



CROOK COUNTY COURT MEETING
Crook County Annex | 320 NE Court St. | Prineville OR
WEDNESDAY, March 2, 2022 at 9:00 A.M.

Members of the public and media are welcome to attend in person with social distancing
or via WebEx 1-408-418-9388; Access Code: 126 320 5412; Meeting Password: VFmR4z4PaM3

CONSENT AGENDA

(Routine matters which are not expected to generate discussion and are approved in a single vote. Any member of the Court may request removal of an item for separate discussion or vote.)

1. Approve Minutes of February 15, 2022 and February 22, 2022 work session and February 16, 2022 Regular Meeting
2. Approve Wilkins Hangar Lease
3. Approve Coney Hangar Lease
4. Approve Cardboard Dropbox Purchase for Landfill
5. Approve Braatz New Build Hangar Lease
6. Approve Braatz/Burnett Hangar Lease
7. Approve Amendment to Community Mental Health Program Agreement with PacificSource
8. Approve Termination Amendment to Pharmacy Services Agreement

SCHEDULED APPEARANCES

- | | |
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| 9. Stock Growers Fee Waiver Request | Requester: Bill Elliott |
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DISCUSSION

- | | |
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| 10. Indoor Arena Kitchen Repair Bid | Requester: Casey Daly |
| 11. Single Lot Partition for County Owned Property | Requester: Will VanVactor |
| 12. Public Hearing: Order 2022-07 Findings for Belknap Exhibit Center CM/GC | Requester: John Eisler |
| 13. Ratification of Jail Pharmacy Consulting Services Agreement | Requester: Eric Blaine |
| 14. Second Reading, Public Hearing, Ordinance 330, Amending Titles 17 & 18 of the Crook County Code, Adopting Additional Procedural Clarity, Streamlining Application Processes, and Expanding Options for Local Residents, and Declaring an Emergency | Requester: Eric Blaine |

EXECUTIVE SESSION – None Scheduled

**The Court may add additional items arising too late to be part of this Agenda. Agenda items may be rearranged to make the best use of time.*

**The meeting location is accessible to persons with disabilities. If additional accommodations are required, please submit your request 48 hours prior to the meeting by contacting County Administration at 541-447-6555.*

NOTICE AND DISCLAIMER

The Crook County Court is the governing body of Crook County and holds public meetings (generally on the first and third Wednesday of each month) to deliberate upon matters of County concern. As part of its efforts to keep the public apprised of its activities, the Crook County Court has published this PDF file. This file contains the material to be presented before the County Court for its next scheduled regular meeting.

Please note that while County staff members make a dedicated effort to keep this file up to date, documents and content maybe added, removed or changed between when this file is posted online and when the County Court meeting is held. The material contained herein maybe changed at any time, with or without notice.

CROOK COUNTY MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY WARRENTY OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE OR FOR ANY OTHER MATTER. THE COUNTY IS NOT RESPONSIBLE FOR POSSIBLE ERRORS, OMMISSIONS, MISUSE OR MISINTERPERTATION.

Please also note that this file does not contain any materials scheduled to be discussed at an executive session or material the access to which maybe restricted under the terms of Oregon law.

If you are interested in obtaining additional coples of any of the documents contained herein, they maybe obtained by completing a Crook County Public Records Request form. Request forms are available on the County's website.

**CROOK COUNTY COURT MINUTES
OF FEBRUARY 15, 2022 WORK SESSION
Open Portion**

Be It Remembered that the Crook County Court met in a regularly scheduled Work Session on February, at 9:00 a.m. in the Administration Conference room located at 203 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via WebEx: Legal Counsels Eric Blaine and John Eisler; Administration Executive Assistant Amy Albert; Legal Assistant Lindsay Azevedo; Director Dodge Kerr; Road Master Bob O'Neal; Shop Superintendent James Staniford; Budget Analyst Jamie Berger; Mike Ervin and Caroline Ervin.

WORK SESSION

The meeting was **called to order at 9:00 a.m.**

Agenda Item #1, ARPA Funds: Caroline Ervin the Capital Project Manager for the City of Prineville attended the Work Session to discuss the American Rescue Plan Act (ARPA) funding. Ms. Ervine discussed how the money can be spent and when the money must be spent. The County will be required to prepare and submit a yearly audit regarding the ARPA funds.

Agenda Item #2, Natural Advisory Committee's Proposed Letter re HR 1755: The Natural Resources Advisory Committee provided a letter to County Court for their signature in opposition to HR 1755. The passing of this bill would affect twenty-three million acres of wilderness in the Western United States. County Court is in support of the letter with a few corrections.

MOTION to letter regarding Bill 1755 with corrections to be signed outside of Court. Motion seconded. No further discussion. Motion carried 3-0.

Agenda Item #3, Increase in County Match for the Ochoco Ranger Station Road Project: Road Master Bob O'Neal received correspondence from Craig Sanders stating the overlay cost to the Ochoco Ranger Station has increased. The County needs to contribute a 10% match for this project, the estimated match cost is \$424,277.12. The County will be reimbursed for any unused funds.

MOTION to confirm County can provide matching funds for overlay to Ochoco Ranger Station. Motion seconded. No further discussion. Motion carried 3-0.

At 9:25 a.m. the Court read into Executive Session under the following statute(s): ORS 192.660(2)(e) For the purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions, ORS 192.660(2)(e) For the

purpose of conducting deliberations with persons designated by the governing body to negotiate real property transactions and ORS 192.660(2)(h) Consulting with Counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

EXECUTIVE SESSION

The executive session under ORS 192.660(2)(e) was continued until 11:00 a.m., Commissioner Barney was absent from this session.

At the conclusion of the Executive Session, the County Court convened back into Open Session, inviting members of the public into the meeting room.

MOTION to delegate Judge Crawford to sign the closing documents as discussed in executive session. Motion seconded. No further discussion. Motion carried 2-0. There being no further business before the Court, the meeting was **adjourned at 11:28 a.m.**

Respectfully submitted,

Amy Albert

**CROOK COUNTY COURT MINUTES
OF FEBRUARY 22, 2022 WORK SESSION
Open Portion**

Be It Remembered that the Crook County Court met in a regularly scheduled Work Session on February 22, 2022, at 9:00 a.m. in the Administration Conference room located at 203 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via WebEx: Legal Counsels Eric Blaine and John Eisler; Administration Executive Assistant Amy Albert; Legal Assistant Lindsay Azevedo; Sheriff John Gautney; Director Dodge Kerr; Rick Trevleaven and Angela Cumming.

WORK SESSION

The meeting was **called to order at 9:00 a.m.**

Agenda Item #1, Proposed Amendment to Community Mental Health Program Agreement with Pacific Source: Rick Trevleaven of Best Care appeared before the Court to discuss the Community Mental Health Program (CMHP) contract with PSCS. The contract is negotiated on an annual basis. Best Care received a 1.9% increase in capitated payments.

Additional Item: Commissioner Barney asked the Court to review the Deschutes Basin Drought Declaration since the County will most likely need to consider signing an Order declaring a drought in Crook County. This matter will be considered in March once OID has released more research.

At 9:23 a.m. the Court read into Executive Session under the following statute(s): ORS 192.660(2)(h) Consulting with Counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed and ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection.

EXECUTIVE SESSION

At the conclusion of the Executive Session, the County Court convened back into Open Session, inviting members of the public into the meeting room.

MOTION to direct staff to correspond with counter party as discussed in executive session. Motion seconded. No further discussion. Motion carried 3-0.

MOTION to direct staff to correspond with counter party as discussed in executive session. Motion seconded. No further discussion. Motion carried 3-0. There being no further business before the Court, the meeting was **adjourned at 10:00 a.m.**

Respectfully submitted,

Amy Albert

**CROOK COUNTY COURT MINUTES
OF FEBRUARY 16, 2022 REGULAR MEETING
Open Portion**

Be It Remembered that the Crook County Court met in a Regular Court meeting on February 16, 2022, at 9:00 a.m. in the County meeting room located at 320 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via WebEx: Legal Counsels Eric Blaine and John Eisler; Administration Executive Assistants Amy Albert; Legal Assistant Lindsay Azevedo; Road Master Bob O'Neal; Shop Superintendent James Staniford; Manager Tim Deboodt; Director Will VanVactor; Manager Brent Bybee; Planner Katie McDonald; Director Dodge Kerr; Sheriff John Gautney; Manager Casey Daly; Office Assistant Micaela Halvorson; Budget Analyst Jamie Berger and Monty Kurtz.

REGULAR SESSION

The meeting was **called to order at 9:00 a.m.**

MOTION to approve the Consent Agenda as presented with these changes. Motion seconded. No discussion. Motion carried 3-0.

Additional Item: The Sheriff's Office had a last-minute request for the purchase of a new vehicle as one of theirs is unexpectedly out of commission. Three price quotes were provided with a memo recommending the 2019 Ford F-150 from Kendal Ford as presenting the best value to the County.

MOTION to purchase of 2019 Ford F-150 pickup for the purchase price of \$43,279.11. Motion seconded. No further discussion. Motion carried 3-0.

Discussion item #6: Fairgrounds Office Assistant, Micaela Halvorson applied for and received the Cultural Coalition Grant. The grant will allow individuals who are less privileged or handicapped to shadow FFA members at fair.

MOTION to approve grant from Cultural Coalition for the Fairgrounds in the amount of \$2,500. Motion seconded. No further discussion. Motion carried 3-0.

Discussion item #7: Ordinance 329 destination resort bond compliance for over night lodging unit was read by title only for the second time. A public hearing was opened on this matter, with no comment from the public the hearing was closed. Ordinance 329 will go into effect once it is recorded by the Clerk's Office.

MOTION to read by title only. Motion seconded. No further discussion. Motion carried 3-0.

MOTION to approve Ordinance 329. Motion seconded. No further discussion. Motion carried 3-0.

Discussion item #8: Ordinance 330 amending titles 17 and 18 of the Crook County code was read by title only for the first time. A public hearing was opened on this matter, with no comment from the public the hearing was closed. This matter will be on the March 2nd agenda for the second public hearing.

MOTION to read by title only. Motion seconded. No further discussion. Motion carried 3-0.

At 9:13 a.m. the Court convened into Executive Session under the following statute(s): ORS 192.660(2)(i) To review and evaluate the employment-related performance of the chief executive officer of a public body, a public officer, employee or staff member who does not request an open hearing.

EXECUTIVE SESSION

At the conclusion of the Executive Session, the County Court convened back into Open Session, inviting members of the public into the meeting room.

There being no further business before the Court, the meeting was **adjourned at 10:05 a.m.**

Respectfully submitted,

Amy Albert

Crook County Counsel's Office

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• Fax: 541-447-6705



MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: February 15, 2022

RE: Wilkins Hangar Lease
Our File No.: Airport 43

Enclosed is a new hangar lease with Wilkins Holdings, LLC involving hangar space at 4075 Aviation Blvd. As a quick refresher, the hangars at the airport are typically retained by the lessee as personal property, while the County retains ownership of the real property.

Wilkins' new lease is on our standard form and for twenty years with an option to renew for another ten years. This lease will begin at the rate of \$0.28 per square foot, with an adjustment at the start of the year (along with all other hangar leases) based on CPI. Kelly Coffelt recommends approval. Please let me know if you have any questions.

Please place this memo and the attached document(s) on the Wednesday, March 2, 2022, County Court Agenda as a CONSENT ITEM, for approval and signatures.

CROOK COUNTY/PRINEVILLE AIRPORT S39 GROUND LEASE AND USE AGREEMENT

This Crook County Prineville Airport S39 Ground Lease and Use Agreement (“Agreement” or “Lease”) is made and entered into this ____ day of February, 2022 (the “Commencement Date”), by and between Crook County, a political subdivision of the State of Oregon (“County,” or “Lessor”) and Wilkins Holdings, LLC (“Lessee”). Lessor and Lessee may hereinafter be referred to as the “Parties” or individually as a “Party.”

RECITALS

WHEREAS, County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport);

WHEREAS, the Airport is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager (the Airport Manager and any persons or entities hereafter responsible for the management of the Airport shall be referred to as the “Manager”);

WHEREAS, the Airport is the recipient of certain Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants, with County as sponsor, and is thus subject to ongoing compliance with all FAA regulations and guidance;

WHEREAS, Lessee desires to lease from Lessor and use certain Airport land and engage in certain non-commercial aeronautical activities at the Airport; and

WHEREAS, Lessor desires to lease to Lessee certain Airport land.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. PREMISES.

A. Leased Premises.

Lessor hereby leases to Lessee, pursuant to the rents, conditions, and provisions herein, 4200 square feet of ground space (the “Leased Premises”) at the Airport in Crook County, Oregon, with a street address of 4219 Aviation Blvd. and identified and generally described on Exhibit A, attached and incorporated herein.

B. Condition of Leased Premises.

Lessee warrants and represents that Lessee has carefully and completely examined and inspected the Leased Premises and Lessee fully understands its responsibilities and obligations with respect to the Leased Premises and this Agreement. Lessee accepts the Leased Premises in an “AS IS”, “WHERE IS” condition without representation or warranties from Lessor as to the condition, suitability, or sufficiency of the Leased Premises for engaging in the non-commercial aeronautical activity described or contemplated by this Agreement. To the best of Lessor’s knowledge, the Leased Premises complies with all applicable federal, state, and local environmental regulations and standards. Lessee agrees that it has inspected the Leased Premises and is fully

advised of its own rights without reliance upon any representation made by Lessor concerning the environmental condition of the Leased Premises. Lessee, at its sole cost and expense, agrees that it shall be fully responsible for the remediation of any violation of any applicable federal, state, or local environmental regulations or standards that is caused by Lessee, its officers, agents, servants, employees, contractors, subcontractors, or invitees.

2. LEASE TERM.

A. Initial Term.

Starting on the Commencement Date, the Leased Premises will be leased for a term of 30 years (the “Initial Term”), unless earlier terminated pursuant to the terms of this Lease.

B. Extended Term.

If Lessee is not in default under the Lease, Lessee has the option to extend the term for one additional period(s) of 10 years (the “Extended Term”) by providing written notice thereof to Lessor not more than 180 days or less than 90 days before the expiration of the Initial Term or the current Extended Term (for purposes of this Agreement, both the Initial Term and Extended Term may hereafter be referred to simply as the “Term”), on the condition that said written notice includes as an exhibit a professional, independent commercial inspection of the hangar and improvements, performed no more than six months before the date of the written notice, showing an expected useful life of the hangar of greater than 1.5 times the requested Extended Term.

C. Holdover.

There shall be no holdover period. Should Lessee remain in possession after the expiration of the Term, Lessee will be considered a tenant at sufferance, which Lessor may consider as triggering the termination, remedy, and surrender provisions of sections 16 – 18 below at any time without notice and Lessee will be liable for any and all damages resulting from such unauthorized holdover (including but not limited to any and all damages that Lessor is required to pay a new tenant for failing to timely deliver any portion of the Leased Premises or the improvements).

3. RENT.

A. Initial Rent.

Lessee shall pay Initial Rent of \$30,030.00 plus Rent, as defined in paragraph B, below, prorated for the current year ending December 31. Rent for the first year is due and payable upon the signing of this Lease.

B. Rent for Term.

Subject to paragraph C below, Lessee shall pay annual Rent at the rate of \$0.28 per square foot for the Leased Premises space for a total of \$1,176.00 per year of this lease term. Rent for each subsequent year of the Term is due each January 1. Any payments not received by January 1 will trigger the default provisions of 16.B.i below. All payments shall be made to the Manager. Manager hereby reserves the right to institute additional rent, in his sole discretion and not to exceed one-half of the base rent, calculated to cover documented common-area maintenance expenses and applicable to all Airport tenants.

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C. Adjustment of Rent.

Rent will be adjusted annually effective on January 1st (the “Adjustment Date”). Manager will deliver notice to Lessee of the amount of the adjustment and the new Rent not less than 30 days before Rent is due each year, calculated pursuant to the provisions below.

i. Annual Adjustment.

For the duration of the Term, before each annual due date for Rent except for those years subject to an Appraisal Adjustment in subsection ii below, County will adjust the rent in the same percentage as the increase, if any, in the Consumer Price Index (the “Index”) published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled “U.S. City Average, All Items, All Urban Consumers, 1982–84=100” for the year of the Commencement Date or the prior year’s Rent, as applicable, and the latest figures preceding the current Adjustment Date. All comparisons will be made using Index figures derived from the same base period and in no event will this provision operate to decrease Rent. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

ii. Appraisal Adjustment.

At five-year intervals, beginning for the year 2020, Lessor will procure an Appraisal Report, consistent with Title XI of the Financial Institutions Reform, Recover, and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice (USPAP) to ascertain Fair Market Rent for all leased space at the Airport.

4. CONSTRUCTION AND IMPROVEMENTS.

A. Mandatory Improvements.

Lessee covenants and agrees that it shall construct a hangar and related improvements (collectively the “Project”) on the Leased Premises. The Project and any future alterations, additions, replacements, or modifications to the Project are referred to as the “Improvements.” Completion of the Project in a good and workmanlike manner is required as a condition of this Lease within twelve months of the Commencement Date. Lessee shall construct the Project in accordance with final plans and specification approved by the City in writing. Lessee is solely responsible for the required building permits. Construction of the outside of the hangar building above the concrete slab shall be completely finished 90 days following commencement of framing the hangar. Notice for the Project and any Improvements shall be submitted through the Manager to the FAA as required by FAA rules.

B. Survey.

Lessee, at Lessee’s sole expense, shall have a legal survey of the Leased Premises completed by a licensed surveyor. Lessee must provide copies of the survey to Manager and a certificate indicating that the footprint of the building is in the correct location according to the master plan prior to the start of framing.

C. Authorization for Discretionary Improvements.

Following completion of the Project, Lessee may, at its sole discretion, perform modifications, renovations, improvements, or other construction work on or to the Leased Premises so long as it first submits all plans, specifications and estimates for the costs of the proposed work in writing and also requests and receives in writing approval from the Manager. Manager agrees to respond in writing to Lessee’s requests for approval

within 30 calendar days of receipt of such requests. Lessee covenants and agrees that it shall fully comply with all provisions of this section 4 in the undertaking of any such Improvements.

D. Process for Approval of Plans.

Lessee's plans for the Project and any Improvements shall conform to the Airport's architectural standards. Lessee must also receive written approval, where required by law, from the FAA and local planning and building authorities. All plans, specifications, and work shall conform to all federal, state, and local laws, ordinances, rules, and regulations in force at the time the plans are presented for review.

E. Documents.

Lessee shall supply the Manager with comprehensive sets of documentation relative to the Project and any Improvements, including at a minimum, as-built drawings of each project in computer format, if possible.

F. Title to Improvements.

Title to the Project and all Improvements constructed by Lessee during the Term will be and will remain in the Lessee during the Term of the Lease. During the Term, Lessee is entitled, for all taxation purposes, to claim cost-recovery deductions and the like on all Improvements constructed by Lessee. Following the expiration of the Term or earlier termination of this Lease, title to the Improvements will pass pursuant to sections 13 and 16 below.

G. Lessor Cooperation.

Lessor, through the Manager, agrees to cooperate with Lessee in all respects in connection with Lessee's construction of the Project and any Improvements, provided that Lessor will not be required to pay any application fees or incur any other costs or liabilities in connection with the Improvements. Manager will appear as a witness in any legal or administrative proceedings to the extent reasonably necessary to construct the Project and Improvements.

5. USE OF LEASED PREMISES.

A. Permitted Uses.

The primary purpose of this Agreement is for Lessee to store aircraft in a hangar on the Leased Premises. As such, the following non-commercial aeronautical uses are permitted:

- Storage of aircraft;
- Shelter for maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft;
- Storage of aircraft handling equipment, e.g., tow bar, glider tow equipment, workbenches, and tools and materials used to service, maintain, repair or outfit aircraft; items related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of materials related to an aeronautical activity, e.g., balloon and skydiving equipment, office equipment, teaching tools, and materials related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar, e.g., furniture or televisions;
- Construction of amateur-built or kit-built aircraft, provided that activities are conducted safely; and
- Storage of a vehicle parked at the hangar while the aircraft usually stored in that hangar is flying, subject to Airport rules and regulations as currently in effect or may hereinafter be implemented.

B. Prohibited Uses.

Prohibited uses include, but are not limited to the following:

- Use as a residence;
- Operation of a non-aeronautical business, e.g., limo service, car and motorcycle storage, storage of inventory, non-aeronautical business office;
- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar;
- Activities which displace the aeronautical contents of the hangar or impede access to aircraft or other aeronautical contents of the hangar;
- Storage of household items that could be stored in commercial storage facilities;
- Long-term storage of derelict aircraft and parts;
- Storage of items or activities prohibited by local or state law;
- Fuel, and other dangerous and Hazmat materials; and
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

C. Commercial Activity.

Lessee may not conduct any commercial activity on or near the Leased Premises without Manager's prior written consent. Lessee may use the Leased Premises and hangar to store the aircraft, even if the aircraft is used to support a commercial activity, but only if no commercial activity aside from mere storage of the aircraft takes place in or near the hangar. Duly registered non-profit flight clubs and subletting the Leased Premises are not considered a commercial activity under this section.

D. Hazardous Materials.

Hazardous materials stored in the hangar must be stored in Department of Transportation and OSHA approved containers and disposed of per hazardous waste requirements, as required by law. The total volume of stored hazardous materials may not exceed 5 US gallons. The storage of engine oil, in the manufacturer's original containers, will not be included in the calculation of the total allowable storage volume. To minimize fire hazard and hazardous waste contamination issues, the following actions are prohibited in the hangar: using combustible chemicals or cleaning solvents, fuel system draining, fuel system repair (except where the fuel system has been drained), chemical stripping, chemical washing, and painting (except as described elsewhere in this Agreement). Any hot work (i.e., cutting, welding, brazing, soldering, and grinding) may not be performed inside the hangar; any such work performed in the hangar itself must be done by a person properly licensed to perform such work. Lessee, and all persons performing work on Lessee's behalf, must at all times comply with all applicable current state and local laws, ordinances, regulations, and fire prevention codes.

6. COMPLIANCE WITH ALL LAWS.

Lessee hereby agrees to comply with all local, state, and federal laws, ordinances, guidance, rules and regulations as they may exist or be enacted in the future. Moreover, Lessee makes the following covenants.

A. Non-Discrimination.

The Lessee and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed,

maintained, or otherwise operated on the said property described in this lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The Lessee and all heirs, successors, 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; and
- (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

If Lessee provides any services at the Airport in relation to this Lease, Lessee hereby covenants that it will furnish said services on a reasonable basis to all users thereof, charge reasonable prices for each unit or service, and not unjustly discriminate in any manner thereof.

B. Federal Requirements.

Lessor is bound to comply with the following federal laws, executive orders, and regulations; Lessee will take no action to interfere with Lessor's compliance and will not take any act in violation itself:

i. Federal Laws.

- a. Title 49, U.S.C., subtitle VII, as amended;
- b. Davis-Bacon Act - 40 U.S.C. 276(a), *et seq.*;
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, *et seq.*;
- d. Hatch Act – 5 U.S.C. 1501, *et seq.*;
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, *et seq.*;
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f);
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c;
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, *et seq.*;
- i. Clean Air Act, P.L. 90-148, as amended;
- j. Coastal Zone Management Act, P.L. 93-205, as amended;
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a;
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f));
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794;

- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), (prohibits discrimination on the basis of disability);
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, *et seq.*;
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended;
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, *et seq.*;
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373;
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, *et seq.*;
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1;
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, *et seq.*;
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended;
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, *et seq.*;
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706; and
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252);

ii. Federal Regulations.

- a. 2 CFR Part180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement);
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- c. 2 CFR Part 1200 – Non-procurement Suspension and Debarment;
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures14 CFR Part 16 - Rules of Practice for Federally Assisted Airport Enforcement Proceedings;
- e. 14 CFR Part 150 - Airport noise compatibility planning;
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services;
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964;
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates;
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States;
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act);
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements);
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments; and

m. 49 CFR Part 20 - New restrictions on lobbying.

iii. Executive Orders.

- a. Executive Order 11246 - Equal Employment Opportunity;
- b. Executive Order 11990 - Protection of Wetlands;
- c. Executive Order 11998 –Flood Plain Management;
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs;
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction;
- f. Executive Order 12898 - Environmental Justice;
- g. Executive Order 13788 - Buy American and Hire American; and
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects.

7. RIGHTS AND RESERVATIONS OF LESSOR.

A. Hazards.

Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, including, but not limited to, the right to prevent Lessee from erecting or permitting to be erected any building or other structure which, in the opinion of Lessor, would limit the usefulness of the Airport, constitute a hazard to aircraft or diminish the capability of existing or future avigational or navigational aids used at the Airport.

B. Development.

Lessor 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. Accordingly, nothing contained in this Lease shall be construed to obligate Lessor to relocate Lessee as a result of any such Airport developments or improvements.

C. Subordination.

This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States Government, which relates to the operation or maintenance of the Airport and is required as a condition for the expenditure of federal funds for the development, maintenance or repair of Airport infrastructure. In the event that any such existing or future agreement directly causes a material restriction, impairment or interference with Lessee's primary operations on the Premises (Limitation) for a period of less than seven calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation.

If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period:

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and

(iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon 30 days' written notice to Lessor.

D. National Emergencies.

During any war or national emergency, Lessor shall have the right to lease any part of the Airport, including its landing area, to the United States Government. In this event, any provisions of this instrument which are inconsistent with the provisions of the lease to the Government shall be suspended. Lessor shall not be liable for any loss or damages alleged by Lessee as a result of this action. However, nothing in this Lease shall prevent Lessee from pursuing any rights it may have for reimbursement from the United States Government. If any lease between Lessor and the United States Government executed pursuant to this section D directly causes a Limitation for a period of less than seven (7) calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven (7) calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation. If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and
- (iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then:

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon 30 days' written notice to Lessor.

