form satisfactory to CITY, and copies of such insurance policies or certificates thereof evidencing such coverage and that such insurance is payable to CITY and LESSEE shall be furnished to CITY

9. Public Liability and Property Damage Insurance

A. 1) The LESSEE agrees to indemnify and hold harmless the CITY for loss, damage, or injury from act or omission of the LESSEE, its employees, agents, subsidiaries, licensees, and sublessees while on or about said airport to the person or property of the parties hereto and their employees, and to the person or property of any other person or entity, and the CITY shall not be liable to any extent for, nor will the LESSEE make any claim against the CITY for or on account of any injury, loss, or damage to the demised premises, the buildings or structures thereon, the personal property and facilities located therein, or to any person or property at any time on the demised premises whether occasioned by fire, water, smoke, steam, gas, electricity, or other agency or instrumentality which may come or be on the demised premises or occasioned by any other cause.

2) Nothing in this lease shall cause CITY in any way to be construed as partner, joint venturer, or associated in any way with LESSEE in the operation of said premises, or subject CITY to any obligation, loss, charge, or expense connected with or arising from the operation or use of said premises or any part thereof.

B. The LESSEE shall carry liability insurance in at least the amounts set forth below, shall include CITY as an additional named insured, and shall be in form acceptable to the CITY. Copies thereof or appropriate insurance certificates shall be delivered to the CITY and such insurance shall provide a sixty (60) day cancellation notice to the CITY. The CITY reserves the right and LESSEE agrees to revisions upwards or downwards in the minimum insurance requirements hereinafter set forth either by field rule or ordinance of the City Council; provided, however, that any such revision shall be nondiscriminatory.

1) Owners-landlords, Contractual Liability, and LESSEE's bodily injury insurance at a minimum of \$250,000 for all damages arising out of bodily injuries to, or death of, one person; and at a minimum of \$500,000 for damages arising out of bodily injuries to, or death of, two or more persons in any one accident.

2) Owners-landlords, Contractual Liability, and LESSEE's property damage liability insurance at a minimum of \$250,000.

C. Each party hereto waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance subject to the limitation that this waiver shall apply only when permitted by the applicable policy of insurance. The parties hereto agree to use good faith efforts to have any and all fire, extended coverage, or any and all material damage insurance which may be carried endorsed with the following subrogation clause: "This insurance shall not be invalidated should the insurance waive, in writing, prior to a loss any or all right of recovery against any party for loss occurring to the property described therein."

10. LESSEE to Comply with Rules Made by Lawful Authorities

The LESSEE shall comply with all laws of the United States, and State of Minnesota, and the General Lease Page 5

ordinances, rules, regulations, and orders of any of the foregoing or of any department thereof, or of the CITY, relating to said leased premises and with respect to control of ground and air traffic, aircraft operations, the general use of the airport and the CITY zoning ordinances.

11. Payment of Taxes or Other Charges

The LESSEE shall pay all taxes, assessments, license fees, or other charges that may be levied or assessed during the terms of the agreement upon or against any improvements or equipment on said leased premises or on account of the transacting of business thereon by the LESSEE.

Taxes levied by reason of occupancy hereunder shall be in amount additional to rent, whether or not such tax payments under the law are to be included in and paid from rents and rent is subject to adjustment upon and to accomplish the same.

Any fees charged for firefighting services upon the leased premises shall be paid by the LESSEE.

12. Right to Remove Buildings at End of Lease Period

At any termination of this lease, whether on account of default or by lapse of time, if the LESSEE shall have paid all taxes, assessments, rent, and other charges by it payable under the terms of this lease, and shall have kept and performed all the terms and conditions of this lease, LESSEE shall have the privilege of removing from said premises all buildings or property thereof belonging to said LESSEE and shall restore said premises to as good condition as they were in when they were entered upon by the LESSEE, provided the LESSEE does so within ninety (90) days after the termination of this lease. If said buildings or property are not so removed within said ninety (90) day period, the LESSEE hereto upon the expiration of said ninety (90) day period shall vest in the CITY without further act or conveyances; provided, however, that if following commencement of removal or notice of intention to remove, the LESSEE shall demonstrate to the CITY that for reasons beyond the control of the LESSEE such removal cannot be completed within said ninety (90) day period, the CITY shall allow LESSEE the reasonable extension of time for such removal.