E. Sponsor Assurances.

Lessor covenants and agrees that during the term of this Lease it will operate and maintain the Airport and its facilities as a public airport consistent with and pursuant to the Sponsor's Assurances given by Lessor to the United States Government through the Federal Airport Act; and Lessee agrees that this Lease and Lessee's rights and privileges hereunder shall be subordinate to the Sponsor's Assurances.

F. Easements.

Lessee's rights hereunder shall be subject to all existing and future utility and drainage easements and rights-of-way granted by Lessor for the installation, maintenance, inspection, repair or removal of facilities owned or operated by electric, gas, water, sewer, communication or other utility companies. Lessee's rights shall additionally be subject to all rights granted by any ordinance or statute which allows utility companies to use publicly owned property for the provision of utility services.

G. Rights of Ingress and Egress.

Lessor agrees Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways for automobiles and taxiways for aircraft including access during the construction phase of airport improvements, unless otherwise agreed to in writing by both parties. Such rights shall be consistent with the rules and regulations with respect to the occupancy and use of airport premises as adopted from time to time by the County and by the Federal Aviation Administration or any other state, federal, or local authority.

H. Relocation of Hangar and Leased Premises.

The precise location of the Premises where the Hangar is located is subject to County's discretion and modification. County may compel relocation of the Hangar at any time, in which case County will be responsible for all reasonable relocation costs. Lessee will be responsible for all Hangar relocation/reassembly costs when the relocation/reconstruction is at the request and sole benefit of the lessee, or if relocation is due to termination of this Agreement.

8. TAXES AND ASSESSMENTS.

Lessee agrees to timely pay any and all federal, state, or local taxes or assessments which may lawfully be levied against Lessee due to Lessee's use or occupancy of the Leased Premises or any improvements or property placed on the premises by Lessee as a result of its occupancy. Lessee shall furnish to the Manager a receipt showing said taxes or assessments are paid within thirty days of payment.

9. INSURANCE.

Lessee shall be responsible for any and all property damage insurance for Lessee's hangar, aircraft, and other property on the Leased Premises. Additionally, Lessee, at its sole cost and expense, shall procure and maintain at all times, in full force and effect during the Term of this Lease, a policy or policies of insurance, naming Crook County and the employer of Manager (currently, City of Prineville) as additional insureds and covering all risks arising directly or indirectly out of Lessee's activities at the Leased Premises, including but not limited to (1) coverage for hangar premises liability of others; (2) aircraft liability; and (3) if Lessee or any occupant of the Leased Premises has property of others, including aircraft, in their care, custody, or control then they shall maintain hangar keeper's liability coverage with limits adequate to cover the potential damage. The limits for all such policies shall be the current statutory limit of liability for Lessor under the Oregon Tort Claims Act or \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whichever is higher. Evidence of the required insurance coverages issued by an insurance company satisfactory to Lessor shall be provided to Manager by way of a Lessor-approved certificate of insurance upon commencement of this Agreement and each time Rent is due. The certificate of insurance shall contain a requirement that the insurance company notify Manager 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Lessee shall provide written notice to Manager within two calendar days after Lessee becomes aware that its coverage has been cancelled or has been materially changed. Regardless of what circumstances caused Lessee's insurance coverage to cease or be modified, it is Lessee's responsibility to notify Manager.

10. UTILITIES.

Lessee, at Lessee's sole cost and expense, shall be responsible for the installation and use of all utility services to all portions of the Leased Premises and for all other related utility expenses, including but not limited to deposits and expenses required for the installation of meters, if necessary. Lessee further covenants and agrees to pay all costs and expenses for any extension, maintenance, or repair of any and all utilities serving the Leased Premises. In addition, Lessee agrees that all utilities, air conditioning and heating equipment, and

other electrically operated equipment which may be used on the Leased Premises shall fully comply with all applicable Mechanical, Electrical, Plumbing, Building, and Fire Codes, as they exist or may hereafter be amended. Lessee expressly waives any and all claims, including a claim of Lessor's default of this Agreement, against County for compensation for any and all loss or damage sustained by reason of any defect, deficiency, interruption, or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, electrical supply system, or electrical apparatus or wires serving the Leased Premises.

11. MAINTENANCE AND SAFETY ISSUES.

A. Maintenance and Repairs by Lessee.

Lessee understands that this is a term lease and agrees to keep and maintain the Leased Premises in a good, clean and sanitary condition at all times, reasonable wear and tear excepted. Lessee covenants and agrees that it will not make or suffer any waste of the Leased Premises. Lessee, at Lessee's sole cost and expense, will make all repairs or replacements necessary to prevent the deterioration in condition or value of the Premises, including, but not limited to, the maintenance of and repairs to all hangars and other structures, doors, windows and roofs, and all fixtures, equipment, utilities, hangar modifications and surrounding pavement on the Premises. Lessee must paint the exterior of the hangar, as needed and reasonably directed by Lessor, with specifications and color to be approved in writing by the Manager. Lessee shall be responsible for all damages caused by Lessee, its agents, servants, employees, contractors, subcontractors, licensees or invitees, and Lessee agrees to fully repair or otherwise cure all such damages at Lessee's sole cost and expense.

Lessee agrees that all improvements, trade fixtures, furnishings, equipment and other personal property of every kind or description which may at any time be on the Leased Premises shall be at Lessee's sole risk or at the sole risk of those claiming under Lessee. Lessor shall not be liable for any damage to such property or loss suffered by Lessee's business or business operations which may be caused by the bursting, overflowing or leaking of sewer or steam pipes, from water from any source whatsoever, or from any heating fixtures, plumbing fixtures, electric wires, noise, gas or odors, or from causes of any other matter.

B. Access.

Lessor/Manager shall have the right and privilege, through its officers, agents, servants or employees, to inspect the Leased Premises. Except in the event of an emergency, Lessor shall conduct such inspections during Lessee's ordinary business hours and shall use its best efforts to provide Lessee at least twenty-four hours' notice prior to any inspection. Lessee will permit the Crook County Fire and Rescue (CCFR) Fire Marshal or his or her authorized agents to inspect the Leased Premises, and Lessee will comply with all requirements of the Fire Marshal or his or her authorized agents that are necessary to bring the Leased Premises into compliance with all applicable fire and building code requirements regarding fire safety, as such provisions exist or may hereafter be amended. Lessee shall maintain in proper condition accessible fire extinguishers of a number and type approved by the Fire Marshal or his or her authorized agents for the particular hazard involved.

C. Inspections and Repairs.

If Lessor/Manager determines during an inspection of the Leased Premises that Lessee is responsible under this Lease for any maintenance or repairs, Lessor shall notify Lessee in writing. Lessee agrees to begin such maintenance or repair work diligently within 30 calendar days following receipt of such notice and to then complete such maintenance or repair work within a reasonable time, considering the nature of the work to be done. If Lessee fails to begin the recommended maintenance or repairs within such time or fails to complete

the maintenance or repairs within a reasonable time, Lessor may, in its discretion, perform such maintenance or repairs on behalf of Lessee. In this event, Lessee will reimburse Lessor for the cost of the maintenance or repairs, and such reimbursement will be due on the date of Lessee's next annual Rent payment following completion of the maintenance or repairs.

D. Repairs Required of Lessor.

During any inspection, Lessor may perform any obligations that Lessor is authorized or required to perform under the terms of this Lease or pursuant to its governmental duties under federal, state, or local laws, rules, or regulations.

12. ASSIGNMENT, SUBLETTING, AND SUBORDINATION.

A. Limitations on Transfers.

Except as permitted under paragraph C below and section 15 below, Lessee must not, voluntarily or by operation of law, sell or transfer this Lease or any interest therein, sublet the Leased Premises or any part thereof, or grant any right to use the Leased Premises, the improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Lessor, which must not be unreasonably withheld. Any attempted Transfer without such prior written consent will be void. Lessor's consent to a Transfer will in no event release Lessee, any assignee, sublessee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease (including any liabilities or obligations arising during the Extended Term), nor relieve Lessee from the requirement of obtaining Lessor's prior written consent to any further Transfer. Lessor's acceptance of Rent from any other person will not be deemed to be a waiver by Lessor of any provision of this Lease or consent to any Transfer. The failure or refusal of Lessor to approve a requested Transfer shall not relieve Lessee of its obligations hereunder, including payment of Rent.

If Lessee is a corporation, partnership, limited liability company, or other entity or unincorporated association, then any Transfer of this Lease by merger, consolidation, liquidation, or change in the ownership of or power to vote the majority of the ownership interest of Lessee, will constitute a Transfer for the purposes of this Article.

B. Assignments Prohibited.

Except in the case of an assignment pursuant to a probate proceeding or for estate planning purposes, all assignments of this Agreement are prohibited. An assignment prohibited within the meaning of this section 12 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise, or the creation of new stock or ownership interests, by which ownership or control of an aggregate of more than 50 percent of Lessee's stock or ownership interests must vest in a party or parties who are non-stockholders, partners, or members, as applicable, as of the Commencement Date.

C. Subletting.

Lessee has the right to sublet portions of the Leased Premises or the improvements only upon prior written consent from the Manager and only for a term or terms that will expire before the expiration of the Term. Upon written request by Lessor, Lessee will promptly deliver to Lessor complete copies of any and all subleases. Each sublease must contain the following terms and conditions:

- (a) The sublease will incorporate the terms, conditions, and covenants set forth in, and state that it is subject and subordinate to, this Lease and to any extensions, modifications, or amendments of this Lease;

(b) That rents due under the sublease (i) have been assigned to Lessor (and Lessee hereby assigns the rents to Lessor), to support performance of Lessee's covenants under this Lease, which assignment will be effective only on the occurrence of any event of default by Lessee under this Lease; and (ii) will, on receipt of written notification from Lessor that an event of default has occurred under this Lease, be paid by the subtenant directly to Lessor, subject to section 15, until the subtenant receives written notice from Lessor that Lessee has cured the event of default or is in the process of curing the event of default in a manner reasonably satisfactory to Lessor;

(c) If any act or omission of Lessee would give subtenant the right, immediately or after lapse of a period of time, to cancel or terminate the sublease, or to claim a partial or total eviction, subtenant will not exercise that right: (i) until it has given written notice of the act or omission to Lessor; and (ii) until a reasonable period of time for Lessor to cure the condition has passed.

13. SALE OF THE HANGAR AND IMPROVEMENTS.

If at any time during the Term or at the expiration of the Term, Lessee intends to sell the Improvements on the Leased Premises, Lessee hereby grants Lessor a right of first offer to purchase on the terms and conditions at which Lessor proposes to sell the property to a third party. Lessee shall give Manager written notice of its intent to sell and shall indicate the terms and conditions (including the sale price) upon which Lessee intends to sell the Improvements to a third party. Lessor shall thereafter have sixty days to elect in writing to purchase the Improvements. If Lessor declines to elect in writing to purchase the Improvements, Lessee may elect to sell to any third party upon the advance written approval of the Manager, which will not be unreasonably withheld—failure to do so may place the buyer in the untenable position of occupying space on County property without authorization to do so, trigger the termination, remedy, and surrender provisions of sections 16 - 18 below, and may result in legal action. Lessee's notice of intent to sell must include the name and contact information of the prospective buyer and the sale price. Provided, however, if the price at which Lessee intends to sell the Improvements is less than 90% of the price set forth in the notice of right of first offer to purchase, then Lessee shall again offer Lessor the right to acquire the Improvements upon the same terms and conditions available to the third party. In which case Lessor shall have thirty days to elect in writing to purchase the Improvements. If Lessor declines to elect in writing to purchase the Improvements, and the Manager consents to the sale to a third party, Lessee may choose from the following two options.

A. Termination of Lease and Execution of New Lease.

Manager's consent to the sale of Lessee's hangar and improvements upon the Leased Premises constitutes implied consent to negotiate in good faith with the prospective buyer for a new lease under the Airport's standard ground lease form as it may be amended from time to time.

B. Termination of the Lease and Removal of Property.

Should Manager consent to the sale of the Improvements and the buyer does not wish to enter into a new Lease, Lessee shall ensure such buyer removes the Improvements within 30 days of the sale and place the Leased Premises in a clean and buildable site leaving all utility hookups in place. This Agreement shall then automatically terminate at the end of the calendar year, provided that Lessee shall remain liable for any damage to the Leased Premises or abandoned property pursuant to section 18 below.

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14. LIENS.

A. Lien Granted to Lessor.

Lessee hereby grants County a lien against the Improvements, aircraft, and all personal property that Lessee stores in the hangar. This lien exists and continues for all unpaid amounts that Lessee may owe County, from time to time, and County's assertion of the lien does not relieve Lessee from the obligation to pay the monthly rent as provided in this Agreement. In the event Lessee does not fully and immediately discharge all unpaid amounts, County is hereby granted and has the right to take and recover possession of the Improvements and satisfy its lien in accordance with Oregon law. The County may also take and recover possession of the stored aircraft and personal property, without notice or other action, exercise its lien against the same, and have and recover all costs and expenses including attorney's fees in connection with the repossession of said hangar, Improvements, aircraft, or personal property and assertion of the lien.

B. Liens by Lessee.

Lessee acknowledges that it has no authority to engage in any act or to make any contract which may create or be the foundation for any lien upon the property or interest in the property of Lessor, subject to section 15. If any such purported lien is created or filed, Lessee, at its sole cost and expense, shall liquidate and discharge the same within 30 days of such creation or filing. Lessee's failure to discharge any such purported lien shall constitute a breach of this Lease and Lessor may terminate this Lease upon 30 days' written notice. However, Lessee's financial obligation to Lessor to liquidate and discharge such lien shall continue in effect following termination of this Lease and until such a time as the lien is discharged.

15. LEASEHOLD MORTGAGES

A. Right to Mortgage Leasehold

Notwithstanding Articles 12 and 14 or any other provision to the contrary, in addition to any other rights granted and without any requirement to obtain Lessor's consent, Lessee has the right to mortgage or grant a security interest in Lessee's interest in this Lease, the Leased Premises, and the Improvements under one or more leasehold mortgages to one or more Lending Institutions (as defined in section 15.B. below), and to assign this Lease as collateral security for those leasehold mortgages, on the condition that all rights acquired under the leasehold mortgages are subject to every covenant, condition, and restriction set forth in this Lease, and to all rights and interests of Lessor, none of which covenants, conditions, restrictions, rights, or interests is or may be waived by Lessor by reason of the right given to mortgage or grant a security interest in Lessee's interest in this Lease and the Premises and the Improvements, except as expressly provided otherwise.

B. Defined Terms

Any mortgage, deed of trust, financing statement, security agreement, or other financing instrument granted by Lessee pursuant to this section 15 is referred to as a "Permitted Leasehold Mortgage," and the holder of or secured party under a Permitted Leasehold Mortgage is referred to as a "Permitted Leasehold Mortgagee." The term "Lending Institution" means any commercial, national, or savings bank, savings and loan association, trust company, pension trust, foundation, or insurance company, and any other entity, person, corporation, partnership, or otherwise making a loan on the security of Lessee's interest in this Lease or any portion of the Leased Premises or the Improvements.

C. Lender Protections

If a Permitted Leasehold Mortgagee sends to Lessor a true copy of its Permitted Leasehold Mortgage, together with written notice specifying the name and address of the Permitted Leasehold Mortgagee, then as

long as the Permitted Leasehold Mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to Lessor, the following provisions will apply:

i. No Modifications or Terminations

This Lease may not be (a) amended or modified, or (b) terminated or canceled by reason of the exercise of any option or election by Lessee, or by the giving of any notice by Lessee, unless such amendment, modification, termination, or cancellation by Lessee is assented to in writing by the Permitted Leasehold Mortgagee. Any such attempted amendment or modification, termination, or cancellation by Lessee without the Permitted Leasehold Mortgagee's assent is void.

ii. Notice to Permitted Leasehold Mortgagees

Upon serving Lessee with any notice under this Lease, whether of default or any other matter, Lessor will simultaneously serve a copy of the notice on the Permitted Leasehold Mortgagee, and no notice to Lessee will be deemed given unless a copy is so served on the Permitted Leasehold Mortgagee in the manner provided in this Lease for giving notices.

iii. Right to Cure

In the event of any default by Lessee under this Lease, each Permitted Leasehold Mortgagee has the same period as Lessee has, plus 30 days, after service of notice on it of the default, to remedy or cause to be remedied or commence to remedy and complete the remedy of the default complained of, and Lessor must accept that performance by or at the instigation of the Permitted Leasehold Mortgagee as if the same had been done by Lessee. Each notice of default given by Lessor must state the amount of any Rent that is then claimed to be in default.

iv. The Right to Postpone

If Lessor elects to terminate this Lease because of any default of Lessee, the Permitted Leasehold Mortgagee will have, in addition to the rights granted under the preceding section, the right to postpone and extend the specified date for the termination of this Lease as fixed by Lessor in its notice of termination, for a period of 12 months, as long as the Permitted Leasehold Mortgagee (a) cures or causes to be cured any then-existing defaults in payment of Rent and meanwhile pays the Rent, and (b) forthwith takes steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Permitted Leasehold Mortgage or otherwise and prosecutes the same to completion with reasonable diligence and continuity.

v. The Right to a New Lease

Lessor agrees that if this Lease is terminated by reason of any default by Lessee, other than for nonpayment of the Rent and other payments herein provided for, Lessor will enter into a new lease for the Premises and the Improvements with the holder of the then First Leasehold Mortgage on this Lease, or with its nominee or designee, for the remainder of the Term, effective as of the date of the termination, at the Rent and on the other terms and provisions as herein contained and subject only to the same conditions of title as this Lease was subject on the date of the execution hereof, and to the rights, if any, of any parties then in possession of the Leased Premises or any portion thereof, provided as follows:

- a. The holder will request the new lease within 30 days after the date of termination of the Lease;

- b. The holder will pay to Lessor at the time of execution and delivery of the new lease all sums as to which the First Leasehold Mortgagee will have been provided with prior notice and which would at the time of execution and delivery thereof be due under this Lease had it not terminated, together with any expenses, including reasonable attorney fees, to which Lessor will have been subjected by reason of the default;
- c. Lessor will not warrant possession of the Premises to the Lessee under the new lease;
- d. The new lease will be expressly made subject to the rights, if any, of Lessee under this terminated Lease;
- e. Tenant under the new lease will have the same right, title, and interest in and to the Premises as Lessee had under this Lease (except as otherwise provided herein); and
- f. The holder will not be obligated to perform any obligations of Lessee hereunder until the holder actually acquires possession of the Premises.

vi. Bankruptcy of Lessee

Nothing herein contained will require any holder of a Permitted Leasehold Mortgage or its nominee or designee to cure any default of Lessee arising out of its bankruptcy, insolvency, reorganization, or other proceeding under the bankruptcy or insolvency laws of the United States or the State of Oregon or otherwise.

vii. Insurance Policies

Lessor agrees that the name of the Permitted Leasehold Mortgagee may be added to the “loss payable endorsement” of any or all insurance policies required to be carried by Lessee.

16. TERMINATION AND DEFAULT.

A. Termination

This Lease shall terminate automatically at the expiration of the Term.

B. Default.

In addition to the expiration of the Term and other termination rights contained elsewhere in this Lease, the occurrence of any one or more of the following constitutes an event of default under this Lease:

- i. If Lessee fails to pay any rent, fees, or other charges due under this Lease, Lessor shall deliver to Lessee a written invoice and notice to pay the invoice within ten calendar days. If Lessee fails to pay the balance outstanding within such time, Lessor shall have the right to terminate this Lease immediately;
- ii. Failure by Lessee to complete construction of the Project within the time allotted in section 4;
- iii. Failure by Lessee to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within 10 days after notice thereof is given to Lessee;
- iv. Failure by Lessee, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than i and iii above) and such failure continues and is not remedied within 30 days after written notice thereof is given to Lessee; provided, however, that if the failure is of such a nature that it cannot be cured within said 30-day period, then this provision is satisfied if Lessee begins the cure within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 90 days after Lessor’s notice is given to Lessee;

- v. Lessee becomes insolvent; Lessee makes an assignment for the benefit of creditors other than a Leasehold Mortgagee under section 15; Lessee files a voluntary petition in bankruptcy; Lessee is adjudged bankrupt or a receiver is appointed for Lessee's properties; the filing of an involuntary bankruptcy petition and Lessee's failure to secure a dismissal of the petition within 75 days after filing; or the attachment of or the levying of execution on the leasehold interest and Lessee's failure to secure discharge of the attachment or release of the levy of execution within 30 days; or
- vi. Lessee is in default after the lapse of any applicable notice and cure period under any mortgage, deed of trust, or contract of sale secured by the improvements on the Leased Premises.

17. REMEDIES.

A. Remedies.

Upon the occurrence of an event of default, Lessor may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

- i. Lessor may terminate this Lease by written notice to Lessee;
- ii. Lessor or Lessor's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Leased Premises and the improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Leased Premises and the Improvements, to the end that Lessor may have, hold, and enjoy the Leased Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE LEASED PREMISES OR THE IMPROVEMENTS BY LESSOR WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO LESSEE.
- iii. Lessor may, without terminating the Lease, relet the whole or any part of the Premises and the improvements from time to time, either in the name of Lessor or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Lessor determines to be appropriate. To the extent allowed under Oregon and Federal law, Lessor will have no obligation to relet all or any part of the Leased Premises or the improvements and will not be liable for refusing to relet the Leased Premises or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Lessor will not operate to relieve Lessee of any liability under this Lease or otherwise affect such liability. Lessor at its option may make any physical change to the Leased Premises or the improvements that Lessor, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.
- iv. Whether or not Lessor retakes possession of or relets the Leased Premises and the improvements, Lessor has the right to recover its damages, including without limitation all lost rentals, all legal expenses, all costs incurred by Lessor in restoring the Leased Premises or otherwise preparing the Leased Premises and the improvements for reletting, and all costs incurred by Lessor in reletting the Leased Premises and the improvements.
- v. To the extent permitted under Oregon law, Lessor may sue periodically for damages as they accrue without barring a later action for further damages. Lessor may in one action recover

accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Leased Premises and the improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If Lessor relets the Leased Premises and the improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

B. Lessor's Self-Help Right.

If Lessee at any time (a) fails to pay any tax or assessment in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Lessee (or without notice in the event of an emergency) and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease or from any default by Lessee and without waiving Lessor's right to take any action that is permissible under this Lease as a result of the default, Lessor may, but is under no obligation to, (i) pay any tax, assessment, or make any other payment required of Lessee under this Lease, and (ii) perform any other act on Lessee's part to be made or performed as provided in this Lease, and may enter the Premises and the improvements for any such purpose, and take any action that may be necessary. All payments so made by Lessor and all costs and expenses incurred by Lessor, including reasonable attorney fees, in connection with the performance of any such act will constitute additional rent payable by Lessee under this Lease and must be paid to Lessor on demand.

C. No Waiver.

No failure by Lessor to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, may be waived, altered, or modified except by a written instrument executed by Lessor. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

D. Remedies Cumulative and Nonexclusive.

Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Lessor's or Lessee's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

18. SURRENDER.

Lessor is not responsible for any loss or damages occurring to any property owned by Lessee or any sub-lessee. The provisions of this section 18 survive any termination of this Agreement.

A. No Delay.

Except as otherwise provided herein, on the last day of the Term or the last day Lessee is entitled to possession of the Leased Premises under this Lease, if the Parties are not then negotiating a new lease, Lessee shall surrender and deliver up the premises to Lessor without delay.

B. Removal of Property.

If Lessee is still entitled to possession, Lessee may remove the hangar, other improvements, and personal property of Lessee, a sublessee, or any other guest/invitee (collectively, "Lessee's Property") on the Leased Premises so long as said improvements are removed on or before the last day that the Lessee is entitled to possession of the Leased Premises. After removal of said improvements, Lessee shall place the premises in a clean and buildable site leaving all utility hookups in place. Any of Lessee's Property that remains on the Leased Premises after the termination of this lease may, at the option of Lessor (1) be deemed to have been abandoned by Lessee or such sub-lessee and may either be retained by Lessor as its property and all rights of Tenant with respect to it will cease or be disposed of, without accountability, in such manner as Lessor sees fit, or (2) if Lessor gives written notice to Lessee to such effect, such property shall be removed by Lessee at Lessee's sole cost and expense. If Lessor elects to hold Lessee to Lessee's obligation to remove, Lessor may effect a removal and place the cost of removal, transportation to storage, and storage on Lessee.

19. RELEASE AND INDEMNIFICATION.

Lessee hereby assumes all liability and responsibility for property loss, property damage, and/or personal injury of any kind, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with its use of the Airport under this Lease or with the leasing, maintenance, use, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee covenants and agrees to, and does to the extent allowed by law, without waiving any defenses provided by law, hereby indemnify, hold harmless, and defend Lessor and Manager, its officers, agents, servants, and employees from and against any and all claims or lawsuits for either property damage or loss (including alleged damage or loss to Lessee's business and any resulting lost profits) and/or personal injury, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with Lessee's use of the Airport under this Lease or with the use, leasing, maintenance, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee assumes all responsibility and agrees to pay Lessor and Manager for any and all injuries or damages to Lessor's property which arise out of or in connection with any and all acts or omissions of Lessee, its officers, agents, employees, contractors, subcontractors, licensees or invitees, except to the extent caused by the gross negligence or willful misconduct of Lessor, its officers, agents, servants, or employees.

Lessor and Manager do not guarantee police protection to Lessee, and sublessee or their property. Lessor/Manager is obligated only to provide security adequate to maintain Lessor's certification under FAA regulations. Lessee shall comply with all applicable regulations of the FAA relating to airport security. Lessee shall pay all fines imposed by the FAA on Lessor, Manager or Lessee resulting from Lessee's or any sublessees' failure to comply with such FAA regulations or to prevent unauthorized persons or parties from their obtaining access to the air operations area of the Airport from the Leased Premises.

20. NOTICES.

The Parties are required to update the information in this section. Notices required pursuant to the provisions of this Lease shall be conclusively determined to have been delivered (i) when hand-delivered to the other party at such addresses listed below, or at such other addresses as the receiving party may designate by proper notice to the sending party, or (ii) three days after being deposited in the United States Mail, postage prepaid, addressed as follows:

To Lessor:
Crook County/Prineville Airport S39
Attn: Kelly Coffelt
4585 SW Airport Road
Prineville, OR 97754

To Lessee:
Jason Wilkins
Wilkins Holdings, LLC
976 NW 3rd Street
Prineville, OR 97754
541-408-729

With a copy to:
Crook County Counsel
300 NE 3rd Street
Prineville, OR 97754

21. MISCELLANEOUS.

A. Governmental Powers.

Nothing in this lease should be construed or interpreted to mean that the County waives, surrenders, or sacrifices any of its governmental powers in any way.

B. Licenses and Permits.

Lessee shall, at its sole expense, obtain and keep in effect all licenses and permits necessary or required for its operations at the Airport.

C. Relationship of the Parties.

Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Lessor and Lessee.

D. Signs.

No signs are permitted on the exterior of any hangars without the express written consent of the Manager. Any such approved signs must conform with the size, color, location, and manner of display of other signs at the Airport and be maintained in a safe, neat, and well-kept condition.

E. Cooperation between Tenants.

Lessee must cooperate with all other tenants and users of the Airport and must at all times use the Leased Premises and the Airport in such a manner as to avoid interference with the activities of other Airport users and tenants. Any difference or conflict that may arise between Lessee and other users or tenants will be resolved by the Manager in the Manager's sole discretion and not subject to challenge or appeal. If Lessee's lawful enjoyment of the Leased Premises is impaired because of any act or omission of another tenant, Lessee will have no claim against County or its agents.

F. Survival.

All agreements (including but not limited to indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

G. Severability.

If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

H. Non-Waiver.

The failure of Lessor to insist upon the performance of any term or provision of this Lease or to exercise any right granted herein shall not constitute a waiver of Lessor's right to insist upon appropriate performance or to assert any such right on any future occasion.

I. Force Majeure.

If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any legal requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

J. Condemnation.

If the whole of the Leased Premises is taken by a public authority under the power of eminent domain, then the Term of this Agreement will cease on the day of possession by said public authority. If only a part of the Leased Premises is taken under eminent domain, Lessee will have the right to either terminate this Agreement or to continue in possession of the remainder of the Leased Premises. If Lessee remains in possession, all of the terms of this Agreement will continue in full force and effect, with Rent reduced proportionately pursuant to the non-condemned and Lessee-occupied square footage.

K. Nonmerger.

There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate of the Leased Premises.

L. Costs and Attorney Fees.

In the event there should be a breach or default under any provision of this Lease and either party should retain attorneys or incur other expenses for the collection of rent, fees or charges, or the enforcement of performance or observances of any covenant, obligation or agreement, Lessor and Lessee agree that each party shall be responsible for its own attorneys' fees.

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M. Applicable Law and Venue.

This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. The Parties agree that any civil action will be brought in the circuit court in Crook County.

N. Signature Authority.

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

O. Binding Effect.

The covenants and agreements contained in this Lease are binding on and inure to the benefit of Lessor, Lessee, and their respective successors and assigns.

P. Recordation.

This Agreement shall not be recorded. Lessee may elect that a memorandum of lease be executed and acknowledged by both parties and recorded in the public records of Crook County, at Lessee's cost.

Q. Time Is of the Essence.

Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

R. Interpretation.

In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Lessor and Lessee acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

S. Headings, Captions, and References.

The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Lease includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

T. Entire Agreement.

This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Lessee and Lessor mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease.

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U. Counterparts.

This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first set forth above.

For Lessee

Wilkins Holding, LLC

By: _____
Jason Wilkins, Member

Date: _____

For Crook County

CROOK COUNTY COURT

Seth Crawford, County Judge

Date: _____

Jerry Brummer, County Commissioner

Date: _____

Brian Barney, County Commissioner

Date: _____

Exhibit A

- Legend 2
- Proposed
 - Untitled Path
 - Untitled Polygon

60'X60' Robbins

Proposed 80'x60' Braatz

Proposed Wilkins 70'x60'



Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 301 NE 3rd St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: February 15, 2022

RE: Coney Hangar Lease
Our File No.: Airport 43

Enclosed is a new hangar lease with Michael Coney and a termination of lease with Wolf Pack Properties, LLC, both involving hangar space at 4075 Aviation Blvd. Wolfe Pack's lease began in 2008. It is being terminated as part of a sale to Michael Coney. As a quick refresher, the hangars at the airport are typically retained by the lessee as personal property, while the County retains ownership of the real property. Thus, for this transaction, the sale of the hangar is going through escrow and the transition of the lease is part of that.

Coney's new lease is on our standard form and for twenty years with an option to renew for another ten years. This lease will begin at the rate of \$0.28 per square foot, with an adjustment at the start of the year (along with all other hangar leases) based on CPI. Kelly Coffelt recommends approval. Please let me know if you have any questions.

Please place this memo and the attached document(s) on the Wednesday, March 2, 2022, County Court Agenda as a CONSENT ITEM, for approval and signatures.

CROOK COUNTY PRINEVILLE AIRPORT S39 GROUND LEASE AND USE AGREEMENT

This Crook County Prineville Airport S39 Ground Lease and Use Agreement (“Agreement” or “Lease”) is made and entered into this ____ day of February, 2022 (the “Commencement Date”), by and between Crook County, a political subdivision of the State of Oregon (“County,” or “Lessor”) and Michael Coney (“Lessee”). Lessor and Lessee may hereinafter be referred to as the “Parties” or individually as a “Party.”

RECITALS

WHEREAS, County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport);

WHEREAS, the Airport is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager (the Airport Manager and any persons or entities hereafter responsible for the management of the Airport shall be referred to as the “Manager”);

WHEREAS, the Airport is the recipient of certain Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants, with County as sponsor, and is thus subject to ongoing compliance with all FAA regulations and guidance;

WHEREAS, Lessee desires to lease from Lessor and use certain Airport land and improvements and engage in certain non-commercial aeronautical activities at the Airport; and

WHEREAS, Lessor desires to lease to Lessee certain Airport land and improvements.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. PREMISES.

A. Leased Premises.

Lessor hereby leases to Lessee, pursuant to the rents, conditions, and provisions herein, 3,025 square feet of ground space (the “Leased Premises”) at the Airport in Crook County, Oregon, including an underground propane tank, identified with the current address of 4075 Aviation Blvd. and depicted on Exhibit A, attached and incorporated herein.

B. Condition of Leased Premises.

Lessee warrants and represents that Lessee has carefully and completely examined and inspected the Leased Premises and Lessee fully understands its responsibilities and obligations with respect to the Leased Premises and this Agreement. Lessee accepts the Leased Premises in an “AS IS”, “WHERE IS” condition without representation or warranties from Lessor as to the condition, suitability, or sufficiency of the Leased Premises for engaging in the non-commercial aeronautical activity described or contemplated by this Agreement. To the best of Lessor’s knowledge, the Leased Premises complies with all applicable federal, state, and local environmental regulations and standards. Lessee agrees that it has inspected the Leased Premises and is fully advised of its own rights without reliance upon any representation made by Lessor concerning the environmental condition of the Leased Premises. Lessee, at its sole cost and expense, agrees that it shall be fully responsible for the remediation of any violation of any applicable federal, state, or local environmental regulations or standards that is caused by Lessee, its officers, agents, servants, employees, contractors, subcontractors, or invitees.

C. Improvements.

The Leased Premises contains a previously constructed hangar and improvements. The hangar and improvements are not the property of County. County makes no representations or warranties and assumes no liability or control for the current or future state of the hangar and improvements, except as expressly stated in this Agreement.

2. LEASE TERM.

A. Initial Term.

Starting on the Commencement Date, the Leased Premises will be leased for a term of twenty years (the “Initial Term”), unless earlier terminated pursuant to the terms of this Lease.

B. Extended Term.

If Lessee is not in default under the Lease, Lessee has the option to extend the term for one additional period(s) of ten years (the “Extended Term”) by providing written notice thereof to Lessor not more than 180 days or less than 90 days before the expiration of the Initial Term (for purposes of this Agreement, both the Initial Term and Extended Term may hereafter be referred to simply as the “Term”) on the condition that said written notice includes as an exhibit a professional, independent commercial inspection of the hangar and improvements, performed no more than six months before the date of the written notice, showing an expected useful life of the hangar of greater than 1.5 times the requested Extended Term.

C. Holdover.

There shall be no holdover period. Should Lessee remain in possession after the expiration of the Term, Lessee will be considered a tenant at sufferance, which Lessor may consider as triggering the termination, remedy, and surrender provisions of sections 16 – 18 below at any time without notice and Lessee will be liable for any and all damages resulting from such unauthorized holdover

(including but not limited to any and all damages that Lessor is required to pay a new tenant for failing to timely deliver any portion of the Leased Premises or the improvements).

3. RENT.

A. Rent for Term.

Subject to paragraph B below, Lessee shall pay annual Rent at the rate of \$0.28 per square foot for the Leased Premises space for a total of \$847 per year of this lease term. Rent for the first year is due and payable upon the signing of this Lease. Rent for each subsequent year of the Term is due each January 1. Any payments not received by January 1 will trigger the default provisions of 16.B.i below. All payments shall be made to the Manager. Manager hereby reserves the right to institute additional rent, in his sole discretion and not to exceed one-half of the base rent, calculated to cover documented common-area maintenance expenses and applicable to all Airport tenants.

B. Adjustment of Rent.

Rent will be adjusted annually on January 1st (the “Adjustment Date”). Manager will deliver notice to Lessee of the amount of the adjustment and the new Rent not less than 30 days before Rent is due each year, calculated pursuant to the provisions below.

i. Annual Adjustment

For the duration of the Term, before each annual due date for Rent except for those years subject to an Appraisal Adjustment in subsection ii below, County will adjust the rent in the same percentage as the increase, if any, in the Consumer Price Index (the “Index”) published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled “U.S. City Average, All Items, All Urban Consumers, 1982–84=100” for the year of the Commencement Date or the prior year’s Rent, as applicable, and the latest figures preceding the current Adjustment Date. All comparisons will be made using Index figures derived from the same base period and in no event will this provision operate to decrease Rent. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

ii. Appraisal Adjustment

At five-year intervals, beginning for the year 2020, Lessor will procure an Appraisal Report, consistent with Title XI of the Financial Institutions Reform, Recover, and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice (USPAP) to ascertain Fair Market Rent for all leased space at the Airport.

4. USE OF LEASED PREMISES.

A. Permitted Uses.

The primary purpose of this Agreement is for Lessee to store aircraft in a hangar on the Leased Premises. As such, the following non-commercial aeronautical uses are permitted:

- Storage of aircraft;

- Shelter for maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft;
- Storage of aircraft handling equipment, e.g., tow bar, glider tow equipment, workbenches, and tools and materials used to service, maintain, repair or outfit aircraft; items related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of materials related to an aeronautical activity, e.g., balloon and skydiving equipment, office equipment, teaching tools, and materials related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar, e.g., furniture or televisions;
- Construction of amateur-built or kit-built aircraft provided that activities are conducted safely; and
- Storage of a vehicle parked at the hangar while the aircraft usually stored in that hangar is flying, subject to Airport rules and regulations as currently in effect or may hereinafter be implemented.

B. Prohibited Uses.

Prohibited uses include, but are not limited to the following:

- Use as a residence;
- Operation of a non-aeronautical business, e.g., limo service, car and motorcycle storage, storage of inventory, non-aeronautical business office;
- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar;
- Activities which displace the aeronautical contents of the hangar or impede access to aircraft or other aeronautical contents of the hangar;
- Storage of household items that could be stored in commercial storage facilities;
- Long-term storage of derelict aircraft and parts;
- Storage of items or activities prohibited by local or state law;
- Fuel, and other dangerous and Hazmat materials; or
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

C. Commercial Activity.

Lessee may not conduct any commercial activity on or near the Leased Premises without Manager's prior written consent. Lessee may use the Leased Premises and hangar to store the aircraft, even if the aircraft is used to support a commercial activity, but only if no commercial activity aside from mere storage of the aircraft takes place in or near the hangar. Duly registered non-profit flight clubs and subletting the Leased Premises are not considered a commercial activity under this section.

D. Hazardous Materials.

Hazardous materials stored in the hangar must be stored in Department of Transportation approved containers and disposed of per hazardous waste requirements, as required by law. The total volume of stored hazardous materials may not exceed five (5) US gallons. The storage of engine oil, in the manufacturer's original containers, will not be included in the calculation of the total allowable storage volume. To minimize fire hazard and hazardous waste contamination issues, the following actions are prohibited in the hangar: using combustible chemicals or cleaning solvents, fuel system draining, fuel system repair (except where the fuel system has been drained), chemical stripping, chemical washing, and painting (except as described elsewhere in this Agreement). Any hot work (i.e., cutting, welding, brazing, soldering, and grinding) may not be performed inside the hangar; any such work performed on the hangar itself must be done by a person properly licensed to perform such work. Lessee, and all persons performing work on Lessee's behalf, must at all times comply with all applicable current state and local laws, ordinances, regulations, and fire prevention codes.

5. COMPLIANCE WITH ALL LAWS

Lessee hereby agrees to comply with all local, state, and federal laws, ordinances, guidance, rules and regulations as they may exist or be enacted in the future. Moreover, Lessee makes the following covenants.

A. Non-Discrimination

The Lessee and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The Lessee for himself, his heirs, 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 49 CFR Part 21, Nondiscrimination in Federally Assisted

Programs of the Department of Transportation, and as said Regulations may be amended.

If Lessee provides any services at the Airport in relation to this Lease, Lessee hereby covenants that it will furnish said services on a reasonable basis to all users thereof, charge reasonable prices for each unit or service, and not unjustly discriminate in any manner thereof.

B. Federal Requirements

Lessor is bound to comply with the following federal laws, executive orders, and regulations; Lessee will take no action to interfere with Lessor's compliance and will not take any act in violation itself:

i. Federal Laws.

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.

- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

ii. Federal Regulations.

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].
- c. 2 CFR Part 1200 – Non-procurement Suspension and Debarment.
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice for Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.
- m. 49 CFR Part 20 - New restrictions on lobbying.

iii. Executive Orders.

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 –Flood Plain Management

- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction
- f. Executive Order 12898 - Environmental Justice
- g. Executive Order 13788 - Buy American and Hire American
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects.

6. RIGHTS AND RESERVATIONS OF LESSOR.

A. Hazards.

Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, including, but not limited to, the right to prevent Lessee from erecting or permitting to be erected any building or other structure which, in the opinion of Lessor, would limit the usefulness of the Airport, constitute a hazard to aircraft or diminish the capability of existing or future avigational or navigational aids used at the Airport.

B. Development.

Lessor 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. Accordingly, nothing contained in this Lease shall be construed to obligate Lessor to relocate Lessee as a result of any such Airport developments or improvements.

C. Subordination.

This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States Government, which relates to the operation or maintenance of the Airport and is required as a condition for the expenditure of federal funds for the development, maintenance or repair of Airport infrastructure. In the event that any such existing or future agreement directly causes a material restriction, impairment or interference with Lessee's primary operations on the Premises (Limitation) for a period of less than seven calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation.

If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period:

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and

(iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon thirty days' written notice to Lessor.

D. National Emergencies.

During any war or national emergency, Lessor shall have the right to lease any part of the Airport, including its landing area, to the United States Government. In this event, any provisions of this instrument which are inconsistent with the provisions of the lease to the Government shall be suspended. Lessor shall not be liable for any loss or damages alleged by Lessee as a result of this action. However, nothing in this Lease shall prevent Lessee from pursuing any rights it may have for reimbursement from the United States Government. If any lease between Lessor and the United States Government executed pursuant to this section D directly causes a Limitation for a period of less than seven calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation. If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and
- (iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then:

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon thirty days' written notice to Lessor.

E. Sponsor Assurances.

Lessor covenants and agrees that during the term of this Lease it will operate and maintain the Airport and its facilities as a public airport consistent with and pursuant to the Sponsor's Assurances given by Lessor to the United States Government through the Federal Airport Act; and Lessee agrees that this Lease and Lessee's rights and privileges hereunder shall be subordinate to the Sponsor's Assurances.

F. Easements.

Lessee's rights hereunder shall be subject to all existing and future utility and drainage easements and rights-of-way granted by Lessor for the installation, maintenance, inspection, repair or removal of facilities owned or operated by electric, gas, water, sewer, communication or other utility companies. Lessee's rights shall additionally be subject to all rights granted by any ordinance or statute which allows utility companies to use publicly owned property for the provision of utility services.

G. Rights of Ingress and Egress.

Lessor agrees Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways for automobiles and taxiways for aircraft including access during the construction phase of airport improvements, unless otherwise agreed to in writing by both parties. Such rights shall be consistent with the rules and regulations with respect to the occupancy and use of airport premises as adopted from time to time by the County and by the Federal Aviation Administration or any other state, federal or local authority.

H. Relocation of Hangar and Leased Premises.

The precise location of the Premises where the Hangar is located is subject to County's discretion and modification. County may compel relocation of the Hangar at any time, in which case County will be responsible for all reasonable relocation costs. Lessee will be responsible for all Hangar relocation/reassembly costs when the relocation/reconstruction is at the request and sole benefit of the lessee, or if relocation is due to termination of this Agreement.

7. TAXES AND ASSESSMENTS.

Lessee agrees to timely pay any and all federal, state, or local taxes or assessments which may lawfully be levied against Lessee due to Lessee's use or occupancy of the Leased Premises or any improvements or property placed on the premises by Lessee as a result of its occupancy. Lessee shall furnish to the Manager a receipt showing said taxes or assessments are paid within thirty days of payment.

8. INSURANCE.

Lessee shall be responsible for any and all property damage insurance for Lessee's hangar, aircraft, and other property on the Leased Premises. Additionally, Lessee, at its sole cost and expense, shall procure and maintain at all times, in full force and effect during the Term of this Lease, a policy or policies of insurance, naming Crook County and the employer of Manager (currently, City of Prineville) as additional insureds and covering all risks arising directly or indirectly out of Lessee's activities at the Leased Premises, including but not limited to (1) coverage for hangar premises liability of others; (2) aircraft liability; and (3) if Lessee or any occupant of the Leased Premises has property of others, including aircraft, in their care, custody, or control then they shall maintain hangar keeper's liability coverage with limits adequate to cover the potential damage. The limits for all such policies shall be the current statutory limit of liability for Lessor under the Oregon Tort Claims Act or \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whichever is higher. Evidence of the required insurance coverages issued by an insurance company satisfactory to Lessor shall be provided to Manager by way of a Lessor-approved certificate of insurance upon commencement of this Agreement and each time Rent is due. The certificate of insurance shall

contain a requirement that the insurance company notify Manager 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Lessee shall provide written notice to Manager within two calendar days after Lessee becomes aware that its coverage has been cancelled or has been materially changed. Regardless of what circumstances caused Lessee's insurance coverage to cease or be modified, it is Lessee's responsibility to notify Manager.

9. UTILITIES.

Lessee, at Lessee's sole cost and expense, shall be responsible for the installation and use of all utility services to all portions of the Leased Premises and for all other related utility expenses, including but not limited to deposits and expenses required for the installation of meters, if necessary. Lessee further covenants and agrees to pay all costs and expenses for any extension, maintenance, or repair of any and all utilities serving the Leased Premises. In addition, Lessee agrees that all utilities, air conditioning and heating equipment, and other electrically operated equipment which may be used on the Leased Premises shall fully comply with all applicable Mechanical, Electrical, Plumbing, Building, and Fire Codes, as they exist or may hereafter be amended. Lessee expressly waives any and all claims, including a claim of Lessor's default of this Agreement, against County for compensation for any and all loss or damage sustained by reason of any defect, deficiency, interruption, or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, electrical supply system, or electrical apparatus or wires serving the Leased Premises.

10. MAINTENANCE AND SAFETY ISSUES.

A. Maintenance and Repairs by Lessee.

Lessee understands that this is a term lease and agrees to keep and maintain the Leased Premises in a good, clean and sanitary condition at all times, reasonable wear and tear excepted. Lessee covenants and agrees that it will not make or suffer any waste of the Leased Premises. Lessee, at Lessee's sole cost and expense, will make all repairs or replacements necessary to prevent the deterioration in condition or value of the Premises, including, but not limited to, the maintenance of and repairs to all hangars and other structures, doors, windows and roofs, and all fixtures, equipment, utilities, hangar modifications and surrounding pavement on the Premises. Lessee must paint the exterior of the hangar, as needed and reasonably directed by Lessor, with specifications and color to be approved in writing by the Manager. Lessee shall be responsible for all damages caused by Lessee, its agents, servants, employees, contractors, subcontractors, licensees or invitees, and Lessee agrees to fully repair or otherwise cure all such damages at Lessee's sole cost and expense.

Lessee agrees that all improvements, trade fixtures, furnishings, equipment and other personal property of every kind or description which may at any time be on the Leased Premises shall be at Lessee's sole risk or at the sole risk of those claiming under Lessee. Lessor shall not be liable for any damage to such property or loss suffered by Lessee's business or business operations which may be caused by the bursting, overflowing or leaking of sewer or steam pipes, from water from any source

whatsoever, or from any heating fixtures, plumbing fixtures, electric wires, noise, gas or odors, or from causes of any other matter.

B. Access.

Lessor/Manager shall have the right and privilege, through its officers, agents, servants or employees, to inspect the Leased Premises. Except in the event of an emergency, Lessor shall conduct such inspections during Lessee's ordinary business hours and shall use its best efforts to provide Lessee at least twenty-four (24) hours' notice prior to any inspection. Lessee will permit the Crook County Fire and Rescue (CCFR) Fire Marshal or his or her authorized agents to inspect the Leased Premises and Lessee will comply with all requirements of the Fire Marshal or his or her authorized agents that are necessary to bring the Leased Premises into compliance with all applicable fire and building code requirements regarding fire safety, as such provisions exist or may hereafter be amended. Lessee shall maintain in proper condition accessible fire extinguishers of a number and type approved by the Fire Marshal or his or her authorized agents for the particular hazard involved.

C. Inspections and Repairs.

If Lessor/Manager determines during an inspection of the Leased Premises that Lessee is responsible under this Lease for any maintenance or repairs, Lessor shall notify Lessee in writing. Lessee agrees to begin such maintenance or repair work diligently within thirty (30) calendar days following receipt of such notice and to then complete such maintenance or repair work within a reasonable time, considering the nature of the work to be done. If Lessee fails to begin the recommended maintenance or repairs within such time or fails to complete the maintenance or repairs within a reasonable time, Lessor may, in its discretion, perform such maintenance or repairs on behalf of Lessee. In this event, Lessee will reimburse Lessor for the cost of the maintenance or repairs, and such reimbursement will be due on the date of Lessee's next annual Rent payment following completion of the maintenance or repairs.

D. Repairs Required of Lessor.

During any inspection, Lessor may perform any obligations that Lessor is authorized or required to perform under the terms of this Lease or pursuant to its governmental duties under federal state or local laws, rules or regulations.

11. IMPROVEMENTS AND ALTERATIONS.

A. Authorization for Improvements.

Lessee may, at its sole discretion, perform modifications, renovations, improvements, or other construction work on or to the Leased Premises (collectively, "Improvements") so long as it first submits all plans, specifications and estimates for the costs of the proposed work in writing and also requests and receives in writing approval from the Manager. Manager reserves the right to require one or more construction bonds to protect the Airport's interest should the Improvement's total cost exceed \$50,000. Manager agrees to respond in writing to Lessee's requests for approval within thirty calendar days of receipt of such requests. Lessee covenants and agrees that it shall fully comply with all provisions of this section 11 in the undertaking of any such Improvements.

B. Process for Approval of Plans.

Lessee's plans for Improvements shall conform to the Airport's architectural standards and must also receive written approval, where required by law, of the FAA and local planning and building authorities. All plans, specifications, and work shall conform to all federal, state, and local laws, ordinances, rules, and regulations in force at the time the plans are presented for review.

C. Documents.

Lessee shall supply the Manager with comprehensive sets of documentation relative to any Improvements, including at a minimum, as-built drawings of each project in computer format, if possible.

12. ASSIGNMENT, SUBLETTING, AND SUBORDINATION.

A. Limitations on Transfers.

Except as permitted under paragraph C below and section 13 below, Lessee must not, voluntarily or by operation of law, sell, assign, or transfer this Lease or any interest therein, sublet the Leased Premises or any part thereof, or grant any right to use the Leased Premises, the improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Lessor, which must not be unreasonably withheld. Any attempted Transfer without such prior written consent will be void. Lessor's consent to a Transfer will in no event release Lessee, any assignee, sublessee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease (including any liabilities or obligations arising during the Extended Term), nor relieve Lessee from the requirement of obtaining Lessor's prior written consent to any further Transfer. Lessor's acceptance of Rent from any other person will not be deemed to be a waiver by Lessor of any provision of this Lease or consent to any Transfer. The failure or refusal of Lessor to approve a requested Transfer shall not relieve Lessee of its obligations hereunder, including payment of Rent.