13. Hangar Floodlight Required

The LESSEE shall install and maintain a functioning motion sensitive floodlight on the outside wall, above the main hangar door.

14. Automatic Extension of Lease

In the event the LESSEE, through no fault of his/her own, shall suffer loss by reason by being prevented, beyond a reasonable length of time, from using the public portion of the said airport and the public facilities there provided for reasons other than those occasioned by meteorological conditions, or in the event the LESSEE shall suffer loss because any governmental agency by virtue of its sovereign power, beyond a reasonable length of time, stops, suspends, or seriously limits the LESSEE's use of the public portion or public facilities of the said airport for reasons other than fault of the LESSEE, then or in any such event, the LESSEE during such periods shall not be liable for the rent providing the leased premises are not used by the LESSEE or sublessees of the LESSEE and, further, this agreement and lease shall be extended beyond the original termination date hereinbefore stated. It is further agreed that in the event the LESSEE is prevented from using the said premises or the public portion of the airport as hereinbefore stated, that the LESSEE shall not be entitled to any compensation for loss or damage from the CITY other than the automatic extension of lease time as herein provided.

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15. Access to Service and Facilities

LESSEE agrees to promptly pay all claims in addition to its rent for all utilities or other service facilities supplied to or consumed by the LESSEE on the leased premises.

16. CITY to Operate Airport

The CITY itself shall properly maintain, operate, and manage said airport at all times and in a safe manner not dissimilar to generally accepted good practice in the State of Minnesota for airports of similar size and character. If for any reason beyond the control of the CITY (including, but without in any manner limiting the foregoing, war, strikes, riots, civil commotion, and the like), the CITY shall fail to properly maintain, operate, and manage said airport, such failure shall not operate as a breach of this lease or render the CITY liable in damages. This paragraph shall not be construed to bind said CITY to operate an airport traffic control tower at said airport unless in the judgment of said CITY the operation thereof shall be deemed necessary, nor shall this paragraph be construed to bind said CITY to maintain the demised premises.

17. LESSEE's Right to Sublease or Assign

The LESSEE shall not sublet the demised premises, including the granting of any license or concession with respect thereto, nor assign or transfer this lease or sell or transfer the building on the demised premises or permit the foregoing lease to become transferred by operation of law or otherwise, nor do or suffer any acts to be done whereby the same may be or become assigned in whole or in part unless the written consent of the CITY shall first be obtained in each and every case of such subletting, assignment, or transfer as shall from time to time occur or be desired. If LESSEE is a corporation, then any transfer of this lease by merger,

consolidation, or liquidation, or any change in ownership of the shares of voting stock so as to result in a change of the present effective voting control of LESSEE by the person, persons, and/or entity owning a majority of said shares on the date of this lease, shall constitute an assignment of this lease, and as such, shall require the prior written consent of CITY. It is expressly agreed by the LESSEE that in the event permission be granted by the CITY as herein provided, the sub-lessee or assignee shall be required to assume and agree to perform the covenants of this lease, and that notwithstanding any subletting of assignment, the LESSEE shall be and remain liable for the payment of all rents and the performance of all covenants and conditions for the full term of this lease unless the instrument consenting to said subletting, assignment, or transfer shall specifically release the LESSEE therefrom.