If Lessee is a corporation, partnership, limited liability company, or other entity or unincorporated association, then any Transfer of this Lease by merger, consolidation, liquidation, or change in the ownership of or power to vote the majority of the ownership interest of Lessee, will constitute a Transfer for the purposes of this Article.

B. Assignments Prohibited.

Except in the case of an assignment pursuant to a probate proceeding or for estate planning purposes, all assignments of this Agreement are prohibited. An assignment prohibited within the meaning of this section 12 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise, or the creation of new stock or ownership interests, by which ownership or control of an aggregate of more than 50 percent of Lessee's stock or ownership interests must vest in a party or parties who are non-stockholders, partners, or members, as applicable, as of the Commencement Date.

C. Subletting.

Lessee has the right to sublet portions of the Leased Premises or the improvements only upon prior written consent from the Manager and only for a term or terms that will expire before the expiration

of the Term. Upon written request by Lessor, Lessee will promptly deliver to Lessor complete copies of any and all subleases. Each sublease must contain the following terms and conditions:

- (a) The sublease will incorporate the terms, conditions, and covenants set forth in, and state that it is subject and subordinate to, this Lease and to any extensions, modifications, or amendments of this Lease;
- (b) That rents due under the sublease (i) have been assigned to Lessor (and Lessee hereby assigns the rents to Lessor), to support performance of Lessee's covenants under this Lease, which assignment will be effective only on the occurrence of any event of default by Lessee under this Lease; and (ii) will, on receipt of written notification from Lessor that an event of default has occurred under this Lease, be paid by the subtenant directly to Lessor, subject to Article 15, until the subtenant receives written notice from Lessor that Lessee has cured the event of default or is in the process of curing the event of default in a manner reasonably satisfactory to Lessor;
- (c) If any act or omission of Lessee would give subtenant the right, immediately or after lapse of a period of time, to cancel or terminate the sublease, or to claim a partial or total eviction, subtenant will not exercise that right: (i) until it has given written notice of the act or omission to Lessor; and (ii) until a reasonable period of time for Lessor to cure the condition has passed.

13. SALE OF THE HANGAR AND IMPROVEMENTS

If at any time during the Term or at the expiration of the Term, Lessee intends to sell the hangar and improvements on the Leased Premises, Lessee hereby grants Lessor a right of first offer to purchase on the terms and conditions at which Lessor proposes to sell the property to a third party. Lessee shall give Manager written notice of its intent to sell and shall indicate the terms and conditions (including the sale price) upon which Lessee intends to sell the hangar to a third party. Lessor shall thereafter have sixty days to elect in writing to purchase the hangar. If Lessor declines to elect in writing to purchase the hangar and improvements, Lessee may elect to sell to any third party upon the advance written approval of the Manager, which will not be unreasonably withheld—failure to do so may place the buyer in the untenable position of occupying space on County property without authorization to do so, trigger the termination, remedy, and surrender provisions of sections 16 - 18 below, and may result in legal action. Lessee's notice of intent to sell must include the name and contact information of the prospective buyer and the sale price. Provided, however, if the price at which Lessee intends to sell the hangar and improvements is less than 90% of the price set forth in the notice of right of first offer to purchase, then Lessee shall again offer Lessor the right to acquire the hangar and improvements upon the same terms and conditions available to the third party. In which case Lessor shall have thirty days to elect in writing to purchase the hangar and improvements. If Lessor declines to elect in writing to purchase the hangar and improvements, and the Manager consents to the sale to a third party, Lessee may choose from the following two options.

A. Termination of Lease and Execution of New Lease.

Manager's consent to the sale of Lessee's hangar and improvements upon the Leased Premises constitutes implied consent to negotiate in good faith with the prospective buyer for a new lease, on the Airport's standard ground lease form as it may be amended from time to time.

B. Termination of the Lease and Removal of Property.

Should Manager consent to the sale of the hangar and improvements and the buyer does not wish to enter into a new Lease, Lessee shall ensure such buyer removes the hangar and all improvements within thirty days of the sale and place the Leased Premises in a clean and buildable site leaving all utility hookups in place. This Agreement shall then automatically terminate at the end of the calendar year, provided that Lessee shall remain liable for any damage to the Leased Premises or abandoned property pursuant to section 18 below.

14. LIENS.

A. Lien Granted to Lessor.

Lessee hereby grants County a lien against the hangar and other improvements, aircraft, and all personal property that Lessee stores in the hangar. This lien exists and continues for all unpaid amounts that Lessee may owe County, from time to time, and County's assertion of the lien does not relieve Lessee from the obligation to pay the monthly rent as provided in this Agreement. In the event Lessee does not fully and immediately discharge all unpaid amounts, County is hereby granted and has the right to take and recover possession of the hangar and satisfy its lien in accordance with Oregon law. The County may also take and recover possession of the stored aircraft and personal property, without notice or other action, exercise its lien against the same, and have and recover all costs and expenses including attorney's fees in connection with the repossession of said hangar, aircraft, or personal property and assertion of the lien.

B. Liens by Lessee.

Lessee acknowledges that it has no authority to engage in any act or to make any contract which may create or be the foundation for any lien upon the property or interest in the property of Lessor, subject to Article 15. If any such purported lien is created or filed, Lessee, at its sole cost and expense, shall liquidate and discharge the same within thirty days of such creation or filing. Lessee's failure to discharge any such purported lien shall constitute a breach of this Lease and Lessor may terminate this Lease upon thirty days' written notice. However, Lessee's financial obligation to Lessor to liquidate and discharge such lien shall continue in effect following termination of this Lease and until such a time as the lien is discharged.

15. LEASEHOLD MORTGAGES

A. Right to Mortgage Leasehold

Notwithstanding Articles 12 and 14 or any other provision to the contrary, in addition to any other rights granted and without any requirement to obtain Lessor's consent, Lessee has the right to mortgage or grant a security interest in Lessee's interest in this Lease, the Leased Premises, and the Improvements under one or more leasehold mortgages to one or more Lending Institutions (as

defined in section 15.B. below), and to assign this Lease as collateral security for those leasehold mortgages, on the condition that all rights acquired under the leasehold mortgages are subject to every covenant, condition, and restriction set forth in this Lease, and to all rights and interests of Lessor, none of which covenants, conditions, restrictions, rights, or interests is or may be waived by Lessor by reason of the right given to mortgage or grant a security interest in Lessee's interest in this Lease and the Premises and the Improvements, except as expressly provided otherwise.

B. Defined Terms

Any mortgage, deed of trust, financing statement, security agreement, or other financing instrument granted by Lessee pursuant to this Article 15 is referred to as a "Permitted Leasehold Mortgage," and the holder of or secured party under a Permitted Leasehold Mortgage is referred to as a "Permitted Leasehold Mortgagee." The term "Lending Institution" means any commercial, national, or savings bank, savings and loan association, trust company, pension trust, foundation, or insurance company, and any other entity, person, corporation, partnership, or otherwise making a loan on the security of Lessee's interest in this Lease or any portion of the Leased Premises or the Improvements.

C. Lender Protections

If a Permitted Leasehold Mortgagee sends to Lessor a true copy of its Permitted Leasehold Mortgage, together with written notice specifying the name and address of the Permitted Leasehold Mortgagee, then as long as the Permitted Leasehold Mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to Lessor, the following provisions will apply:

i. No Modifications or Terminations

This Lease may not be (a) amended or modified, or (b) terminated or canceled by reason of the exercise of any option or election by Lessee, or by the giving of any notice by Lessee, unless such amendment, modification, termination, or cancellation by Lessee is assented to in writing by the Permitted Leasehold Mortgagee. Any such attempted amendment or modification, termination, or cancellation by Lessee without the Permitted Leasehold Mortgagee's assent is void.

ii. Notice to Permitted Leasehold Mortgagees

Upon serving Lessee with any notice under this Lease, whether of default or any other matter, Lessor will simultaneously serve a copy of the notice on the Permitted Leasehold Mortgagee, and no notice to Lessee will be deemed given unless a copy is so served on the Permitted Leasehold Mortgagee in the manner provided in this Lease for giving notices.

iii. Right to Cure

In the event of any default by Lessee under this Lease, each Permitted Leasehold Mortgagee has the same period as Lessee has, plus 30 days, after service of notice on it of the default, to remedy or cause to be remedied or commence to remedy and complete the remedy of the default complained of, and Lessor must accept that performance by or at the instigation of the Permitted Leasehold

Mortgagee as if the same had been done by Lessee. Each notice of default given by Lessor must state the amount of any Rent that is then claimed to be in default.

iv. The Right to Postpone

If Lessor elects to terminate this Lease because of any default of Lessee, the Permitted Leasehold Mortgagee will have, in addition to the rights granted under the preceding section, the right to postpone and extend the specified date for the termination of this Lease as fixed by Lessor in its notice of termination, for a period of 12 months, as long as the Permitted Leasehold Mortgagee (a) cures or causes to be cured any then-existing defaults in payment of Rent and meanwhile pays the Rent, and (b) forthwith takes steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Permitted Leasehold Mortgage or otherwise and prosecutes the same to completion with reasonable diligence and continuity. If, at the end of the 12-month period, the Permitted Leasehold Mortgagee is actively engaged in steps to acquire or sell Lessee's interest, the time of the Permitted Leasehold Mortgagee to comply with the provisions of this section will be extended for a period that is reasonably necessary to complete those steps with reasonable diligence and continuity.

v. The Right to a New Lease

Lessor agrees that if this Lease is terminated by reason of any default by Lessee, other than for nonpayment of the Rent and other payments herein provided for, Lessor will enter into a new lease for the Premises and the Improvements with the holder of the then First Leasehold Mortgage on this Lease, or with its nominee or designee, for the remainder of the Term, effective as of the date of the termination, at the Rent and on the other terms and provisions as herein contained and subject only to the same conditions of title as this Lease was subject on the date of the execution hereof, and to the rights, if any, of any parties then in possession of the Leased Premises or any portion thereof, provided as follows:

- a. The holder will request the new lease within 30 days after the date of termination of the Lease;
- b. The holder will pay to Lessor at the time of execution and delivery of the new lease all sums as to which the First Leasehold Mortgagee will have been provided with prior notice and which would at the time of execution and delivery thereof be due under this Lease had it not terminated, together with any expenses, including reasonable attorney fees, to which Lessor will have been subjected by reason of the default;
- c. Lessor will not warrant possession of the Premises to the Lessee under the new lease;
- d. The new lease will be expressly made subject to the rights, if any, of Lessee under this terminated Lease;
- e. Tenant under the new lease will have the same right, title, and interest in and to the Premises as Lessee had under this Lease (except as otherwise provided herein); and
- f. The holder will not be obligated to perform any obligations of Lessee hereunder until the holder actually acquires possession of the Premises.

vi. Bankruptcy of Lessee

Nothing herein contained will require any holder of a Permitted Leasehold Mortgage or its nominee or designee to cure any default of Lessee arising out of its bankruptcy, insolvency, reorganization, or other proceeding under the bankruptcy or insolvency laws of the United States or the State of Oregon or otherwise.

vii. Insurance Policies

Lessor agrees that the name of the Permitted Leasehold Mortgagee may be added to the “loss payable endorsement” of any or all insurance policies required to be carried by Lessee.

16. TERMINATION AND DEFAULT.

A. Termination

This Lease shall terminate automatically at the expiration of the Term.

B. Default.

In addition to the expiration of the Term and other termination rights contained elsewhere in this Lease, the occurrence of any one or more of the following constitutes an event of default under this Lease:

- i. If Lessee fails to pay any rent, fees, or other charges due under this Lease, Lessor shall deliver to Lessee a written invoice and notice to pay the invoice within ten calendar days. If Lessee fails to pay the balance outstanding within such time, Lessor shall have the right to terminate this Lease immediately;
- ii. Failure by Lessee to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within ten days after notice thereof is given to Lessee;
- iii. Failure by Lessee, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than i. and ii above) and such failure continues and is not remedied within thirty days after written notice thereof is given to Lessee; provided, however, that if the failure is of such a nature that it cannot be cured within said thirty-day period, then this provision is satisfied if Lessee begins the cure within the thirty-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 90 days after Lessor’s notice is given to Lessee;
- iv. Lessee becomes insolvent; Lessee makes an assignment for the benefit of creditors; Lessee files a voluntary petition in bankruptcy; Lessee is adjudged bankrupt or a receiver is appointed for Lessee’s properties; the filing of an involuntary bankruptcy petition and Lessee’s failure to secure a dismissal of the petition within 75 days after filing; or the attachment of or the levying of execution on the leasehold interest and Lessee’s failure to secure discharge of the attachment or release of the levy of execution within thirty days; or

- v. Lessee is in default after the lapse of any applicable notice and cure period under any mortgage, deed of trust, or contract of sale secured by the improvements on the Leased Premises.

17. REMEDIES.

A. Remedies.

Upon the occurrence of an event of default, Lessor may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

- i. Lessor may terminate this Lease by written notice to Lessee;
- ii. Lessor or Lessor's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Leased Premises and the improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Premises and the Improvements, to the end that Lessor may have, hold, and enjoy the Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE PREMISES OR THE IMPROVEMENTS BY LESSOR WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO LESSEE.
- iii. Lessor may, without terminating the Lease, relet the whole or any part of the Premises and the improvements from time to time, either in the name of Lessor or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Lessor determines to be appropriate. To the extent allowed under Oregon and Federal law, Lessor will have no obligation to relet all or any part of the Leased Premises or the improvements and will not be liable for refusing to relet the Leased Premises or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Lessor will not operate to relieve Lessee of any liability under this Lease or otherwise affect such liability. Lessor at its option may make any physical change to the Leased Premises or the improvements that Lessor, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.
- iv. Whether or not Lessor retakes possession of or relets the Leased Premises and the improvements, Lessor has the right to recover its damages, including without limitation all lost rentals, all legal expenses, all costs incurred by Lessor in restoring the Leased Premises or otherwise preparing the Leased Premises and the

improvements for reletting, and all costs incurred by Lessor in reletting the Leased Premises and the improvements.

- v. To the extent permitted under Oregon law, Lessor may sue periodically for damages as they accrue without barring a later action for further damages. Lessor may in one action recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Leased Premises and the improvements for the same period, discounted at the time of award at a reasonable rate not to exceed ten percent per annum. If Lessor relets the Leased Premises and the improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

B. Lessor's Self-Help Right.

If Lessee at any time (a) fails to pay any tax or assessment in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Lessee (or without notice in the event of an emergency) and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease or from any default by Lessee and without waiving Lessor's right to take any action that is permissible under this Lease as a result of the default, Lessor may, but is under no obligation to, (i) pay any tax, assessment, or make any other payment required of Lessee under this Lease, and (ii) perform any other act on Lessee's part to be made or performed as provided in this Lease, and may enter the Premises and the improvements for any such purpose, and take any action that may be necessary. All payments so made by Lessor and all costs and expenses incurred by Lessor, including reasonable attorney fees, in connection with the performance of any such act will constitute additional rent payable by Lessee under this Lease and must be paid to Lessor on demand.

C. No Waiver.

No failure by Lessor to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, may be waived, altered, or modified except by a written instrument executed by Lessor. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

D. Remedies Cumulative and Nonexclusive.

Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Lessor's or Lessee's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

18. SURRENDER.

Lessor is not responsible for any loss or damages occurring to any property owned by Lessee or any sub-lessee. The provisions of this section 18 survive any termination of this Agreement.

A. No Delay.

Except as otherwise provided herein, on the last day of the Term or the last day Lessee is entitled to possession of the Leased Premises under this Agreement, if the Parties are not then negotiating a new lease, Lessee shall surrender and deliver up the premises to Lessor without delay.

B. Removal of Property.

If Lessee is still entitled to possession, Lessee may remove the hangar, other improvements, and personal property of Lessee, a sublessee, or any other guest/invitee (collectively, "Lessee's Property") on the Leased Premises so long as said improvements are removed on or before the last day that the Lessee is entitled to possession of the Leased Premises. After removal of said improvements, Lessee shall place the premises in a clean and buildable site leaving all utility hookups in place. Any of Lessee's Property that remains on the Leased Premises after the termination of this lease may, at the option of Lessor (1) be deemed to have been abandoned by Lessee or such sub-lessee and may either be retained by Lessor as its property and all rights of Tenant with respect to it will cease or be disposed of, without accountability, in such manner as Lessor sees fit, or (2) if Lessor gives written notice to Lessee to such effect, such property shall be removed by Lessee at Lessee's sole cost and expense. If Lessor elects to hold Lessee to Lessee's obligation to remove, Lessor may effect a removal and place the cost of removal, transportation to storage, and storage on Lessee.

19. RELEASE AND INDEMNIFICATION.

Lessee hereby assumes all liability and responsibility for property loss, property damage, and/or personal injury of any kind, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with its use of the Airport under this Lease or with the leasing, maintenance, use, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee covenants and agrees to, and does to the extent allowed by law, without waiving any defenses provided by law, hereby indemnify, hold harmless, and defend Lessor and Manager, its officers,

agents, servants, and employees from and against any and all claims or lawsuits for either property damage or loss (including alleged damage or loss to Lessee's business and any resulting lost profits) and/or personal injury, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with Lessee's use of the Airport under this Lease or with the use, leasing, maintenance, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee assumes all responsibility and agrees to pay Lessor and Manager for any and all injuries or damages to Lessor's property which arise out of or in connection with any and all acts or omissions of Lessee, its officers, agents, employees, contractors, subcontractors, licensees or invitees, except to the extent caused by the gross negligence or willful misconduct of Lessor, its officers, agents, servants, or employees.

Lessor and Manager do not guarantee police protection to Lessee, and sublessee or their property. Lessor/Manager is obligated only to provide security adequate to maintain Lessor's certification under FAA regulations. Lessee shall comply with all applicable regulations of the FAA relating to airport security. Lessee shall pay all fines imposed by the FAA on Lessor, Manager or Lessee resulting from Lessee's or any sublessees' failure to comply with such FAA regulations or to prevent unauthorized persons or parties from their obtaining access to the air operations area of the Airport from the Leased Premises.

20. NOTICES.

The Parties are required to update the information in this section. Notices required pursuant to the provisions of this Lease shall be conclusively determined to have been delivered (i) when hand-delivered to the other party at such addresses listed below, or at such other addresses as the receiving party may designate by proper notice to the sending party, or (ii) three (3) days after being deposited in the United States Mail, postage prepaid, addressed as follows:

To Lessor:
Crook County/Prineville Airport S39
Attn: Kelly Coffelt
4585 SW Airport Road
Prineville, OR 97754

To Lessee:
Michael Coney
10295 Bedrock Lane
Sandy, UT 84092
ph: 667.458.9312

With a copy to:
Crook County Counsel
300 NE 3rd Street
Prineville, OR 97754

With a copy to:

21. MISCELLANEOUS.

A. Governmental Powers.

Nothing in this lease should be construed or interpreted to mean that the County waives, surrenders, or sacrifices any of its governmental powers in any way.

B. Licenses and Permits.

Lessee shall, at its sole expense, obtain and keep in effect all licenses and permits necessary or required for its operations at the Airport.

C. Relationship of the Parties.

Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Lessor and Lessee.

D. Signs.

No signs are permitted on the exterior of any hangars without the express written consent of the Manager. Any such approved signs must conform with the size, color, location, and manner of display of other signs at the Airport and be maintained in a safe, neat, and well-kept condition.

E. Cooperation between Tenants.

Lessee must cooperate with all other tenants and users of the Airport and must at all times use the Leased Premises and the Airport in such a manner as to avoid interference with the activities of other Airport users and tenants. Any difference or conflict that may arise between Lessee and other users or tenants will be resolved by the Manager in the Manager's sole discretion and not subject to challenge or appeal. If Lessee's lawful enjoyment of the Leased Premises is impaired because of any act or omission of another tenant, Lessee will have no claim against County or its agents.

F. Survival.

All agreements (including but not limited to indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

G. Severability.

If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

H. Non-Waiver.

The failure of Lessor to insist upon the performance of any term or provision of this Lease or to exercise any right granted herein shall not constitute a waiver of Lessor's right to insist upon appropriate performance or to assert any such right on any future occasion.

I. Force Majeure.

If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any legal requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

J. Condemnation.

If the whole of the Leased Premises is taken by a public authority under the power of eminent domain, then the Term of this Agreement will cease on the day of possession by said public authority. If only a part of the Leased Premises is taken under eminent domain, Lessee will have the right to either terminate this Agreement or to continue in possession of the remainder of the Leased Premises. If Lessee remains in possession, all of the terms of this Agreement will continue in full force and effect, with Rent reduced proportionately pursuant to the non-condemned and Lessee-occupied square footage.

K. Nonmerger.

There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Leased Premises.

L. Costs and Attorney Fees.

In the event there should be a breach or default under any provision of this Lease and either party should retain attorneys or incur other expenses for the collection of rent, fees or charges, or the enforcement of performance or observances of any covenant, obligation or agreement, Lessor and Lessee agree that each party shall be responsible for its own attorneys' fees.

M. Applicable Law and Venue.

This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. The Parties agree that any civil action will be brought in the circuit court in Crook County.

N. Signature Authority.

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

O. Binding Effect.

The covenants and agreements contained in this Lease are binding on and inure to the benefit of Lessor, Lessee, and their respective successors and assigns.

P. Recordation.

This Agreement shall not be recorded. Lessee may elect that a memorandum of lease be executed and acknowledged by both parties and recorded in the public records of Crook County, at Lessee's cost.

Q. Time Is of the Essence.

Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

R. Interpretation.

In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Lessor and Lessee acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

S. Headings, Captions, and References.

The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Lease includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

T. Entire Agreement.

This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Lessee and Lessor mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease.

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U. Counterparts.

This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first set forth above.

For Lessee

Michael Coney

By: _____
Signature

Printed Name

Date: _____

For Crook County

CROOK COUNTY COURT

Seth Crawford, County Judge

Date: _____

Jerry Brummer, County Commissioner

Date: _____




Brian Barney, County Commissioner

Date: _____

Exhibit A

Legend

3

-  ? ?Prineville Airport
-  4075 Aviation Blvd
-  Feature 1



After recording, return to:
 John Eisler
 Crook County Counsel
 300 NE Third St.
 Prineville, OR 97754

Termination of Private Hangar Land Lease

THIS Termination of Private Hangar Land Lease (Termination) is dated February ___, 2022 (the “Effective Date”), by and between Crook County, a political subdivision of the State of Oregon (Landlord) and Wolfe Pack Properties, LLC, an Oregon limited liability company (Tenant).

RECITALS

- A. The City of Prineville and Tenant entered into that certain Private Hangar Land Lease (the “Lease”) dated December 2, 2008 with respect to the real property recorded in the Crook County Official Records as document number 2009-232604.
- B. Notwithstanding the Lease reference to Prineville Airport Commission (the “Commission”) as Lessor, Crook County is the Lessor as the fee title owner of the real property. The authority granted to the Commission by Crook County was repealed pursuant to Crook County Ordinance 249.
- C. Lessee is transferring ownership of the improvements and the new owner is entering into a lease with Landlord for the leased premises.
- D. Landlord and Tenant desire to record this Termination to put third parties on notice.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- 1. **Termination.** Notwithstanding any provisions to the contrary, the aforementioned Lease is hereby terminated as of February ___, 2022.
- 2. **Use of the Property.** Tenant’s rights to access, use, and exclude others from the leased premises are extinguished concurrently with this Termination.
- 3. **Ownership of Improvements.** All improvements constructed or installed on the leased premises are not the property of Landlord, even though attached or affixed to the leased premises.

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4. General.

- a. This Termination must be construed in accordance with the laws of the State of Oregon.
- b. This Termination may be amended only by a written instrument by the parties hereto.
- c. All capitalized terms not otherwise defined herein have the meaning ascribed in the Lease.

IN WITNESS WHEREOF, the parties have executed this Termination effective as of the date first set forth above.

For Tenant

Wolfe Pack Properties, LLC

By:

Its:

For Landlord

CROOK COUNTY COURT

Seth Crawford, County Judge

Jerry Brummer, County Commissioner

Brian Barney, County Commissioner

STATE OF OREGON)
) ss:

COUNTY OF CROOK)

This instrument was acknowledged before me on _____, 2022 by Seth Crawford in his capacity as Crook County Judge, and Jerry Brummer and Brian Barney in their capacities as Crook County Commissioners of Crook County, Oregon.

Notary Public for Oregon

STATE OF OREGON)
) ss:

COUNTY OF _____)

This instrument was acknowledged before me on _____, 2022 by _____ as managing member of Wolfe Pack Properties, LLC.

Notary Public for Oregon

Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 301 NE 3rd St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: February 18, 2022

RE: Carboard Dropbox Purchase for Landfill
Our File No.: Landfill 107

The landfill budgeted for the purchase of cardboard recycling dropboxes for this year with an estimated cost of \$12,000 per dropbox. Jeff Merwin solicited three price quotes for two such dropboxes, one quote through Sourcewell and two to private vendors (enclosed). Out of the three quotes, Sourcewell's was the highest and Rule Steel's was the lowest.

The products offered are substantially similar. There is not a great need for support or customer care. Price is thus the most important factor. The bid amounts are as follows:

- Rule Steel: \$22,138
- Wastequip: \$23,297
- Wastequip/Sourcewell: \$25,519.26 (bid amount for one dropbox x2)

Rule Steel's bid of \$22,138 thus represents the best value to the County. Mr. Merwin recommends awarding the contract to Rule Steel. Please let me know if you have any questions.

Please place this memo and the attached document(s) on the Wednesday, March 2, 2022 County Court Agenda as a CONSENT ITEM, for approval and signatures.

Approved this ____ day of _____ 2022.

CROOK COUNTY COURT

Seth Crawford
County Judge

Jerry Brummer
County Commissioner

Brian Barney
County Commissioner

11220 BASS LANE
CALDWELL, ID 83605



"Quality Products for over 50 Years"

RULE STEEL CONTAINER



PHONE: 1-800-769-5636
FAX: 208-585-2506

ATTENTION: Jeff Merwin
COMPANY: Crook County Landfill
EMAIL: jeff.merwin@co.crook.or.us
BILL TO: 300 NE Third St
Prineville, OR 97754
SHIP TO: SAME AS
BILLING
PHONE: 541-447-2398
CELL:
FAX: 541-416-1283

DATE: January 31, 2022

TERMS: NET 30

SALES REP: HALLIE SLAYTER
CELL: 1-541-990-7531

Roll Offs

WE HEREBY SUBMIT SPECIFICATIONS AND ESTIMATES FOR:

(Circle item numbers to select. Line out unwanted items.) All pricing in U.S. funds.

PROPOSAL

C-22-056

ITEM #	QTY	DESCRIPTION	PRICE/EA	PRICE/LINE
1	2	30 CuYd Chain Lift Rolloffs. 90" W x 240" L x 66" T inside. C5X6.7# channel mainrails and C3x4.1# channel floor frame and cross-members, with 12ga floor sheet. 12ga formed uprights (4ea on each side), with 12ga wall skin and 3"x3"x.120 top header. Standard wheels and skids, 2ea 6" T x 96" L card board slots on each side of box, hinged slot covers with lockable hasp, 2ea pieces T-bar double rear doors with 3"x3"x.120 frame and 12ga skin. Permanent 16ga solid weld on roof. Primed and painted with industrial enamel.	\$10,469.00	\$20,938.00
2	1	ESTIMATED FREIGHT hard price to be determined at time of shipping: 48ft flatbed to Prineville, OR	\$1,200.00	\$1,200.00

IN STATE: ☐ NO

TAXABLE: ☐ No

TAX: 0.00% \$0.00

WE PROPOSE TO FURNISH MATERIAL AND LABOR IN ACCORDANCE
WITH THE ABOVE SPECIFICATIONS FOR THE SUM OF:

\$22,138.00

NOTE: Please expect some paint to rub off the containers during handling and shipping. We will provide touch up paint.

determined at time of order	to be determined
DELIVERED ON OR BEFORE	SHIP VIA

Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the amount set forth above.

The above prices, specifications, terms and conditions and the Terms of Sale (as set forth on the opposite side of this Proposal, attached to this Proposal, or as provided on our website at www.rulesteel.com) are satisfactory and are hereby accepted. The Terms of Sale are integrated into this Proposal, and acceptance of this Proposal is acceptance of all of the terms and conditions of the Terms of Sale.

Rule Steel is authorized to do the work as specified. Payment will be made as outlined above and as set forth in the Terms of Sale. Buyer shall not hold Rule Steel responsible for any liability greater than amount of this Proposal, as amended from time to time.

SIGNATURE:

THIS PROPOSAL MAY BE WITHDRAWN BY RULE STEEL IF NOT
ACCEPTED WITHIN 5 BUSINESS DAYS.

SIGNATURE _____ DATE _____

TO ORDER, PLEASE RETURN A SIGNED COPY TO RULE STEEL VIA
FAX OR EMAIL

THANK YOU! WE LOOK FORWARD TO THE OPPORTUNITY OF WORKING WITH YOU ON THIS AND FUTURE PROJECTS.



33710 Oakville Road, Albany, OR, 97321
 PHONE: 800-645-7106 FAX: 541-926-7558
 WQ-10219901

Sell To:

Contact Name	Jeff Merwin	Ship To Name	Crook County Landfill
Bill To Name	Crook County Landfill	Ship To	300 NE 3rd St
Bill To	300 NE 3rd St		Prineville, OR 97754-1919
	Prineville, OR 97754-1919		USA
	USA		
Email	jeff.merwin@co.crook.or.us		
Phone	(541) 447-2398		
Mobile	(541) 633-6203		

Quote Information

Salesperson	Ken Boyovich	Created Date	1/17/2022
Salesperson Email	kboyovich@wastequip.com	Expiration Date	2/16/2022
Salesperson Phone	(800) 645-7106	Quote Number	WQ-10219901
			Please Reference Quote Number on all Purchase Orders

Product	Product Description	Description	Quantity	Sales Price	Total Price
Container - OR - 128565	30 Cubic Yard Standard Duty Rectangular Roll Off Container Superior Chain Lift 20' Long - Floor: 12 gauge with 3" structural channels on 24" centers, Channel: 5" x 6.7 lb., Walls: 12 gauge with side columns on 36" centers and 3" x 3" x 11 gauge Top Rails, T-Bar Double Door, Primed and Painted any Standard Color	SINGLE SIDE DOOR PAINT: TBD	2.00	\$6,973.00	\$13,946.00
Container - OR - ROC401	Recycle Roof - A Frame Roof		2.00	\$3,503.00	\$7,006.00
Container - OR - ROC403	Recycle Roof - Cardboard Slot Option Each	2 SLOTS PER SIDE	8.00	\$164.00	\$1,312.00

Payment Terms	Net 30 Days if credit has been established	Subtotal	\$22,264.00
Shipping Terms	FOB Origin	Shipping	\$1,033.00
		Tax	\$0.00
		Grand Total	\$23,297.00

Special Instructions

Special Instructions SHIPPING CONTACT

Jeff Merwin
 Phone
 (541) 447-2398
 Email
jeff.merwin@co.crook.or.us
 ONE LOAD

Additional Information

Additional Terms Our Quote is a good faith estimate, based on our understanding of your needs. Subject to our acceptance, your Order is an offer to purchase our Products and services in accordance with the Wastequip Terms & Conditions of Sale ("WQ-T&C")



33710 Oakville Road, Albany, OR, 97321

PHONE: 800-645-7106 FAX: 541-926-7558

WQ-10219901

located at: <https://www.wastequip.com/terms-conditions-of-sale>, as of the date set forth in Section 1(b) of the WQ T&C, which are made a part of this Quote. These WQ T&Cs may be updated from time to time and are available by hard copy upon request.

Additional
Information

Pricing is based on your anticipated Order prior to the expiration of this Quote, including product specifications, quantities and timing. Any differences to your Order may result in different pricing, freight or other costs. Due to volatility in petrochemical, steel and related Product material markets, actual prices and freight, are subject to change. We reserve the right, by providing notice to you at any time before beginning Product manufacturing, to increase the price of the Product(s) to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any increase in the costs of labor, materials, or other costs of manufacture or supply). Unless otherwise stated, materials and container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes and representations – actual volume, Products and materials are subject to manufacturing and commercial variation and Wastequip's practices, and may vary from nominal sizes and materials. All prices are in US dollars; this Quote may not include all applicable taxes, brokerage fees or duties. If customer is not tax exempt, final tax calculations are subject to change.

Signatures

Accepted By: _____

Company Name: _____

Date: _____

Purchase Order: _____

Please Reference Quote Number on all Purchase Orders



33710 Oakville Road, Albany, OR, 97321
 PHONE: 800-645-7106 FAX: 541-926-7558
 WQ-10218976



Awarded Contract

Contract #040521-WQI

Sell To:

Contact Name	Jeff Merwin	Ship To Name	Clark County Landfill
Bill To Name	Clark County Landfill	Ship To	110 SW Landfill Rd
Bill To	110 SW Landfill Rd Prineville, OR 97754 USA		Prineville, OR 97754 USA
Email	jeff.merwin@co.crook.or.us		
Phone	(541) 447-2398		
Mobile	(541) 633-6203		

Quote Information

Salesperson	Ken Boyovich	Created Date	1/7/2022
Salesperson Email	kboyovich@wastequip.com	Expiration Date	2/6/2022
Salesperson Phone	(800) 645-7106	Quote Number	WQ-10218976
			Please Reference Quote Number on all Purchase Orders

Product	Product Description	Description	Quantity	Sales Price	Total Price
Container - OR - 128565	30 Cubic Yard Standard Duty Rectangular Roll Off Container Superior Chain Lift 20' Long - Floor: 12 gauge with 3" structural channels on 24" centers, Channel: 5" x 6.7 lb., Walls: 12 gauge with side columns on 36" centers and 3" x 3" x 11 gauge Top Rails, T-Bar Double Door, Primed and Painted any Standard Color	PAINT: FOREST GREEN	1.00	\$7,350.63	\$7,350.63
Container - OR - ROC401	Recycle Roof - A Frame Roof		1.00	\$3,697.00	\$3,697.00
Container - OR - ROC403	Recycle Roof - Cardboard Slot Option Each	2 PER SIDE	4.00	\$173.00	\$692.00

Payment Terms	Net 30 Days if credit has been established	Subtotal	\$11,739.63
Shipping Terms	FOB Origin	Shipping	\$1,020.00
		Tax	\$0.00
		Grand Total	\$12,759.63

Special Instructions

Special Instructions Shipping Contact: Jeff Merwin
 Phone
 (541) 447-2398
 Email
 jeff.merwin@co.crook.or.us
 one load



33710 Oakville Road, Albany, OR, 97321
 PHONE: 800-645-7106 FAX: 541-926-7558
 WQ-10218976



Awarded Contract

Contract # 040621-WQI

Additional Information

- Additional Terms** Our Quote is a good faith estimate, based on our understanding of your needs. Subject to our acceptance, your Order is an offer to purchase our Products and services in accordance with the Wastequip Terms & Conditions of Sale ("WQ T&C") located at: <https://www.wastequip.com/terms-conditions-of-sale>, as of the date set forth in Section 1(b) of the WQ T&C, which are made a part of this Quote. These WQ T&Cs may be updated from time to time and are available by hard copy upon request.
- Additional Information** Pricing is based on your anticipated Order prior to the expiration of this Quote, including product specifications, quantities and timing. Any differences to your Order may result in different pricing, freight or other costs. Due to volatility in petrochemical, steel and related Product material markets, actual prices and freight, are subject to change. We reserve the right, by providing notice to you at any time before beginning Product manufacturing, to increase the price of the Product(s) to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any increase in the costs of labor, materials, or other costs of manufacture or supply). Unless otherwise stated, materials and container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes and representations – actual volume, Products and materials are subject to manufacturing and commercial variation and Wastequip's practices, and may vary from nominal sizes and materials. All prices are in US dollars; this Quote may not include all applicable taxes, brokerage fees or duties. If customer is not tax exempt, final tax calculations are subject to change.
- Special Contract Information** Sourcewell-Pricing & Product offerings are based on the Sourcewell Co-Operative Contract with Wastequip, LLC (#040621-WQI, eff. 06/02/2021), and such Contract terms & conditions are incorporated herein by reference. Pricing & Product (& related) changes may occur at any time with proper documentation, & subject to Sourcewell approval; therefore, offerings may change without written prior notice. Wastequip Product Limited Warranties, Disclaimers, Limitation of Liability & Remedies, & Limited Warranty Provisions apply to all purchases thereunder.

Signatures

Accepted By: _____

Company Name: _____

Date: _____

Purchase Order: _____

Please Reference Quote Number on all Purchase Orders

Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 301 NE 3rd St., Ste 200, Prineville, OR 97754

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MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: February 22, 2022

RE: Braatz New Build Hangar Lease
Our File No.: Airport 43

Enclosed is a hangar lease for a new build with Cannon Braatz involving new hangar space at 4075 Aviation Blvd. As a quick refresher, the hangars at the airport are typically retained by the lessee as personal property, while the County retains ownership of the real property.

Braatz's new lease is for thirty years with an option to renew for another ten years. This lease will begin with an initial payment of \$34,320 plus rent at the rate of \$0.28 per square foot, with an adjustment at the start of the year (along with all other hangar leases) based on CPI. Kelly Coffelt recommends approval. Please let me know if you have any questions.

Please place this memo and the attached document(s) on the Wednesday, March 2, 2022, County Court Agenda as a CONSENT ITEM, for approval and signatures.

CROOK COUNTY/PRINEVILLE AIRPORT S39 GROUND LEASE AND USE AGREEMENT

This Crook County Prineville Airport S39 Ground Lease and Use Agreement (“Agreement” or “Lease”) is made and entered into this ____ day of February, 2022 (the “Commencement Date”), by and between Crook County, a political subdivision of the State of Oregon (“County,” or “Lessor”) and Cannon Braatz (“Lessee”). Lessor and Lessee may hereinafter be referred to as the “Parties” or individually as a “Party.”

RECITALS

WHEREAS, County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport);

WHEREAS, the Airport is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager (the Airport Manager and any persons or entities hereafter responsible for the management of the Airport shall be referred to as the “Manager”);

WHEREAS, the Airport is the recipient of certain Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants, with County as sponsor, and is thus subject to ongoing compliance with all FAA regulations and guidance;

WHEREAS, Lessee desires to lease from Lessor and use certain Airport land and engage in certain non-commercial aeronautical activities at the Airport; and

WHEREAS, Lessor desires to lease to Lessee certain Airport land.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. PREMISES.

A. Leased Premises.

Lessor hereby leases to Lessee, pursuant to the rents, conditions, and provisions herein, 4800 square feet of ground space (the “Leased Premises”) at the Airport in Crook County, Oregon, with the address of 4217 Aviation Blvd. and identified and generally described on Exhibit A, attached and incorporated herein.

B. Condition of Leased Premises.

Lessee warrants and represents that Lessee has carefully and completely examined and inspected the Leased Premises and Lessee fully understands its responsibilities and obligations with respect to the Leased Premises and this Agreement. Lessee accepts the Leased Premises in an “AS IS”, “WHERE IS” condition without representation or warranties from Lessor as to the condition, suitability, or sufficiency of the Leased Premises for engaging in the non-commercial aeronautical activity described or contemplated by this Agreement. To the best of Lessor’s knowledge, the Leased Premises complies with all applicable federal, state, and local environmental regulations and standards. Lessee agrees that it has inspected the Leased Premises and is fully

advised of its own rights without reliance upon any representation made by Lessor concerning the environmental condition of the Leased Premises. Lessee, at its sole cost and expense, agrees that it shall be fully responsible for the remediation of any violation of any applicable federal, state, or local environmental regulations or standards that is caused by Lessee, its officers, agents, servants, employees, contractors, subcontractors, or invitees.

2. LEASE TERM.

A. Initial Term.

Starting on the Commencement Date, the Leased Premises will be leased for a term of 30 years (the “Initial Term”), unless earlier terminated pursuant to the terms of this Lease.

B. Extended Term.

If Lessee is not in default under the Lease, Lessee has the option to extend the term for one additional period(s) of 10 years (the “Extended Term”) by providing written notice thereof to Lessor not more than 180 days or less than 90 days before the expiration of the Initial Term or the current Extended Term (for purposes of this Agreement, both the Initial Term and Extended Term may hereafter be referred to simply as the “Term”), on the condition that said written notice includes as an exhibit a professional, independent commercial inspection of the hangar and improvements, performed no more than six months before the date of the written notice, showing an expected useful life of the hangar of greater than 1.5 times the requested Extended Term.

C. Holdover.

There shall be no holdover period. Should Lessee remain in possession after the expiration of the Term, Lessee will be considered a tenant at sufferance, which Lessor may consider as triggering the termination, remedy, and surrender provisions of sections 16 – 18 below at any time without notice and Lessee will be liable for any and all damages resulting from such unauthorized holdover (including but not limited to any and all damages that Lessor is required to pay a new tenant for failing to timely deliver any portion of the Leased Premises or the improvements).

3. RENT.

A. Initial Rent.

Lessee shall pay Initial Rent of \$34,320.00 plus Rent, as defined in paragraph B, below, prorated for the current year ending December 31. Rent for the first year is due and payable upon the signing of this Lease.

B. Rent for Term.

Subject to paragraph C below, Lessee shall pay annual Rent at the rate of \$0.28 per square foot for the Leased Premises space for a total of \$1,344.00 per year of this lease term. Rent for each subsequent year of the Term is due each January 1. Any payments not received by January 1 will trigger the default provisions of 16.B.i below. All payments shall be made to the Manager. Manager hereby reserves the right to institute additional rent, in his sole discretion and not to exceed one-half of the base rent, calculated to cover documented common-area maintenance expenses and applicable to all Airport tenants.

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C. Adjustment of Rent.

Rent will be adjusted annually effective on January 1st (the “Adjustment Date”). Manager will deliver notice to Lessee of the amount of the adjustment and the new Rent not less than 30 days before Rent is due each year, calculated pursuant to the provisions below.

i. Annual Adjustment.

For the duration of the Term, before each annual due date for Rent except for those years subject to an Appraisal Adjustment in subsection ii below, County will adjust the rent in the same percentage as the increase, if any, in the Consumer Price Index (the “Index”) published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled “U.S. City Average, All Items, All Urban Consumers, 1982–84=100” for the year of the Commencement Date or the prior year’s Rent, as applicable, and the latest figures preceding the current Adjustment Date. All comparisons will be made using Index figures derived from the same base period and in no event will this provision operate to decrease Rent. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

ii. Appraisal Adjustment.

At five-year intervals, beginning for the year 2020, Lessor will procure an Appraisal Report, consistent with Title XI of the Financial Institutions Reform, Recover, and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice (USPAP) to ascertain Fair Market Rent for all leased space at the Airport.

4. CONSTRUCTION AND IMPROVEMENTS.

A. Mandatory Improvements.

Lessee covenants and agrees that it shall construct a hangar and related improvements (collectively the “Project”) on the Leased Premises. The Project and any future alterations, additions, replacements, or modifications to the Project are referred to as the “Improvements.” Completion of the Project in a good and workmanlike manner is required as a condition of this Lease within twelve months of the Commencement Date. Lessee shall construct the Project in accordance with final plans and specification approved by the City in writing. Lessee is solely responsible for the required building permits. Construction of the outside of the hangar building above the concrete slab shall be completely finished 90 days following commencement of framing the hangar. Notice for the Project and any Improvements shall be submitted through the Manager to the FAA as required by FAA rules.

B. Survey.

Lessee, at Lessee’s sole expense, shall have a legal survey of the Leased Premises completed by a licensed surveyor. Lessee must provide copies of the survey to Manager and a certificate indicating that the footprint of the building is in the correct location according to the master plan prior to the start of framing.

C. Authorization for Discretionary Improvements.

Following completion of the Project, Lessee may, at its sole discretion, perform modifications, renovations, improvements, or other construction work on or to the Leased Premises so long as it first submits all plans, specifications and estimates for the costs of the proposed work in writing and also requests and receives in writing approval from the Manager. Manager agrees to respond in writing to Lessee’s requests for approval

within 30 calendar days of receipt of such requests. Lessee covenants and agrees that it shall fully comply with all provisions of this section 4 in the undertaking of any such Improvements.

D. Process for Approval of Plans.

Lessee's plans for the Project and any Improvements shall conform to the Airport's architectural standards. Lessee must also receive written approval, where required by law, from the FAA and local planning and building authorities. All plans, specifications, and work shall conform to all federal, state, and local laws, ordinances, rules, and regulations in force at the time the plans are presented for review.

E. Documents.

Lessee shall supply the Manager with comprehensive sets of documentation relative to the Project and any Improvements, including at a minimum, as-built drawings of each project in computer format, if possible.

F. Title to Improvements.

Title to the Project and all Improvements constructed by Lessee during the Term will be and will remain in the Lessee during the Term of the Lease. During the Term, Lessee is entitled, for all taxation purposes, to claim cost-recovery deductions and the like on all Improvements constructed by Lessee. Following the expiration of the Term or earlier termination of this Lease, title to the Improvements will pass pursuant to sections 13 and 16 below.

G. Lessor Cooperation.

Lessor, through the Manager, agrees to cooperate with Lessee in all respects in connection with Lessee's construction of the Project and any Improvements, provided that Lessor will not be required to pay any application fees or incur any other costs or liabilities in connection with the Improvements. Manager will appear as a witness in any legal or administrative proceedings to the extent reasonably necessary to construct the Project and Improvements.

5. USE OF LEASED PREMISES.

A. Permitted Uses.

The primary purpose of this Agreement is for Lessee to store aircraft in a hangar on the Leased Premises. As such, the following non-commercial aeronautical uses are permitted:

- Storage of aircraft;
- Shelter for maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft;
- Storage of aircraft handling equipment, e.g., tow bar, glider tow equipment, workbenches, and tools and materials used to service, maintain, repair or outfit aircraft; items related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of materials related to an aeronautical activity, e.g., balloon and skydiving equipment, office equipment, teaching tools, and materials related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar, e.g., furniture or televisions;
- Construction of amateur-built or kit-built aircraft, provided that activities are conducted safely; and
- Storage of a vehicle parked at the hangar while the aircraft usually stored in that hangar is flying, subject to Airport rules and regulations as currently in effect or may hereinafter be implemented.

B. Prohibited Uses.

Prohibited uses include, but are not limited to the following:

- Use as a residence;
- Operation of a non-aeronautical business, e.g., limo service, car and motorcycle storage, storage of inventory, non-aeronautical business office;
- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar;
- Activities which displace the aeronautical contents of the hangar or impede access to aircraft or other aeronautical contents of the hangar;
- Storage of household items that could be stored in commercial storage facilities;
- Long-term storage of derelict aircraft and parts;
- Storage of items or activities prohibited by local or state law;
- Fuel, and other dangerous and Hazmat materials; and
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

C. Commercial Activity.

Lessee may not conduct any commercial activity on or near the Leased Premises without Manager's prior written consent. Lessee may use the Leased Premises and hangar to store the aircraft, even if the aircraft is used to support a commercial activity, but only if no commercial activity aside from mere storage of the aircraft takes place in or near the hangar. Duly registered non-profit flight clubs and subletting the Leased Premises are not considered a commercial activity under this section.

D. Hazardous Materials.

Hazardous materials stored in the hangar must be stored in Department of Transportation and OSHA approved containers and disposed of per hazardous waste requirements, as required by law. The total volume of stored hazardous materials may not exceed 5 US gallons. The storage of engine oil, in the manufacturer's original containers, will not be included in the calculation of the total allowable storage volume. To minimize fire hazard and hazardous waste contamination issues, the following actions are prohibited in the hangar: using combustible chemicals or cleaning solvents, fuel system draining, fuel system repair (except where the fuel system has been drained), chemical stripping, chemical washing, and painting (except as described elsewhere in this Agreement). Any hot work (i.e., cutting, welding, brazing, soldering, and grinding) may not be performed inside the hangar; any such work performed in the hangar itself must be done by a person properly licensed to perform such work. Lessee, and all persons performing work on Lessee's behalf, must at all times comply with all applicable current state and local laws, ordinances, regulations, and fire prevention codes.

6. COMPLIANCE WITH ALL LAWS.

Lessee hereby agrees to comply with all local, state, and federal laws, ordinances, guidance, rules and regulations as they may exist or be enacted in the future. Moreover, Lessee makes the following covenants.

A. Non-Discrimination.

The Lessee and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed,

maintained, or otherwise operated on the said property described in this lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The Lessee and all heirs, successors, 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; and
- (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

If Lessee provides any services at the Airport in relation to this Lease, Lessee hereby covenants that it will furnish said services on a reasonable basis to all users thereof, charge reasonable prices for each unit or service, and not unjustly discriminate in any manner thereof.

B. Federal Requirements.

Lessor is bound to comply with the following federal laws, executive orders, and regulations; Lessee will take no action to interfere with Lessor's compliance and will not take any act in violation itself:

i. Federal Laws.

- a. Title 49, U.S.C., subtitle VII, as amended;
- b. Davis-Bacon Act - 40 U.S.C. 276(a), *et seq.*;
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, *et seq.*;
- d. Hatch Act – 5 U.S.C. 1501, *et seq.*;
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, *et seq.*;
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f);
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c;
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, *et seq.*;
- i. Clean Air Act, P.L. 90-148, as amended;
- j. Coastal Zone Management Act, P.L. 93-205, as amended;
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a;
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f));
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794;

- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), (prohibits discrimination on the basis of disability);
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, *et seq.*;
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended;
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, *et seq.*;
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373;
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, *et seq.*;
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1;
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, *et seq.*;
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended;
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, *et seq.*;
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706; and
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252);

ii. Federal Regulations.

- a. 2 CFR Part180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement);
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- c. 2 CFR Part 1200 – Non-procurement Suspension and Debarment;
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures14 CFR Part 16 - Rules of Practice for Federally Assisted Airport Enforcement Proceedings;
- e. 14 CFR Part 150 - Airport noise compatibility planning;
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services;
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964;
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates;
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States;
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act);
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements);
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments; and

m. 49 CFR Part 20 - New restrictions on lobbying.

iii. Executive Orders.

- a. Executive Order 11246 - Equal Employment Opportunity;
- b. Executive Order 11990 - Protection of Wetlands;
- c. Executive Order 11998 –Flood Plain Management;
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs;
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction;
- f. Executive Order 12898 - Environmental Justice;
- g. Executive Order 13788 - Buy American and Hire American; and
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects.

7. RIGHTS AND RESERVATIONS OF LESSOR.

A. Hazards.

Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, including, but not limited to, the right to prevent Lessee from erecting or permitting to be erected any building or other structure which, in the opinion of Lessor, would limit the usefulness of the Airport, constitute a hazard to aircraft or diminish the capability of existing or future avigational or navigational aids used at the Airport.

B. Development.

Lessor 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. Accordingly, nothing contained in this Lease shall be construed to obligate Lessor to relocate Lessee as a result of any such Airport developments or improvements.

C. Subordination.

This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States Government, which relates to the operation or maintenance of the Airport and is required as a condition for the expenditure of federal funds for the development, maintenance or repair of Airport infrastructure. In the event that any such existing or future agreement directly causes a material restriction, impairment or interference with Lessee's primary operations on the Premises (Limitation) for a period of less than seven calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation.

If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period:

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and

(iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon 30 days' written notice to Lessor.

D. National Emergencies.

During any war or national emergency, Lessor shall have the right to lease any part of the Airport, including its landing area, to the United States Government. In this event, any provisions of this instrument which are inconsistent with the provisions of the lease to the Government shall be suspended. Lessor shall not be liable for any loss or damages alleged by Lessee as a result of this action. However, nothing in this Lease shall prevent Lessee from pursuing any rights it may have for reimbursement from the United States Government. If any lease between Lessor and the United States Government executed pursuant to this section D directly causes a Limitation for a period of less than seven (7) calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven (7) calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation. If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and
- (iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then:

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon 30 days' written notice to Lessor.

E. Sponsor Assurances.

Lessor covenants and agrees that during the term of this Lease it will operate and maintain the Airport and its facilities as a public airport consistent with and pursuant to the Sponsor's Assurances given by Lessor to the United States Government through the Federal Airport Act; and Lessee agrees that this Lease and Lessee's rights and privileges hereunder shall be subordinate to the Sponsor's Assurances.

F. Easements.

Lessee's rights hereunder shall be subject to all existing and future utility and drainage easements and rights-of-way granted by Lessor for the installation, maintenance, inspection, repair or removal of facilities owned or operated by electric, gas, water, sewer, communication or other utility companies. Lessee's rights shall additionally be subject to all rights granted by any ordinance or statute which allows utility companies to use publicly owned property for the provision of utility services.

G. Rights of Ingress and Egress.

Lessor agrees Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways for automobiles and taxiways for aircraft including access during the construction phase of airport improvements, unless otherwise agreed to in writing by both parties. Such rights shall be consistent with the rules and regulations with respect to the occupancy and use of airport premises as adopted from time to time by the County and by the Federal Aviation Administration or any other state, federal, or local authority.

H. Relocation of Hangar and Leased Premises.

The precise location of the Premises where the Hangar is located is subject to County's discretion and modification. County may compel relocation of the Hangar at any time, in which case County will be responsible for all reasonable relocation costs. Lessee will be responsible for all Hangar relocation/reassembly costs when the relocation/reconstruction is at the request and sole benefit of the lessee, or if relocation is due to termination of this Agreement.

8. TAXES AND ASSESSMENTS.

Lessee agrees to timely pay any and all federal, state, or local taxes or assessments which may lawfully be levied against Lessee due to Lessee's use or occupancy of the Leased Premises or any improvements or property placed on the premises by Lessee as a result of its occupancy. Lessee shall furnish to the Manager a receipt showing said taxes or assessments are paid within thirty days of payment.

9. INSURANCE.

Lessee shall be responsible for any and all property damage insurance for Lessee's hangar, aircraft, and other property on the Leased Premises. Additionally, Lessee, at its sole cost and expense, shall procure and maintain at all times, in full force and effect during the Term of this Lease, a policy or policies of insurance, naming Crook County and the employer of Manager (currently, City of Prineville) as additional insureds and covering all risks arising directly or indirectly out of Lessee's activities at the Leased Premises, including but not limited to (1) coverage for hangar premises liability of others; (2) aircraft liability; and (3) if Lessee or any occupant of the Leased Premises has property of others, including aircraft, in their care, custody, or control then they shall maintain hangar keeper's liability coverage with limits adequate to cover the potential damage. The limits for all such policies shall be the current statutory limit of liability for Lessor under the Oregon Tort Claims Act or \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whichever is higher. Evidence of the required insurance coverages issued by an insurance company satisfactory to Lessor shall be provided to Manager by way of a Lessor-approved certificate of insurance upon commencement of this Agreement and each time Rent is due. The certificate of insurance shall contain a requirement that the insurance company notify Manager 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Lessee shall provide written notice to Manager within two calendar days after Lessee becomes aware that its coverage has been cancelled or has been materially changed. Regardless of what circumstances caused Lessee's insurance coverage to cease or be modified, it is Lessee's responsibility to notify Manager.

10. UTILITIES.

Lessee, at Lessee's sole cost and expense, shall be responsible for the installation and use of all utility services to all portions of the Leased Premises and for all other related utility expenses, including but not limited to deposits and expenses required for the installation of meters, if necessary. Lessee further covenants and agrees to pay all costs and expenses for any extension, maintenance, or repair of any and all utilities serving the Leased Premises. In addition, Lessee agrees that all utilities, air conditioning and heating equipment, and

other electrically operated equipment which may be used on the Leased Premises shall fully comply with all applicable Mechanical, Electrical, Plumbing, Building, and Fire Codes, as they exist or may hereafter be amended. Lessee expressly waives any and all claims, including a claim of Lessor's default of this Agreement, against County for compensation for any and all loss or damage sustained by reason of any defect, deficiency, interruption, or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, electrical supply system, or electrical apparatus or wires serving the Leased Premises.

11. MAINTENANCE AND SAFETY ISSUES.

A. Maintenance and Repairs by Lessee.

Lessee understands that this is a term lease and agrees to keep and maintain the Leased Premises in a good, clean and sanitary condition at all times, reasonable wear and tear excepted. Lessee covenants and agrees that it will not make or suffer any waste of the Leased Premises. Lessee, at Lessee's sole cost and expense, will make all repairs or replacements necessary to prevent the deterioration in condition or value of the Premises, including, but not limited to, the maintenance of and repairs to all hangars and other structures, doors, windows and roofs, and all fixtures, equipment, utilities, hangar modifications and surrounding pavement on the Premises. Lessee must paint the exterior of the hangar, as needed and reasonably directed by Lessor, with specifications and color to be approved in writing by the Manager. Lessee shall be responsible for all damages caused by Lessee, its agents, servants, employees, contractors, subcontractors, licensees or invitees, and Lessee agrees to fully repair or otherwise cure all such damages at Lessee's sole cost and expense.

Lessee agrees that all improvements, trade fixtures, furnishings, equipment and other personal property of every kind or description which may at any time be on the Leased Premises shall be at Lessee's sole risk or at the sole risk of those claiming under Lessee. Lessor shall not be liable for any damage to such property or loss suffered by Lessee's business or business operations which may be caused by the bursting, overflowing or leaking of sewer or steam pipes, from water from any source whatsoever, or from any heating fixtures, plumbing fixtures, electric wires, noise, gas or odors, or from causes of any other matter.

B. Access.

Lessor/Manager shall have the right and privilege, through its officers, agents, servants or employees, to inspect the Leased Premises. Except in the event of an emergency, Lessor shall conduct such inspections during Lessee's ordinary business hours and shall use its best efforts to provide Lessee at least twenty-four hours' notice prior to any inspection. Lessee will permit the Crook County Fire and Rescue (CCFR) Fire Marshal or his or her authorized agents to inspect the Leased Premises, and Lessee will comply with all requirements of the Fire Marshal or his or her authorized agents that are necessary to bring the Leased Premises into compliance with all applicable fire and building code requirements regarding fire safety, as such provisions exist or may hereafter be amended. Lessee shall maintain in proper condition accessible fire extinguishers of a number and type approved by the Fire Marshal or his or her authorized agents for the particular hazard involved.

C. Inspections and Repairs.

If Lessor/Manager determines during an inspection of the Leased Premises that Lessee is responsible under this Lease for any maintenance or repairs, Lessor shall notify Lessee in writing. Lessee agrees to begin such maintenance or repair work diligently within 30 calendar days following receipt of such notice and to then complete such maintenance or repair work within a reasonable time, considering the nature of the work to be done. If Lessee fails to begin the recommended maintenance or repairs within such time or fails to complete

the maintenance or repairs within a reasonable time, Lessor may, in its discretion, perform such maintenance or repairs on behalf of Lessee. In this event, Lessee will reimburse Lessor for the cost of the maintenance or repairs, and such reimbursement will be due on the date of Lessee's next annual Rent payment following completion of the maintenance or repairs.

D. Repairs Required of Lessor.

During any inspection, Lessor may perform any obligations that Lessor is authorized or required to perform under the terms of this Lease or pursuant to its governmental duties under federal, state, or local laws, rules, or regulations.

12. ASSIGNMENT, SUBLETTING, AND SUBORDINATION.

A. Limitations on Transfers.

Except as permitted under paragraph C below and section 15 below, Lessee must not, voluntarily or by operation of law, sell or transfer this Lease or any interest therein, sublet the Leased Premises or any part thereof, or grant any right to use the Leased Premises, the improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Lessor, which must not be unreasonably withheld. Any attempted Transfer without such prior written consent will be void. Lessor's consent to a Transfer will in no event release Lessee, any assignee, sublessee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease (including any liabilities or obligations arising during the Extended Term), nor relieve Lessee from the requirement of obtaining Lessor's prior written consent to any further Transfer. Lessor's acceptance of Rent from any other person will not be deemed to be a waiver by Lessor of any provision of this Lease or consent to any Transfer. The failure or refusal of Lessor to approve a requested Transfer shall not relieve Lessee of its obligations hereunder, including payment of Rent.

If Lessee is a corporation, partnership, limited liability company, or other entity or unincorporated association, then any Transfer of this Lease by merger, consolidation, liquidation, or change in the ownership of or power to vote the majority of the ownership interest of Lessee, will constitute a Transfer for the purposes of this Article.

B. Assignments Prohibited.

Except in the case of an assignment pursuant to a probate proceeding or for estate planning purposes, all assignments of this Agreement are prohibited. An assignment prohibited within the meaning of this section 12 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise, or the creation of new stock or ownership interests, by which ownership or control of an aggregate of more than 50 percent of Lessee's stock or ownership interests must vest in a party or parties who are non-stockholders, partners, or members, as applicable, as of the Commencement Date.

C. Subletting.

Lessee has the right to sublet portions of the Leased Premises or the improvements only upon prior written consent from the Manager and only for a term or terms that will expire before the expiration of the Term. Upon written request by Lessor, Lessee will promptly deliver to Lessor complete copies of any and all subleases. Each sublease must contain the following terms and conditions:

- (a) The sublease will incorporate the terms, conditions, and covenants set forth in, and state that it is subject and subordinate to, this Lease and to any extensions, modifications, or amendments of this Lease;

(b) That rents due under the sublease (i) have been assigned to Lessor (and Lessee hereby assigns the rents to Lessor), to support performance of Lessee's covenants under this Lease, which assignment will be effective only on the occurrence of any event of default by Lessee under this Lease; and (ii) will, on receipt of written notification from Lessor that an event of default has occurred under this Lease, be paid by the subtenant directly to Lessor, subject to section 15, until the subtenant receives written notice from Lessor that Lessee has cured the event of default or is in the process of curing the event of default in a manner reasonably satisfactory to Lessor;

(c) If any act or omission of Lessee would give subtenant the right, immediately or after lapse of a period of time, to cancel or terminate the sublease, or to claim a partial or total eviction, subtenant will not exercise that right: (i) until it has given written notice of the act or omission to Lessor; and (ii) until a reasonable period of time for Lessor to cure the condition has passed.

13. SALE OF THE HANGAR AND IMPROVEMENTS.

If at any time during the Term or at the expiration of the Term, Lessee intends to sell the Improvements on the Leased Premises, Lessee hereby grants Lessor a right of first offer to purchase on the terms and conditions at which Lessor proposes to sell the property to a third party. Lessee shall give Manager written notice of its intent to sell and shall indicate the terms and conditions (including the sale price) upon which Lessee intends to sell the Improvements to a third party. Lessor shall thereafter have sixty days to elect in writing to purchase the Improvements. If Lessor declines to elect in writing to purchase the Improvements, Lessee may elect to sell to any third party upon the advance written approval of the Manager, which will not be unreasonably withheld—failure to do so may place the buyer in the untenable position of occupying space on County property without authorization to do so, trigger the termination, remedy, and surrender provisions of sections 16 - 18 below, and may result in legal action. Lessee's notice of intent to sell must include the name and contact information of the prospective buyer and the sale price. Provided, however, if the price at which Lessee intends to sell the Improvements is less than 90% of the price set forth in the notice of right of first offer to purchase, then Lessee shall again offer Lessor the right to acquire the Improvements upon the same terms and conditions available to the third party. In which case Lessor shall have thirty days to elect in writing to purchase the Improvements. If Lessor declines to elect in writing to purchase the Improvements, and the Manager consents to the sale to a third party, Lessee may choose from the following two options.

A. Termination of Lease and Execution of New Lease.

Manager's consent to the sale of Lessee's hangar and improvements upon the Leased Premises constitutes implied consent to negotiate in good faith with the prospective buyer for a new lease under the Airport's standard ground lease form as it may be amended from time to time.

B. Termination of the Lease and Removal of Property.

Should Manager consent to the sale of the Improvements and the buyer does not wish to enter into a new Lease, Lessee shall ensure such buyer removes the Improvements within 30 days of the sale and place the Leased Premises in a clean and buildable site leaving all utility hookups in place. This Agreement shall then automatically terminate at the end of the calendar year, provided that Lessee shall remain liable for any damage to the Leased Premises or abandoned property pursuant to section 18 below.

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14. LIENS.

A. Lien Granted to Lessor.

Lessee hereby grants County a lien against the Improvements, aircraft, and all personal property that Lessee stores in the hangar. This lien exists and continues for all unpaid amounts that Lessee may owe County, from time to time, and County's assertion of the lien does not relieve Lessee from the obligation to pay the monthly rent as provided in this Agreement. In the event Lessee does not fully and immediately discharge all unpaid amounts, County is hereby granted and has the right to take and recover possession of the Improvements and satisfy its lien in accordance with Oregon law. The County may also take and recover possession of the stored aircraft and personal property, without notice or other action, exercise its lien against the same, and have and recover all costs and expenses including attorney's fees in connection with the repossession of said hangar, Improvements, aircraft, or personal property and assertion of the lien.

B. Liens by Lessee.

Lessee acknowledges that it has no authority to engage in any act or to make any contract which may create or be the foundation for any lien upon the property or interest in the property of Lessor, subject to section 15. If any such purported lien is created or filed, Lessee, at its sole cost and expense, shall liquidate and discharge the same within 30 days of such creation or filing. Lessee's failure to discharge any such purported lien shall constitute a breach of this Lease and Lessor may terminate this Lease upon 30 days' written notice. However, Lessee's financial obligation to Lessor to liquidate and discharge such lien shall continue in effect following termination of this Lease and until such a time as the lien is discharged.

15. LEASEHOLD MORTGAGES

A. Right to Mortgage Leasehold

Notwithstanding Articles 12 and 14 or any other provision to the contrary, in addition to any other rights granted and without any requirement to obtain Lessor's consent, Lessee has the right to mortgage or grant a security interest in Lessee's interest in this Lease, the Leased Premises, and the Improvements under one or more leasehold mortgages to one or more Lending Institutions (as defined in section 15.B. below), and to assign this Lease as collateral security for those leasehold mortgages, on the condition that all rights acquired under the leasehold mortgages are subject to every covenant, condition, and restriction set forth in this Lease, and to all rights and interests of Lessor, none of which covenants, conditions, restrictions, rights, or interests is or may be waived by Lessor by reason of the right given to mortgage or grant a security interest in Lessee's interest in this Lease and the Premises and the Improvements, except as expressly provided otherwise.

B. Defined Terms

Any mortgage, deed of trust, financing statement, security agreement, or other financing instrument granted by Lessee pursuant to this section 15 is referred to as a "Permitted Leasehold Mortgage," and the holder of or secured party under a Permitted Leasehold Mortgage is referred to as a "Permitted Leasehold Mortgagee." The term "Lending Institution" means any commercial, national, or savings bank, savings and loan association, trust company, pension trust, foundation, or insurance company, and any other entity, person, corporation, partnership, or otherwise making a loan on the security of Lessee's interest in this Lease or any portion of the Leased Premises or the Improvements.

C. Lender Protections

If a Permitted Leasehold Mortgagee sends to Lessor a true copy of its Permitted Leasehold Mortgage, together with written notice specifying the name and address of the Permitted Leasehold Mortgagee, then as

long as the Permitted Leasehold Mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to Lessor, the following provisions will apply:

i. No Modifications or Terminations

This Lease may not be (a) amended or modified, or (b) terminated or canceled by reason of the exercise of any option or election by Lessee, or by the giving of any notice by Lessee, unless such amendment, modification, termination, or cancellation by Lessee is assented to in writing by the Permitted Leasehold Mortgagee. Any such attempted amendment or modification, termination, or cancellation by Lessee without the Permitted Leasehold Mortgagee's assent is void.

ii. Notice to Permitted Leasehold Mortgagees

Upon serving Lessee with any notice under this Lease, whether of default or any other matter, Lessor will simultaneously serve a copy of the notice on the Permitted Leasehold Mortgagee, and no notice to Lessee will be deemed given unless a copy is so served on the Permitted Leasehold Mortgagee in the manner provided in this Lease for giving notices.

iii. Right to Cure

In the event of any default by Lessee under this Lease, each Permitted Leasehold Mortgagee has the same period as Lessee has, plus 30 days, after service of notice on it of the default, to remedy or cause to be remedied or commence to remedy and complete the remedy of the default complained of, and Lessor must accept that performance by or at the instigation of the Permitted Leasehold Mortgagee as if the same had been done by Lessee. Each notice of default given by Lessor must state the amount of any Rent that is then claimed to be in default.

iv. The Right to Postpone

If Lessor elects to terminate this Lease because of any default of Lessee, the Permitted Leasehold Mortgagee will have, in addition to the rights granted under the preceding section, the right to postpone and extend the specified date for the termination of this Lease as fixed by Lessor in its notice of termination, for a period of 12 months, as long as the Permitted Leasehold Mortgagee (a) cures or causes to be cured any then-existing defaults in payment of Rent and meanwhile pays the Rent, and (b) forthwith takes steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Permitted Leasehold Mortgage or otherwise and prosecutes the same to completion with reasonable diligence and continuity.

v. The Right to a New Lease

Lessor agrees that if this Lease is terminated by reason of any default by Lessee, other than for nonpayment of the Rent and other payments herein provided for, Lessor will enter into a new lease for the Premises and the Improvements with the holder of the then First Leasehold Mortgage on this Lease, or with its nominee or designee, for the remainder of the Term, effective as of the date of the termination, at the Rent and on the other terms and provisions as herein contained and subject only to the same conditions of title as this Lease was subject on the date of the execution hereof, and to the rights, if any, of any parties then in possession of the Leased Premises or any portion thereof, provided as follows:

- a. The holder will request the new lease within 30 days after the date of termination of the Lease;

- b. The holder will pay to Lessor at the time of execution and delivery of the new lease all sums as to which the First Leasehold Mortgagee will have been provided with prior notice and which would at the time of execution and delivery thereof be due under this Lease had it not terminated, together with any expenses, including reasonable attorney fees, to which Lessor will have been subjected by reason of the default;
- c. Lessor will not warrant possession of the Premises to the Lessee under the new lease;
- d. The new lease will be expressly made subject to the rights, if any, of Lessee under this terminated Lease;
- e. Tenant under the new lease will have the same right, title, and interest in and to the Premises as Lessee had under this Lease (except as otherwise provided herein); and
- f. The holder will not be obligated to perform any obligations of Lessee hereunder until the holder actually acquires possession of the Premises.

vi. Bankruptcy of Lessee

Nothing herein contained will require any holder of a Permitted Leasehold Mortgage or its nominee or designee to cure any default of Lessee arising out of its bankruptcy, insolvency, reorganization, or other proceeding under the bankruptcy or insolvency laws of the United States or the State of Oregon or otherwise.

vii. Insurance Policies

Lessor agrees that the name of the Permitted Leasehold Mortgagee may be added to the “loss payable endorsement” of any or all insurance policies required to be carried by Lessee.

16. TERMINATION AND DEFAULT.

A. Termination

This Lease shall terminate automatically at the expiration of the Term.

B. Default.

In addition to the expiration of the Term and other termination rights contained elsewhere in this Lease, the occurrence of any one or more of the following constitutes an event of default under this Lease:

- i. If Lessee fails to pay any rent, fees, or other charges due under this Lease, Lessor shall deliver to Lessee a written invoice and notice to pay the invoice within ten calendar days. If Lessee fails to pay the balance outstanding within such time, Lessor shall have the right to terminate this Lease immediately;
- ii. Failure by Lessee to complete construction of the Project within the time allotted in section 4;
- iii. Failure by Lessee to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within 10 days after notice thereof is given to Lessee;
- iv. Failure by Lessee, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than i and iii above) and such failure continues and is not remedied within 30 days after written notice thereof is given to Lessee; provided, however, that if the failure is of such a nature that it cannot be cured within said 30-day period, then this provision is satisfied if Lessee begins the cure within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 90 days after Lessor’s notice is given to Lessee;

- v. Lessee becomes insolvent; Lessee makes an assignment for the benefit of creditors other than a Leasehold Mortgagee under section 15; Lessee files a voluntary petition in bankruptcy; Lessee is adjudged bankrupt or a receiver is appointed for Lessee's properties; the filing of an involuntary bankruptcy petition and Lessee's failure to secure a dismissal of the petition within 75 days after filing; or the attachment of or the levying of execution on the leasehold interest and Lessee's failure to secure discharge of the attachment or release of the levy of execution within 30 days; or
- vi. Lessee is in default after the lapse of any applicable notice and cure period under any mortgage, deed of trust, or contract of sale secured by the improvements on the Leased Premises.

17. REMEDIES.

A. Remedies.

Upon the occurrence of an event of default, Lessor may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

- i. Lessor may terminate this Lease by written notice to Lessee;
- ii. Lessor or Lessor's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Leased Premises and the improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Leased Premises and the Improvements, to the end that Lessor may have, hold, and enjoy the Leased Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE LEASED PREMISES OR THE IMPROVEMENTS BY LESSOR WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO LESSEE.
- iii. Lessor may, without terminating the Lease, relet the whole or any part of the Premises and the improvements from time to time, either in the name of Lessor or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Lessor determines to be appropriate. To the extent allowed under Oregon and Federal law, Lessor will have no obligation to relet all or any part of the Leased Premises or the improvements and will not be liable for refusing to relet the Leased Premises or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Lessor will not operate to relieve Lessee of any liability under this Lease or otherwise affect such liability. Lessor at its option may make any physical change to the Leased Premises or the improvements that Lessor, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.
- iv. Whether or not Lessor retakes possession of or relets the Leased Premises and the improvements, Lessor has the right to recover its damages, including without limitation all lost rentals, all legal expenses, all costs incurred by Lessor in restoring the Leased Premises or otherwise preparing the Leased Premises and the improvements for reletting, and all costs incurred by Lessor in reletting the Leased Premises and the improvements.
- v. To the extent permitted under Oregon law, Lessor may sue periodically for damages as they accrue without barring a later action for further damages. Lessor may in one action recover

accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Leased Premises and the improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If Lessor relets the Leased Premises and the improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

B. Lessor's Self-Help Right.

If Lessee at any time (a) fails to pay any tax or assessment in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Lessee (or without notice in the event of an emergency) and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease or from any default by Lessee and without waiving Lessor's right to take any action that is permissible under this Lease as a result of the default, Lessor may, but is under no obligation to, (i) pay any tax, assessment, or make any other payment required of Lessee under this Lease, and (ii) perform any other act on Lessee's part to be made or performed as provided in this Lease, and may enter the Premises and the improvements for any such purpose, and take any action that may be necessary. All payments so made by Lessor and all costs and expenses incurred by Lessor, including reasonable attorney fees, in connection with the performance of any such act will constitute additional rent payable by Lessee under this Lease and must be paid to Lessor on demand.

C. No Waiver.

No failure by Lessor to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, may be waived, altered, or modified except by a written instrument executed by Lessor. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

D. Remedies Cumulative and Nonexclusive.

Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Lessor's or Lessee's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

18. SURRENDER.

Lessor is not responsible for any loss or damages occurring to any property owned by Lessee or any sub-lessee. The provisions of this section 18 survive any termination of this Agreement.

A. No Delay.

Except as otherwise provided herein, on the last day of the Term or the last day Lessee is entitled to possession of the Leased Premises under this Lease, if the Parties are not then negotiating a new lease, Lessee shall surrender and deliver up the premises to Lessor without delay.

B. Removal of Property.

If Lessee is still entitled to possession, Lessee may remove the hangar, other improvements, and personal property of Lessee, a sublessee, or any other guest/invitee (collectively, "Lessee's Property") on the Leased Premises so long as said improvements are removed on or before the last day that the Lessee is entitled to possession of the Leased Premises. After removal of said improvements, Lessee shall place the premises in a clean and buildable site leaving all utility hookups in place. Any of Lessee's Property that remains on the Leased Premises after the termination of this lease may, at the option of Lessor (1) be deemed to have been abandoned by Lessee or such sub-lessee and may either be retained by Lessor as its property and all rights of Tenant with respect to it will cease or be disposed of, without accountability, in such manner as Lessor sees fit, or (2) if Lessor gives written notice to Lessee to such effect, such property shall be removed by Lessee at Lessee's sole cost and expense. If Lessor elects to hold Lessee to Lessee's obligation to remove, Lessor may effect a removal and place the cost of removal, transportation to storage, and storage on Lessee.

19. RELEASE AND INDEMNIFICATION.

Lessee hereby assumes all liability and responsibility for property loss, property damage, and/or personal injury of any kind, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with its use of the Airport under this Lease or with the leasing, maintenance, use, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee covenants and agrees to, and does to the extent allowed by law, without waiving any defenses provided by law, hereby indemnify, hold harmless, and defend Lessor and Manager, its officers, agents, servants, and employees from and against any and all claims or lawsuits for either property damage or loss (including alleged damage or loss to Lessee's business and any resulting lost profits) and/or personal injury, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with Lessee's use of the Airport under this Lease or with the use, leasing, maintenance, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee assumes all responsibility and agrees to pay Lessor and Manager for any and all injuries or damages to Lessor's property which arise out of or in connection with any and all acts or omissions of Lessee, its officers, agents, employees, contractors, subcontractors, licensees or invitees, except to the extent caused by the gross negligence or willful misconduct of Lessor, its officers, agents, servants, or employees.

Lessor and Manager do not guarantee police protection to Lessee, and sublessee or their property. Lessor/Manager is obligated only to provide security adequate to maintain Lessor's certification under FAA regulations. Lessee shall comply with all applicable regulations of the FAA relating to airport security. Lessee shall pay all fines imposed by the FAA on Lessor, Manager or Lessee resulting from Lessee's or any sublessees' failure to comply with such FAA regulations or to prevent unauthorized persons or parties from their obtaining access to the air operations area of the Airport from the Leased Premises.

20. NOTICES.

The Parties are required to update the information in this section. Notices required pursuant to the provisions of this Lease shall be conclusively determined to have been delivered (i) when hand-delivered to the other party at such addresses listed below, or at such other addresses as the receiving party may designate by proper notice to the sending party, or (ii) three days after being deposited in the United States Mail, postage prepaid, addressed as follows:

To Lessor:
Crook County/Prineville Airport S39
Attn: Kelly Coffelt
4585 SW Airport Road
Prineville, OR 97754

To Lessee:
Cannon Braatz
1900 NE 3rd, Ste. 106-292
Bend, OR 97701

With a copy to:
Crook County Counsel
300 NE 3rd Street
Prineville, OR 97754

21. MISCELLANEOUS.

A. Governmental Powers.

Nothing in this lease should be construed or interpreted to mean that the County waives, surrenders, or sacrifices any of its governmental powers in any way.

B. Licenses and Permits.

Lessee shall, at its sole expense, obtain and keep in effect all licenses and permits necessary or required for its operations at the Airport.

C. Relationship of the Parties.

Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Lessor and Lessee.

D. Signs.

No signs are permitted on the exterior of any hangars without the express written consent of the Manager. Any such approved signs must conform with the size, color, location, and manner of display of other signs at the Airport and be maintained in a safe, neat, and well-kept condition.

E. Cooperation between Tenants.

Lessee must cooperate with all other tenants and users of the Airport and must at all times use the Leased Premises and the Airport in such a manner as to avoid interference with the activities of other Airport users and tenants. Any difference or conflict that may arise between Lessee and other users or tenants will be resolved by the Manager in the Manager's sole discretion and not subject to challenge or appeal. If Lessee's lawful enjoyment of the Leased Premises is impaired because of any act or omission of another tenant, Lessee will have no claim against County or its agents.

F. Survival.

All agreements (including but not limited to indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

G. Severability.

If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

H. Non-Waiver.

The failure of Lessor to insist upon the performance of any term or provision of this Lease or to exercise any right granted herein shall not constitute a waiver of Lessor's right to insist upon appropriate performance or to assert any such right on any future occasion.

I. Force Majeure.

If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any legal requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

J. Condemnation.

If the whole of the Leased Premises is taken by a public authority under the power of eminent domain, then the Term of this Agreement will cease on the day of possession by said public authority. If only a part of the Leased Premises is taken under eminent domain, Lessee will have the right to either terminate this Agreement or to continue in possession of the remainder of the Leased Premises. If Lessee remains in possession, all of the terms of this Agreement will continue in full force and effect, with Rent reduced proportionately pursuant to the non-condemned and Lessee-occupied square footage.

K. Nonmerger.

There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate of the Leased Premises.

L. Costs and Attorney Fees.

In the event there should be a breach or default under any provision of this Lease and either party should retain attorneys or incur other expenses for the collection of rent, fees or charges, or the enforcement of performance or observances of any covenant, obligation or agreement, Lessor and Lessee agree that each party shall be responsible for its own attorneys' fees.

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M. Applicable Law and Venue.

This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. The Parties agree that any civil action will be brought in the circuit court in Crook County.

N. Signature Authority.

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

O. Binding Effect.

The covenants and agreements contained in this Lease are binding on and inure to the benefit of Lessor, Lessee, and their respective successors and assigns.

P. Recordation.

This Agreement shall not be recorded. Lessee may elect that a memorandum of lease be executed and acknowledged by both parties and recorded in the public records of Crook County, at Lessee's cost.

Q. Time Is of the Essence.

Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

R. Interpretation.

In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Lessor and Lessee acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

S. Headings, Captions, and References.

The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Lease includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

T. Entire Agreement.

This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Lessee and Lessor mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease.

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U. Counterparts.

This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first set forth above.

For Lessee

Cannon Braatz

By: _____

Date: _____

For Crook County

CROOK COUNTY COURT

Seth Crawford, County Judge

Date: _____

Jerry Brummer, County Commissioner

Date: _____

Brian Barney, County Commissioner

Date: _____

Exhibit A

Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 301 NE 3rd St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: February 22, 2022

RE: Braatz/Burnett Hangar Lease
Our File No.: Airport 43

Enclosed is a new hangar lease with LJP Delta LLC and a termination of lease with Cannon Braatz and Steve Burnett, both involving hangar space at 4075 Aviation Blvd. Braatz/Burnett's lease began in 2007. It is being terminated as part of a sale to LJP Delta LLC. As a quick refresher, the hangars at the airport are typically retained by the lessee as personal property, while the County retains ownership of the real property. Thus, for this transaction, the sale of the hangar is going through escrow and the transition of the lease is part of that.

LJP's new lease is for twenty-five years with an option to renew for an additional 5 years. These leases are typically for twenty years with an option for an additional 10 years, the longer duration primary term is an accommodation for LJP's lender. This lease will begin at the rate of \$0.28 per square foot, with an adjustment at the start of the year (along with all other hangar leases) based on CPI. Kelly Coffelt recommends approval. Please let me know if you have any questions.

Please place this memo and the attached document(s) on the Wednesday, March 2, 2022, County Court Agenda as a CONSENT ITEM, for approval and signatures.

CROOK COUNTY PRINEVILLE AIRPORT S39 GROUND LEASE AND USE AGREEMENT

This Crook County Prineville Airport S39 Ground Lease and Use Agreement (“Agreement” or “Lease”) is made and entered into this ____ day of March, 2022 (the “Commencement Date”), by and between Crook County, a political subdivision of the State of Oregon (“County,” or “Lessor”) and LJP Delta LLC, a domestic limited liability company (“Lessee”). Lessor and Lessee may hereinafter be referred to as the “Parties” or individually as a “Party.”

RECITALS

WHEREAS, County is the owner of the real property known as the Crook County Prineville Airport S39 (Airport);

WHEREAS, the Airport is currently managed by the City of Prineville pursuant to an Intergovernmental Agreement and operated by an Airport Manager (the Airport Manager and any persons or entities hereafter responsible for the management of the Airport shall be referred to as the “Manager”);

WHEREAS, the Airport is the recipient of certain Federal Aviation Administration (FAA) Airport Improvement Program (AIP) grants, with County as sponsor, and is thus subject to ongoing compliance with all FAA regulations and guidance;

WHEREAS, Lessee desires to lease from Lessor and use certain Airport land and improvements and engage in certain non-commercial aeronautical activities at the Airport; and

WHEREAS, Lessor desires to lease to Lessee certain Airport land and improvements.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. PREMISES.

A. Leased Premises.

Lessor hereby leases to Lessee, pursuant to the rents, conditions, and provisions herein, 2,970 square feet of ground space (the “Leased Premises”) at the Airport in Crook County, Oregon, including an underground propane tank, identified with the current address of 4187 SW Aviation Blvd. and depicted on Exhibit A, attached and incorporated herein.

B. Condition of Leased Premises.

Lessee warrants and represents that Lessee has carefully and completely examined and inspected the Leased Premises and Lessee fully understands its responsibilities and obligations with respect to the Leased Premises and this Agreement. Lessee accepts the Leased Premises in an “AS IS”, “WHERE IS” condition without representation or warranties from Lessor as to the condition, suitability, or sufficiency of the Leased Premises for engaging in the non-commercial aeronautical activity described or contemplated by this Agreement. To the best of Lessor’s knowledge, the Leased Premises complies with all applicable federal, state, and local environmental regulations and standards. Lessee agrees that it has inspected the Leased Premises and is fully advised of its own rights without reliance upon any representation made by Lessor concerning the environmental condition of the Leased Premises. Lessee, at its sole cost and expense, agrees that it shall be fully responsible for the remediation of any violation of any applicable federal, state, or local environmental regulations or standards that is caused by Lessee, its officers, agents, servants, employees, contractors, subcontractors, or invitees.

C. Improvements.

The Leased Premises contains a previously constructed hangar and improvements. The hangar and improvements are not the property of County. County makes no representations or warranties and assumes no liability or control for the current or future state of the hangar and improvements, except as expressly stated in this Agreement.

2. LEASE TERM.

A. Initial Term.

Starting on the Commencement Date, the Leased Premises will be leased for a term of twenty-five years (the “Initial Term”), unless earlier terminated pursuant to the terms of this Lease.

B. Extended Term.

If Lessee is not in default under the Lease, Lessee has the option to extend the term for one additional period(s) of five years (the “Extended Term”) by providing written notice thereof to Lessor not more than 180 days or less than 90 days before the expiration of the Initial Term (for purposes of this Agreement, both the Initial Term and Extended Term may hereafter be referred to simply as the “Term”) on the condition that said written notice includes as an exhibit a professional, independent commercial inspection of the hangar and improvements, performed no more than six months before the date of the written notice, showing an expected useful life of the hangar of greater than 1.5 times the requested Extended Term.

C. Holdover.

There shall be no holdover period. Should Lessee remain in possession after the expiration of the Term, Lessee will be considered a tenant at sufferance, which Lessor may consider as triggering the termination, remedy, and surrender provisions of sections 16 – 18 below at any time without notice and Lessee will be liable for any and all damages resulting from such unauthorized holdover

(including but not limited to any and all damages that Lessor is required to pay a new tenant for failing to timely deliver any portion of the Leased Premises or the improvements).

3. RENT.

A. Rent for Term.

Subject to paragraph B below, Lessee shall pay annual Rent at the rate of \$0.28 per square foot for the Leased Premises space for a total of \$831.60 per year of this lease term. Rent for the first year is due and payable upon the signing of this Lease. Rent for each subsequent year of the Term is due each January 1. Any payments not received by January 1 will trigger the default provisions of 16.B.i below. All payments shall be made to the Manager. Manager hereby reserves the right to institute additional rent, in his sole discretion and not to exceed one-half of the base rent, calculated to cover documented common-area maintenance expenses and applicable to all Airport tenants.

B. Adjustment of Rent.

Rent will be adjusted annually on January 1st (the “Adjustment Date”). Manager will deliver notice to Lessee of the amount of the adjustment and the new Rent not less than 30 days before Rent is due each year, calculated pursuant to the provisions below.

i. Annual Adjustment

For the duration of the Term, before each annual due date for Rent except for those years subject to an Appraisal Adjustment in subsection ii below, County will adjust the rent in the same percentage as the increase, if any, in the Consumer Price Index (the “Index”) published by the United States Department of Labor, Bureau of Labor Statistics. The increase will be computed by comparing the schedule entitled “U.S. City Average, All Items, All Urban Consumers, 1982–84=100” for the year of the Commencement Date or the prior year’s Rent, as applicable, and the latest figures preceding the current Adjustment Date. All comparisons will be made using Index figures derived from the same base period and in no event will this provision operate to decrease Rent. If the Index cited above is revised or discontinued during the Term, then the Index that is designated to replace it by BOMA Oregon will be used.

ii. Appraisal Adjustment

At five-year intervals, beginning for the year 2020, Lessor will procure an Appraisal Report, consistent with Title XI of the Financial Institutions Reform, Recover, and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice (USPAP) to ascertain Fair Market Rent for all leased space at the Airport.

4. USE OF LEASED PREMISES.

A. Permitted Uses.

The primary purpose of this Agreement is for Lessee to store aircraft in a hangar on the Leased Premises. As such, the following non-commercial aeronautical uses are permitted:

- Storage of aircraft;

- Shelter for maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft;
- Storage of aircraft handling equipment, e.g., tow bar, glider tow equipment, workbenches, and tools and materials used to service, maintain, repair or outfit aircraft; items related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of materials related to an aeronautical activity, e.g., balloon and skydiving equipment, office equipment, teaching tools, and materials related to ancillary or incidental uses that do not affect the hangar's primary use;
- Storage of non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar, e.g., furniture or televisions;
- Construction of amateur-built or kit-built aircraft provided that activities are conducted safely; and
- Storage of a vehicle parked at the hangar while the aircraft usually stored in that hangar is flying, subject to Airport rules and regulations as currently in effect or may hereinafter be implemented.

B. Prohibited Uses.

Prohibited uses include, but are not limited to the following:

- Use as a residence;
- Operation of a non-aeronautical business, e.g., limo service, car and motorcycle storage, storage of inventory, non-aeronautical business office;
- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar;
- Activities which displace the aeronautical contents of the hangar or impede access to aircraft or other aeronautical contents of the hangar;
- Storage of household items that could be stored in commercial storage facilities;
- Long-term storage of derelict aircraft and parts;
- Storage of items or activities prohibited by local or state law;
- Fuel, and other dangerous and Hazmat materials; or
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

C. Commercial Activity.

Lessee may not conduct any commercial activity on or near the Leased Premises without Manager's prior written consent. Lessee may use the Leased Premises and hangar to store the aircraft, even if the aircraft is used to support a commercial activity, but only if no commercial activity aside from mere storage of the aircraft takes place in or near the hangar. Duly registered non-profit flight clubs and subletting the Leased Premises are not considered a commercial activity under this section.

D. Hazardous Materials.

Hazardous materials stored in the hangar must be stored in Department of Transportation approved containers and disposed of per hazardous waste requirements, as required by law. The total volume of stored hazardous materials may not exceed five (5) US gallons. The storage of engine oil, in the manufacturer's original containers, will not be included in the calculation of the total allowable storage volume. To minimize fire hazard and hazardous waste contamination issues, the following actions are prohibited in the hangar: using combustible chemicals or cleaning solvents, fuel system draining, fuel system repair (except where the fuel system has been drained), chemical stripping, chemical washing, and painting (except as described elsewhere in this Agreement). Any hot work (i.e., cutting, welding, brazing, soldering, and grinding) may not be performed inside the hangar; any such work performed on the hangar itself must be done by a person properly licensed to perform such work. Lessee, and all persons performing work on Lessee's behalf, must at all times comply with all applicable current state and local laws, ordinances, regulations, and fire prevention codes.

5. COMPLIANCE WITH ALL LAWS

Lessee hereby agrees to comply with all local, state, and federal laws, ordinances, guidance, rules and regulations as they may exist or be enacted in the future. Moreover, Lessee makes the following covenants.

A. Non-Discrimination

The Lessee and all heirs, successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this lease for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The Lessee for himself, his heirs, 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 49 CFR Part 21, Nondiscrimination in Federally Assisted

Programs of the Department of Transportation, and as said Regulations may be amended.

If Lessee provides any services at the Airport in relation to this Lease, Lessee hereby covenants that it will furnish said services on a reasonable basis to all users thereof, charge reasonable prices for each unit or service, and not unjustly discriminate in any manner thereof.

B. Federal Requirements

Lessor is bound to comply with the following federal laws, executive orders, and regulations; Lessee will take no action to interfere with Lessor's compliance and will not take any act in violation itself:

i. Federal Laws.

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.

- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

ii. Federal Regulations.

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].
- c. 2 CFR Part 1200 – Non-procurement Suspension and Debarment.
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice for Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.
- m. 49 CFR Part 20 - New restrictions on lobbying.

iii. Executive Orders.

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 –Flood Plain Management

- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction
- f. Executive Order 12898 - Environmental Justice
- g. Executive Order 13788 - Buy American and Hire American
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects.

6. RIGHTS AND RESERVATIONS OF LESSOR.

A. Hazards.

Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, including, but not limited to, the right to prevent Lessee from erecting or permitting to be erected any building or other structure which, in the opinion of Lessor, would limit the usefulness of the Airport, constitute a hazard to aircraft or diminish the capability of existing or future avigational or navigational aids used at the Airport.

B. Development.

Lessor 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. Accordingly, nothing contained in this Lease shall be construed to obligate Lessor to relocate Lessee as a result of any such Airport developments or improvements.

C. Subordination.

This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States Government, which relates to the operation or maintenance of the Airport and is required as a condition for the expenditure of federal funds for the development, maintenance or repair of Airport infrastructure. In the event that any such existing or future agreement directly causes a material restriction, impairment or interference with Lessee's primary operations on the Premises (Limitation) for a period of less than seven calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation.

If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period:

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and

(iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon thirty days' written notice to Lessor.

D. National Emergencies.

During any war or national emergency, Lessor shall have the right to lease any part of the Airport, including its landing area, to the United States Government. In this event, any provisions of this instrument which are inconsistent with the provisions of the lease to the Government shall be suspended. Lessor shall not be liable for any loss or damages alleged by Lessee as a result of this action. However, nothing in this Lease shall prevent Lessee from pursuing any rights it may have for reimbursement from the United States Government. If any lease between Lessor and the United States Government executed pursuant to this section D directly causes a Limitation for a period of less than seven calendar days, this Lease shall continue in full force and effect. If the Limitation lasts more than seven calendar days, Lessee and Lessor shall negotiate in good faith to resolve or mitigate the effect of the Limitation. If Lessee and Lessor are in good faith unable to resolve or mitigate the effect of the Limitation, and the Limitation lasts between seven and 180 days, then for such period

- (i) Lessee may suspend the payment of any rent due hereunder, but only if Lessee first provides adequate proof to Lessor that the Limitation has directly caused Lessee a material loss in revenue;
- (ii) subject to ordinary wear and tear, Lessor shall maintain and preserve the Premises and its improvements in the same condition as they existed on the date such Limitation commenced; and
- (iii) the term of this Lease shall be extended, at Lessee's option, for a period equal to the duration of such Limitation.

If the Limitation lasts more than 180 days, then:

- (i) Lessor and Lessee may, but shall not be required to, (a) further adjust the payment of rent and other fees or charges, (b) renegotiate maintenance responsibilities and (c) extend the term of this Lease, or
- (ii) Lessee may terminate this Lease upon thirty days' written notice to Lessor.

E. Sponsor Assurances.

Lessor covenants and agrees that during the term of this Lease it will operate and maintain the Airport and its facilities as a public airport consistent with and pursuant to the Sponsor's Assurances given by Lessor to the United States Government through the Federal Airport Act; and Lessee agrees that this Lease and Lessee's rights and privileges hereunder shall be subordinate to the Sponsor's Assurances.

F. Easements.

Lessee's rights hereunder shall be subject to all existing and future utility and drainage easements and rights-of-way granted by Lessor for the installation, maintenance, inspection, repair or removal of facilities owned or operated by electric, gas, water, sewer, communication or other utility companies. Lessee's rights shall additionally be subject to all rights granted by any ordinance or statute which allows utility companies to use publicly owned property for the provision of utility services.

G. Rights of Ingress and Egress.

Lessor agrees Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways for automobiles and taxiways for aircraft including access during the construction phase of airport improvements, unless otherwise agreed to in writing by both parties. Such rights shall be consistent with the rules and regulations with respect to the occupancy and use of airport premises as adopted from time to time by the County and by the Federal Aviation Administration or any other state, federal or local authority.

H. Relocation of Hangar and Leased Premises.

The precise location of the Premises where the Hangar is located is subject to County's discretion and modification. County may compel relocation of the Hangar at any time, in which case County will be responsible for all reasonable relocation costs. Lessee will be responsible for all Hangar relocation/reassembly costs when the relocation/reconstruction is at the request and sole benefit of the lessee, or if relocation is due to termination of this Agreement.

7. TAXES AND ASSESSMENTS.

Lessee agrees to timely pay any and all federal, state, or local taxes or assessments which may lawfully be levied against Lessee due to Lessee's use or occupancy of the Leased Premises or any improvements or property placed on the premises by Lessee as a result of its occupancy. Lessee shall furnish to the Manager a receipt showing said taxes or assessments are paid within thirty days of payment.

8. INSURANCE.

Lessee shall be responsible for any and all property damage insurance for Lessee's hangar, aircraft, and other property on the Leased Premises. Additionally, Lessee, at its sole cost and expense, shall procure and maintain at all times, in full force and effect during the Term of this Lease, a policy or policies of insurance, naming Crook County and the employer of Manager (currently, City of Prineville) as additional insureds and covering all risks arising directly or indirectly out of Lessee's activities at the Leased Premises, including but not limited to (1) coverage for hangar premises liability of others; (2) aircraft liability; and (3) if Lessee or any occupant of the Leased Premises has property of others, including aircraft, in their care, custody, or control then they shall maintain hangar keeper's liability coverage with limits adequate to cover the potential damage. The limits for all such policies shall be the current statutory limit of liability for Lessor under the Oregon Tort Claims Act or \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whichever is higher. Evidence of the required insurance coverages issued by an insurance company satisfactory to Lessor shall be provided to Manager by way of a Lessor-approved certificate of insurance upon commencement of this Agreement and each time Rent is due. The certificate of insurance shall

contain a requirement that the insurance company notify Manager 30 days prior to any cancellation or material change in coverage. If the approved insurance company will not provide this 30-day notice, Lessee shall provide written notice to Manager within two calendar days after Lessee becomes aware that its coverage has been cancelled or has been materially changed. Regardless of what circumstances caused Lessee's insurance coverage to cease or be modified, it is Lessee's responsibility to notify Manager.

9. UTILITIES.

Lessee, at Lessee's sole cost and expense, shall be responsible for the installation and use of all utility services to all portions of the Leased Premises and for all other related utility expenses, including but not limited to deposits and expenses required for the installation of meters, if necessary. Lessee further covenants and agrees to pay all costs and expenses for any extension, maintenance, or repair of any and all utilities serving the Leased Premises. In addition, Lessee agrees that all utilities, air conditioning and heating equipment, and other electrically operated equipment which may be used on the Leased Premises shall fully comply with all applicable Mechanical, Electrical, Plumbing, Building, and Fire Codes, as they exist or may hereafter be amended. Lessee expressly waives any and all claims, including a claim of Lessor's default of this Agreement, against County for compensation for any and all loss or damage sustained by reason of any defect, deficiency, interruption, or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, electrical supply system, or electrical apparatus or wires serving the Leased Premises.

10. MAINTENANCE AND SAFETY ISSUES.

A. Maintenance and Repairs by Lessee.

Lessee understands that this is a term lease and agrees to keep and maintain the Leased Premises in a good, clean and sanitary condition at all times, reasonable wear and tear excepted. Lessee covenants and agrees that it will not make or suffer any waste of the Leased Premises. Lessee, at Lessee's sole cost and expense, will make all repairs or replacements necessary to prevent the deterioration in condition or value of the Premises, including, but not limited to, the maintenance of and repairs to all hangars and other structures, doors, windows and roofs, and all fixtures, equipment, utilities, hangar modifications and surrounding pavement on the Premises. Lessee must paint the exterior of the hangar, as needed and reasonably directed by Lessor, with specifications and color to be approved in writing by the Manager. Lessee shall be responsible for all damages caused by Lessee, its agents, servants, employees, contractors, subcontractors, licensees or invitees, and Lessee agrees to fully repair or otherwise cure all such damages at Lessee's sole cost and expense.

Lessee agrees that all improvements, trade fixtures, furnishings, equipment and other personal property of every kind or description which may at any time be on the Leased Premises shall be at Lessee's sole risk or at the sole risk of those claiming under Lessee. Lessor shall not be liable for any damage to such property or loss suffered by Lessee's business or business operations which may be caused by the bursting, overflowing or leaking of sewer or steam pipes, from water from any source

whatsoever, or from any heating fixtures, plumbing fixtures, electric wires, noise, gas or odors, or from causes of any other matter.

B. Access.

Lessor/Manager shall have the right and privilege, through its officers, agents, servants or employees, to inspect the Leased Premises. Except in the event of an emergency, Lessor shall conduct such inspections during Lessee's ordinary business hours and shall use its best efforts to provide Lessee at least twenty-four (24) hours' notice prior to any inspection. Lessee will permit the Crook County Fire and Rescue (CCFR) Fire Marshal or his or her authorized agents to inspect the Leased Premises and Lessee will comply with all requirements of the Fire Marshal or his or her authorized agents that are necessary to bring the Leased Premises into compliance with all applicable fire and building code requirements regarding fire safety, as such provisions exist or may hereafter be amended. Lessee shall maintain in proper condition accessible fire extinguishers of a number and type approved by the Fire Marshal or his or her authorized agents for the particular hazard involved.

C. Inspections and Repairs.

If Lessor/Manager determines during an inspection of the Leased Premises that Lessee is responsible under this Lease for any maintenance or repairs, Lessor shall notify Lessee in writing. Lessee agrees to begin such maintenance or repair work diligently within thirty (30) calendar days following receipt of such notice and to then complete such maintenance or repair work within a reasonable time, considering the nature of the work to be done. If Lessee fails to begin the recommended maintenance or repairs within such time or fails to complete the maintenance or repairs within a reasonable time, Lessor may, in its discretion, perform such maintenance or repairs on behalf of Lessee. In this event, Lessee will reimburse Lessor for the cost of the maintenance or repairs, and such reimbursement will be due on the date of Lessee's next annual Rent payment following completion of the maintenance or repairs.

D. Repairs Required of Lessor.

During any inspection, Lessor may perform any obligations that Lessor is authorized or required to perform under the terms of this Lease or pursuant to its governmental duties under federal state or local laws, rules or regulations.

11. IMPROVEMENTS AND ALTERATIONS.

A. Authorization for Improvements.

Lessee may, at its sole discretion, perform modifications, renovations, improvements, or other construction work on or to the Leased Premises (collectively, "Improvements") so long as it first submits all plans, specifications and estimates for the costs of the proposed work in writing and also requests and receives in writing approval from the Manager. Manager reserves the right to require one or more construction bonds to protect the Airport's interest should the Improvement's total cost exceed \$50,000. Manager agrees to respond in writing to Lessee's requests for approval within thirty calendar days of receipt of such requests. Lessee covenants and agrees that it shall fully comply with all provisions of this section 11 in the undertaking of any such Improvements.

B. Process for Approval of Plans.

Lessee's plans for Improvements shall conform to the Airport's architectural standards and must also receive written approval, where required by law, of the FAA and local planning and building authorities. All plans, specifications, and work shall conform to all federal, state, and local laws, ordinances, rules, and regulations in force at the time the plans are presented for review.

C. Documents.

Lessee shall supply the Manager with comprehensive sets of documentation relative to any Improvements, including at a minimum, as-built drawings of each project in computer format, if possible.

12. ASSIGNMENT, SUBLETTING, AND SUBORDINATION.

A. Limitations on Transfers.

Except as permitted under paragraph C below and section 13 below, Lessee must not, voluntarily or by operation of law, sell, assign, or transfer this Lease or any interest therein, sublet the Leased Premises or any part thereof, or grant any right to use the Leased Premises, the improvements, or any respective part thereof (each a "Transfer") without the prior written consent of Lessor, which must not be unreasonably withheld. Any attempted Transfer without such prior written consent will be void. Lessor's consent to a Transfer will in no event release Lessee, any assignee, sublessee, or any guarantor from their respective liabilities or obligations under this Lease or any guaranty of this Lease (including any liabilities or obligations arising during the Extended Term), nor relieve Lessee from the requirement of obtaining Lessor's prior written consent to any further Transfer. Lessor's acceptance of Rent from any other person will not be deemed to be a waiver by Lessor of any provision of this Lease or consent to any Transfer. The failure or refusal of Lessor to approve a requested Transfer shall not relieve Lessee of its obligations hereunder, including payment of Rent.

If Lessee is a corporation, partnership, limited liability company, or other entity or unincorporated association, then any Transfer of this Lease by merger, consolidation, liquidation, or change in the ownership of or power to vote the majority of the ownership interest of Lessee, will constitute a Transfer for the purposes of this Article.

B. Assignments Prohibited.

Except in the case of an assignment pursuant to a probate proceeding or for estate planning purposes, all assignments of this Agreement are prohibited. An assignment prohibited within the meaning of this section 12 includes, without limitation, one or more sales or transfers, direct or indirect, by operation of law or otherwise, or the creation of new stock or ownership interests, by which ownership or control of an aggregate of more than 50 percent of Lessee's stock or ownership interests must vest in a party or parties who are non-stockholders, partners, or members, as applicable, as of the Commencement Date.

C. Subletting.

Lessee has the right to sublet portions of the Leased Premises or the improvements only upon prior written consent from the Manager and only for a term or terms that will expire before the expiration

of the Term. Upon written request by Lessor, Lessee will promptly deliver to Lessor complete copies of any and all subleases. Each sublease must contain the following terms and conditions:

- (a) The sublease will incorporate the terms, conditions, and covenants set forth in, and state that it is subject and subordinate to, this Lease and to any extensions, modifications, or amendments of this Lease;
- (b) That rents due under the sublease (i) have been assigned to Lessor (and Lessee hereby assigns the rents to Lessor), to support performance of Lessee's covenants under this Lease, which assignment will be effective only on the occurrence of any event of default by Lessee under this Lease; and (ii) will, on receipt of written notification from Lessor that an event of default has occurred under this Lease, be paid by the subtenant directly to Lessor, subject to Article 15, until the subtenant receives written notice from Lessor that Lessee has cured the event of default or is in the process of curing the event of default in a manner reasonably satisfactory to Lessor;
- (c) If any act or omission of Lessee would give subtenant the right, immediately or after lapse of a period of time, to cancel or terminate the sublease, or to claim a partial or total eviction, subtenant will not exercise that right: (i) until it has given written notice of the act or omission to Lessor; and (ii) until a reasonable period of time for Lessor to cure the condition has passed.

13. SALE OF THE HANGAR AND IMPROVEMENTS

If at any time during the Term or at the expiration of the Term, Lessee intends to sell the hangar and improvements on the Leased Premises, Lessee hereby grants Lessor a right of first offer to purchase on the terms and conditions at which Lessor proposes to sell the property to a third party. Lessee shall give Manager written notice of its intent to sell and shall indicate the terms and conditions (including the sale price) upon which Lessee intends to sell the hangar to a third party. Lessor shall thereafter have sixty days to elect in writing to purchase the hangar. If Lessor declines to elect in writing to purchase the hangar and improvements, Lessee may elect to sell to any third party upon the advance written approval of the Manager, which will not be unreasonably withheld—failure to do so may place the buyer in the untenable position of occupying space on County property without authorization to do so, trigger the termination, remedy, and surrender provisions of sections 16 - 18 below, and may result in legal action. Lessee's notice of intent to sell must include the name and contact information of the prospective buyer and the sale price. Provided, however, if the price at which Lessee intends to sell the hangar and improvements is less than 90% of the price set forth in the notice of right of first offer to purchase, then Lessee shall again offer Lessor the right to acquire the hangar and improvements upon the same terms and conditions available to the third party. In which case Lessor shall have thirty days to elect in writing to purchase the hangar and improvements. If Lessor declines to elect in writing to purchase the hangar and improvements, and the Manager consents to the sale to a third party, Lessee may choose from the following two options.

A. Termination of Lease and Execution of New Lease.

Manager's consent to the sale of Lessee's hangar and improvements upon the Leased Premises constitutes implied consent to negotiate in good faith with the prospective buyer for a new lease, on the Airport's standard ground lease form as it may be amended from time to time.

B. Termination of the Lease and Removal of Property.

Should Manager consent to the sale of the hangar and improvements and the buyer does not wish to enter into a new Lease, Lessee shall ensure such buyer removes the hangar and all improvements within thirty days of the sale and place the Leased Premises in a clean and buildable site leaving all utility hookups in place. This Agreement shall then automatically terminate at the end of the calendar year, provided that Lessee shall remain liable for any damage to the Leased Premises or abandoned property pursuant to section 18 below.

14. LIENS.

A. Lien Granted to Lessor.

Lessee hereby grants County a lien against the hangar and other improvements, aircraft, and all personal property that Lessee stores in the hangar. This lien exists and continues for all unpaid amounts that Lessee may owe County, from time to time, and County's assertion of the lien does not relieve Lessee from the obligation to pay the monthly rent as provided in this Agreement. In the event Lessee does not fully and immediately discharge all unpaid amounts, County is hereby granted and has the right to take and recover possession of the hangar and satisfy its lien in accordance with Oregon law. The County may also take and recover possession of the stored aircraft and personal property, without notice or other action, exercise its lien against the same, and have and recover all costs and expenses including attorney's fees in connection with the repossession of said hangar, aircraft, or personal property and assertion of the lien.

B. Liens by Lessee.

Lessee acknowledges that it has no authority to engage in any act or to make any contract which may create or be the foundation for any lien upon the property or interest in the property of Lessor, subject to Article 15. If any such purported lien is created or filed, Lessee, at its sole cost and expense, shall liquidate and discharge the same within thirty days of such creation or filing. Lessee's failure to discharge any such purported lien shall constitute a breach of this Lease and Lessor may terminate this Lease upon thirty days' written notice. However, Lessee's financial obligation to Lessor to liquidate and discharge such lien shall continue in effect following termination of this Lease and until such a time as the lien is discharged.

15. LEASEHOLD MORTGAGES

A. Right to Mortgage Leasehold

Notwithstanding Articles 12 and 14 or any other provision to the contrary, in addition to any other rights granted and without any requirement to obtain Lessor's consent, Lessee has the right to mortgage or grant a security interest in Lessee's interest in this Lease, the Leased Premises, and the Improvements under one or more leasehold mortgages to one or more Lending Institutions (as

defined in section 15.B. below), and to assign this Lease as collateral security for those leasehold mortgages, on the condition that all rights acquired under the leasehold mortgages are subject to every covenant, condition, and restriction set forth in this Lease, and to all rights and interests of Lessor, none of which covenants, conditions, restrictions, rights, or interests is or may be waived by Lessor by reason of the right given to mortgage or grant a security interest in Lessee's interest in this Lease and the Premises and the Improvements, except as expressly provided otherwise.

B. Defined Terms

Any mortgage, deed of trust, financing statement, security agreement, or other financing instrument granted by Lessee pursuant to this Article 15 is referred to as a "Permitted Leasehold Mortgage," and the holder of or secured party under a Permitted Leasehold Mortgage is referred to as a "Permitted Leasehold Mortgagee." The term "Lending Institution" means any commercial, national, or savings bank, savings and loan association, trust company, pension trust, foundation, or insurance company, and any other entity, person, corporation, partnership, or otherwise making a loan on the security of Lessee's interest in this Lease or any portion of the Leased Premises or the Improvements.

C. Lender Protections

If a Permitted Leasehold Mortgagee sends to Lessor a true copy of its Permitted Leasehold Mortgage, together with written notice specifying the name and address of the Permitted Leasehold Mortgagee, then as long as the Permitted Leasehold Mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to Lessor, the following provisions will apply:

i. No Modifications or Terminations

This Lease may not be (a) amended or modified, or (b) terminated or canceled by reason of the exercise of any option or election by Lessee, or by the giving of any notice by Lessee, unless such amendment, modification, termination, or cancellation by Lessee is assented to in writing by the Permitted Leasehold Mortgagee. Any such attempted amendment or modification, termination, or cancellation by Lessee without the Permitted Leasehold Mortgagee's assent is void.

ii. Notice to Permitted Leasehold Mortgagees

Upon serving Lessee with any notice under this Lease, whether of default or any other matter, Lessor will simultaneously serve a copy of the notice on the Permitted Leasehold Mortgagee, and no notice to Lessee will be deemed given unless a copy is so served on the Permitted Leasehold Mortgagee in the manner provided in this Lease for giving notices.

iii. Right to Cure

In the event of any default by Lessee under this Lease, each Permitted Leasehold Mortgagee has the same period as Lessee has, plus 30 days, after service of notice on it of the default, to remedy or cause to be remedied or commence to remedy and complete the remedy of the default complained of, and Lessor must accept that performance by or at the instigation of the Permitted Leasehold

Mortgagee as if the same had been done by Lessee. Each notice of default given by Lessor must state the amount of any Rent that is then claimed to be in default.

iv. The Right to Postpone

If Lessor elects to terminate this Lease because of any default of Lessee, the Permitted Leasehold Mortgagee will have, in addition to the rights granted under the preceding section, the right to postpone and extend the specified date for the termination of this Lease as fixed by Lessor in its notice of termination, for a period of 12 months, as long as the Permitted Leasehold Mortgagee (a) cures or causes to be cured any then-existing defaults in payment of Rent and meanwhile pays the Rent, and (b) forthwith takes steps to acquire or sell Lessee's interest in this Lease by foreclosure of the Permitted Leasehold Mortgage or otherwise and prosecutes the same to completion with reasonable diligence and continuity. If, at the end of the 12-month period, the Permitted Leasehold Mortgagee is actively engaged in steps to acquire or sell Lessee's interest, the time of the Permitted Leasehold Mortgagee to comply with the provisions of this section will be extended for a period that is reasonably necessary to complete those steps with reasonable diligence and continuity.

v. The Right to a New Lease

Lessor agrees that if this Lease is terminated by reason of any default by Lessee, other than for nonpayment of the Rent and other payments herein provided for, Lessor will enter into a new lease for the Premises and the Improvements with the holder of the then First Leasehold Mortgage on this Lease, or with its nominee or designee, for the remainder of the Term, effective as of the date of the termination, at the Rent and on the other terms and provisions as herein contained and subject only to the same conditions of title as this Lease was subject on the date of the execution hereof, and to the rights, if any, of any parties then in possession of the Leased Premises or any portion thereof, provided as follows:

- a. The holder will request the new lease within 30 days after the date of termination of the Lease;
- b. The holder will pay to Lessor at the time of execution and delivery of the new lease all sums as to which the First Leasehold Mortgagee will have been provided with prior notice and which would at the time of execution and delivery thereof be due under this Lease had it not terminated, together with any expenses, including reasonable attorney fees, to which Lessor will have been subjected by reason of the default;
- c. Lessor will not warrant possession of the Premises to the Lessee under the new lease;
- d. The new lease will be expressly made subject to the rights, if any, of Lessee under this terminated Lease;
- e. Tenant under the new lease will have the same right, title, and interest in and to the Premises as Lessee had under this Lease (except as otherwise provided herein); and
- f. The holder will not be obligated to perform any obligations of Lessee hereunder until the holder actually acquires possession of the Premises.

vi. Bankruptcy of Lessee

Nothing herein contained will require any holder of a Permitted Leasehold Mortgage or its nominee or designee to cure any default of Lessee arising out of its bankruptcy, insolvency, reorganization, or other proceeding under the bankruptcy or insolvency laws of the United States or the State of Oregon or otherwise.

vii. Insurance Policies

Lessor agrees that the name of the Permitted Leasehold Mortgagee may be added to the “loss payable endorsement” of any or all insurance policies required to be carried by Lessee.

16. TERMINATION AND DEFAULT.

A. Termination

This Lease shall terminate automatically at the expiration of the Term.

B. Default.

In addition to the expiration of the Term and other termination rights contained elsewhere in this Lease, the occurrence of any one or more of the following constitutes an event of default under this Lease:

- i. If Lessee fails to pay any rent, fees, or other charges due under this Lease, Lessor shall deliver to Lessee a written invoice and notice to pay the invoice within ten calendar days. If Lessee fails to pay the balance outstanding within such time, Lessor shall have the right to terminate this Lease immediately;
- ii. Failure by Lessee to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within ten days after notice thereof is given to Lessee;
- iii. Failure by Lessee, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than i. and ii above) and such failure continues and is not remedied within thirty days after written notice thereof is given to Lessee; provided, however, that if the failure is of such a nature that it cannot be cured within said thirty-day period, then this provision is satisfied if Lessee begins the cure within the thirty-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure within 90 days after Lessor’s notice is given to Lessee;
- iv. Lessee becomes insolvent; Lessee makes an assignment for the benefit of creditors; Lessee files a voluntary petition in bankruptcy; Lessee is adjudged bankrupt or a receiver is appointed for Lessee’s properties; the filing of an involuntary bankruptcy petition and Lessee’s failure to secure a dismissal of the petition within 75 days after filing; or the attachment of or the levying of execution on the leasehold interest and Lessee’s failure to secure discharge of the attachment or release of the levy of execution within thirty days; or

- v. Lessee is in default after the lapse of any applicable notice and cure period under any mortgage, deed of trust, or contract of sale secured by the improvements on the Leased Premises.

17. REMEDIES.

A. Remedies.

Upon the occurrence of an event of default, Lessor may exercise any one or more of the remedies set forth in this section or any other remedy available under applicable law or contained in this Lease:

- i. Lessor may terminate this Lease by written notice to Lessee;
- ii. Lessor or Lessor's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Leased Premises and the improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Premises and the Improvements, to the end that Lessor may have, hold, and enjoy the Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE PREMISES OR THE IMPROVEMENTS BY LESSOR WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO LESSEE.
- iii. Lessor may, without terminating the Lease, relet the whole or any part of the Premises and the improvements from time to time, either in the name of Lessor or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Lessor determines to be appropriate. To the extent allowed under Oregon and Federal law, Lessor will have no obligation to relet all or any part of the Leased Premises or the improvements and will not be liable for refusing to relet the Leased Premises or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Lessor will not operate to relieve Lessee of any liability under this Lease or otherwise affect such liability. Lessor at its option may make any physical change to the Leased Premises or the improvements that Lessor, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.
- iv. Whether or not Lessor retakes possession of or relets the Leased Premises and the improvements, Lessor has the right to recover its damages, including without limitation all lost rentals, all legal expenses, all costs incurred by Lessor in restoring the Leased Premises or otherwise preparing the Leased Premises and the

improvements for reletting, and all costs incurred by Lessor in reletting the Leased Premises and the improvements.

- v. To the extent permitted under Oregon law, Lessor may sue periodically for damages as they accrue without barring a later action for further damages. Lessor may in one action recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Leased Premises and the improvements for the same period, discounted at the time of award at a reasonable rate not to exceed ten percent per annum. If Lessor relets the Leased Premises and the improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises and the Improvements so relet during the term of the reletting.

B. Lessor's Self-Help Right.

If Lessee at any time (a) fails to pay any tax or assessment in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after 10 days' written notice to Lessee (or without notice in the event of an emergency) and without waiving or releasing Lessee from any obligation of Lessee contained in this Lease or from any default by Lessee and without waiving Lessor's right to take any action that is permissible under this Lease as a result of the default, Lessor may, but is under no obligation to, (i) pay any tax, assessment, or make any other payment required of Lessee under this Lease, and (ii) perform any other act on Lessee's part to be made or performed as provided in this Lease, and may enter the Premises and the improvements for any such purpose, and take any action that may be necessary. All payments so made by Lessor and all costs and expenses incurred by Lessor, including reasonable attorney fees, in connection with the performance of any such act will constitute additional rent payable by Lessee under this Lease and must be paid to Lessor on demand.

C. No Waiver.

No failure by Lessor to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, may be waived, altered, or modified except by a written instrument executed by Lessor. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

D. Remedies Cumulative and Nonexclusive.

Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Lessor's or Lessee's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

18. SURRENDER.

Lessor is not responsible for any loss or damages occurring to any property owned by Lessee or any sub-lessee. The provisions of this section 18 survive any termination of this Agreement.

A. No Delay.

Except as otherwise provided herein, on the last day of the Term or the last day Lessee is entitled to possession of the Leased Premises under this Agreement, if the Parties are not then negotiating a new lease, Lessee shall surrender and deliver up the premises to Lessor without delay.

B. Removal of Property.

If Lessee is still entitled to possession, Lessee may remove the hangar, other improvements, and personal property of Lessee, a sublessee, or any other guest/invitee (collectively, "Lessee's Property") on the Leased Premises so long as said improvements are removed on or before the last day that the Lessee is entitled to possession of the Leased Premises. After removal of said improvements, Lessee shall place the premises in a clean and buildable site leaving all utility hookups in place. Any of Lessee's Property that remains on the Leased Premises after the termination of this lease may, at the option of Lessor (1) be deemed to have been abandoned by Lessee or such sub-lessee and may either be retained by Lessor as its property and all rights of Tenant with respect to it will cease or be disposed of, without accountability, in such manner as Lessor sees fit, or (2) if Lessor gives written notice to Lessee to such effect, such property shall be removed by Lessee at Lessee's sole cost and expense. If Lessor elects to hold Lessee to Lessee's obligation to remove, Lessor may effect a removal and place the cost of removal, transportation to storage, and storage on Lessee.

19. RELEASE AND INDEMNIFICATION.

Lessee hereby assumes all liability and responsibility for property loss, property damage, and/or personal injury of any kind, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with its use of the Airport under this Lease or with the leasing, maintenance, use, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee covenants and agrees to, and does to the extent allowed by law, without waiving any defenses provided by law, hereby indemnify, hold harmless, and defend Lessor and Manager, its officers,

agents, servants, and employees from and against any and all claims or lawsuits for either property damage or loss (including alleged damage or loss to Lessee's business and any resulting lost profits) and/or personal injury, including death, to any and all persons, of any kind or character, whether real or asserted, arising out of or in connection with Lessee's use of the Airport under this Lease or with the use, leasing, maintenance, occupancy, existence, or location of the Leased Premises, except to the extent caused by the gross negligence or willful misconduct of Lessor or Manager, its officers, agents, servants, or employees.

Lessee assumes all responsibility and agrees to pay Lessor and Manager for any and all injuries or damages to Lessor's property which arise out of or in connection with any and all acts or omissions of Lessee, its officers, agents, employees, contractors, subcontractors, licensees or invitees, except to the extent caused by the gross negligence or willful misconduct of Lessor, its officers, agents, servants, or employees.

Lessor and Manager do not guarantee police protection to Lessee, and sublessee or their property. Lessor/Manager is obligated only to provide security adequate to maintain Lessor's certification under FAA regulations. Lessee shall comply with all applicable regulations of the FAA relating to airport security. Lessee shall pay all fines imposed by the FAA on Lessor, Manager or Lessee resulting from Lessee's or any sublessees' failure to comply with such FAA regulations or to prevent unauthorized persons or parties from their obtaining access to the air operations area of the Airport from the Leased Premises.

20. NOTICES.

The Parties are required to update the information in this section. Notices required pursuant to the provisions of this Lease shall be conclusively determined to have been delivered (i) when hand-delivered to the other party at such addresses listed below, or at such other addresses as the receiving party may designate by proper notice to the sending party, or (ii) three (3) days after being deposited in the United States Mail, postage prepaid, addressed as follows:

To Lessor:
Crook County/Prineville Airport S39
Attn: Kelly Coffelt
4585 SW Airport Road
Prineville, OR 97754

To Lessee:
LJP Delta LLC
Attn: Levi Paddock
35596 High Ranch Drive
Springfield, OR 97478

With a copy to:
Crook County Counsel
300 NE 3rd Street
Prineville, OR 97754

With a copy to:

21. MISCELLANEOUS.

A. Governmental Powers.

Nothing in this lease should be construed or interpreted to mean that the County waives, surrenders, or sacrifices any of its governmental powers in any way.

B. Licenses and Permits.

Lessee shall, at its sole expense, obtain and keep in effect all licenses and permits necessary or required for its operations at the Airport.

C. Relationship of the Parties.

Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Lessor and Lessee.

D. Signs.

No signs are permitted on the exterior of any hangars without the express written consent of the Manager. Any such approved signs must conform with the size, color, location, and manner of display of other signs at the Airport and be maintained in a safe, neat, and well-kept condition.

E. Cooperation between Tenants.

Lessee must cooperate with all other tenants and users of the Airport and must at all times use the Leased Premises and the Airport in such a manner as to avoid interference with the activities of other Airport users and tenants. Any difference or conflict that may arise between Lessee and other users or tenants will be resolved by the Manager in the Manager's sole discretion and not subject to challenge or appeal. If Lessee's lawful enjoyment of the Leased Premises is impaired because of any act or omission of another tenant, Lessee will have no claim against County or its agents.

F. Survival.

All agreements (including but not limited to indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

G. Severability.

If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

H. Non-Waiver.

The failure of Lessor to insist upon the performance of any term or provision of this Lease or to exercise any right granted herein shall not constitute a waiver of Lessor's right to insist upon appropriate performance or to assert any such right on any future occasion.

I. Force Majeure.

If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any legal requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

J. Condemnation.

If the whole of the Leased Premises is taken by a public authority under the power of eminent domain, then the Term of this Agreement will cease on the day of possession by said public authority. If only a part of the Leased Premises is taken under eminent domain, Lessee will have the right to either terminate this Agreement or to continue in possession of the remainder of the Leased Premises. If Lessee remains in possession, all of the terms of this Agreement will continue in full force and effect, with Rent reduced proportionately pursuant to the non-condemned and Lessee-occupied square footage.

K. Nonmerger.

There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Leased Premises.

L. Costs and Attorney Fees.

In the event there should be a breach or default under any provision of this Lease and either party should retain attorneys or incur other expenses for the collection of rent, fees or charges, or the enforcement of performance or observances of any covenant, obligation or agreement, Lessor and Lessee agree that each party shall be responsible for its own attorneys' fees.

M. Applicable Law and Venue.

This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon. The Parties agree that any civil action will be brought in the circuit court in Crook County.

N. Signature Authority.

The person signing this agreement hereby warrants that he/she has the legal authority to execute this agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

O. Binding Effect.

The covenants and agreements contained in this Lease are binding on and inure to the benefit of Lessor, Lessee, and their respective successors and assigns.

P. Recordation.

This Agreement shall not be recorded. Lessee may elect that a memorandum of lease be executed and acknowledged by both parties and recorded in the public records of Crook County, at Lessee's cost.

Q. Time Is of the Essence.

Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

R. Interpretation.

In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Lessor and Lessee acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

S. Headings, Captions, and References.

The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Lease includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

T. Entire Agreement.

This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Lessee and Lessor mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease.

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U. Counterparts.

This Agreement may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective the date first set forth above.

For Lessee

LJP Delta LLC

By: _____
Signature

Printed Name

Title: _____

Date: _____

For Crook County

CROOK COUNTY COURT

Seth Crawford, County Judge

Date: _____

Jerry Brummer, County Commissioner

Date: _____

Brian Barney, County Commissioner

Date: _____

4187 Aviation Blvd.
56 x 54 3024 Sq. ft.

EXHIBIT A

4187 Aviation Blvd.

Legend



4187 Aviation Blvd.

Google Earth

200 ft



After recording, return to:
 John Eisler
 Crook County Counsel
 300 NE Third St.
 Prineville, OR 97754

Termination of Private Hangar Land Lease

THIS Termination of Private Hangar Land Lease (Termination) is dated March ___, 2022 (the “Effective Date”), by and between Crook County, a political subdivision of the State of Oregon (Landlord) and Cannon Braatz and Steve Burnett (collectively, “Tenant” or “Lessee”).

RECITALS

- A. The Prineville/Crook County Airport Commission and Tenant’s predecessor in interest entered into that certain Private Hangar Lease (the “Lease”) dated July 24, 2007 with respect