18. LESSEE's Right to Mortgage Building

The LESSEE shall have the right to mortgage, subject to any applicable provisions of this lease, the LESSEE's equity in any building, substructures, or improvements constructed by LESSEE on the lease premises, and CITY hereby allows any such mortgagee of buildings, structures, or improvements who acquired title thereto by due process of law to retain the same for a reasonable time after acquisition for the purposes of selling to a new owner who shall be acceptable to CITY as a ground lease LESSEE. The foregoing authorization shall not operate as a waiver on the part of CITY of any of the terms and conditions of this lease with respect to default thereunder or termination thereof.

Mortgages given by the LESSEE to finance construction of buildings, structures, or improvements to be constructed, located, or placed on the leased premises shall have priority over the mortgage lien taken by the CITY under paragraph 21 hereof. The burden shall be on the LESSEE and on the mortgagee to establish that such mortgage has priority hereunder.

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19. CITY's Rights Upon Default

If the LESSEE shall make default:

A. In the payment of the rental reserved herein and such default shall continue for ten (10) days after notice in writing in the manner hereinafter provided, or B. In the observance and performance of any of the other terms, covenants, and conditions of this lease, and such default shall continue for thirty (30) days after such notice, or the LESSEE shall have failed to commence the rectification of such default within thirty (30) days after such notice and to diligently prosecute the same where the same cannot be completed within thirty (30) days, or C. If a petition to reorganize the LESSEE or for an arrangement of its unsecured debts shall be filed, or D. If the LESSEE shall be adjudicated a bankrupt, or E. If a receiver or trustee of the LESSEE's property be appointed by any Court, or F. If the LESSEE shall make a general assignment for the benefit of creditors, or G. If all interest of the LESSEE in its property shall be taken by garnishment, attachment, execution, or other process of law, or H. If the leased premises shall be deserted or vacated, or I. If the LESSEE violates any provision of this lease,

then, and in any such events, it shall be lawful for the CITY:

A. Immediately or at any time thereafter, without further notice to LESSEE, to re-enter into or upon said premises or any part thereof and take possession of the same fully and absolutely

without such re-entry working on a forfeiture of the rents or other charges to be paid and of the covenants, terms, and condition to be performed by the LESSEE for the full term of this lease, and in the event of such re-entry the CITY may proceed for the collection of the rents or other charges to be paid under this lease or for the properly measured damages and for the collection of its reasonable attorneys fees; or

B. CITY may at its election terminate this lease upon written notice in the manner hereinafter provided and re-enter said premises as of its former estate therein and the LESSEE covenants in case of such termination to indemnify the CITY against all loss of rents and expense which the CITY has suffered or paid by reason of such termination, during the residue of the term; or

C. The CITY shall further have all other rights and remedies, including injunctive relief, ejectment, or summary proceedings in the unlawful detainer, and any or all legal remedies, actions, and proceedings and all such shall be cumulative and provided further that CITY shall be entitled to its reasonable attorneys fees incurred in connection with the institution of any such proceedings.

20. Lien on LESSEE's Property

As security for the payment to the CITY of all sums required to be paid by the LESSEE under the terms of this lease, the LESSEE does hereby grant lien upon and does mortgage to the CITY the buildings, structures, or improvements located upon the leased premises pursuant thereto, and does hereby authorize the CITY upon failure of LESSEE to remove any default within the time provided for in paragraph 20, to take said property and sell and dispose of the same, to foreclose the lien hereby created in the manner provided by the laws of the State of Minnesota subject, however, to the lien of mortgages given by the LESSEE to finance the construction of the facilities to be constructed pursuant to this lease, retaining such amount as shall pay any sums due and owing the CITY under the terms of this lease, and any attorney's

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fees and expenses as may have been incurred in connection therewith, and returning the overplus, if any there be, to the LESSEE. In the event of sale, CITY may bid in and become the purchaser of facilities sold under foreclosures hereunder.

21. Condemnation

If it shall be in the public interest, the CITY shall have the power to condemn this lease even though it is itself a party of the lease.

22. Quiet Enjoyment

A. CITY covenants and agrees with the LESSEE that upon the LESSEE's paying said rent and keeping, paying, and performing all the terms, covenants, and conditions of this lease on the LESSEE's part to be kept, said, and performed, the LESSEE shall and may, except for reasons beyond the control of the CITY, peaceably and quietly have and hold the premises hereby leased for the term aforesaid.

B. Notwithstanding the above, the CITY and its agents or representatives shall have the right to enter the premises and buildings thereon, to inspect the same for operations conducted from

the demised premises and for the purpose of making repairs or improvements to any adjoining premises or to the airport, and to install through or upon the premises such pipes, wires, and appurtenances as it may deem necessary or useful to the operation of said airport. However, the making of such repairs, improvements, or installations shall be done in such manner as will not interfere materially with the use and enjoyment of the premises by the LESSEE, except in cases of emergency.

23. Notices

All notices required by law or by the lease to be given to the LESSEE must be written and may be given personally or by depositing the same in the United States mail, postage prepaid, and addressed to the LESSEE at their last known address. Notice shall be deemed given as the date said notice is deposited in the mail. Notices to the City shall be in writing and shall be either hand delivered to the City Administrator, or mailed to the City at the following addresses:

City Administrator Princeton City Hall 705 2nd Street N. Princeton, MN 55371

24. Waiver of Breach

The waiver by the CITY or the LESSEE of any breach of any term, covenant, or conditions herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or conditions herein contained.

25. Severability

It is the intent of both parties hereto that the provisions of this agreement shall be severable if a provision or application thereof shall be declared invalid.

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26. Commitments to Federal or State Agencies

Nothing herein shall be construed to prevent the CITY from making such commitments as it desires to the Federal Government or to the State of Minnesota in order to qualify for the expenditure of Federal or State funds on said airport.

27. Binding on Successors

Except as herein otherwise provided, all the terms, covenants, and conditions of this lease shall be binding upon and inure to the benefit of the legal representative, successors, assigns, and subsidiaries respectively of the CITY and LESSEE.

28. Lease Changes

Any of the terms of this lease can be changed upon the mutual consent of the CITY and the LESSEE, but to be valid any such changes must be in writing and must be executed with the same formalities as this instrument.

29. Lease Renewal

If during the term of this agreement LESSEE shall not have been in default in payment of rents hereunder or in material performance in other requirements hereof, LESSEE shall have a right of first refusal on any lease by which the premises covered by this agreement are demised after the term hereof, including renewal.

30. Termination

If the buildings on the demised premises shall be destroyed, then CITY or LESSEE shall have the right to terminate this lease agreement upon giving of written notice to the other party.

31. Non-Discrimination

The LESSEE for himself, his 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 land 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 said facilities; (2) that in the construction of any improvements on, over, or under such land 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; (3) that the LESSEE shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

In the event of breach of any of the above non-discrimination covenants, the City of Princeton shall have the right to terminate the lease and to re-enter and repossess said land and the leased facilities thereon, and hold the same as if said lease had never been made or issued.

32. Aircraft Registration

The LESSEE agrees that any aircraft which is based at, stored at, or utilizes the facility under this agreement, shall be currently in compliance with aircraft registration requirements set forth in Minnesota Statutes, Chapter 360.

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33. Headings

The headings and phrases as to the contents of particular paragraphs are inserted only as a matter of convenience and for reference and in no way are or are intended to be a part of this lease or in any way to define, limit, or describe the scope or intent of the particular paragraph to which they refer.

IN WITNESS WHEREOF, the parties hereto have executed this lease the day and year first above written, and the LESSEE hereby acknowledges at the time of the making and delivery of this instrument the delivery to it of a full, true, and complete copy thereof.

PRINCETON MUNICIPAL AIRPORT

Date: Brad Schumacher, Mayor

Date: Robert Barbian, City Administrator/Airport Manager

LESSEE(S) –

Date:

Date: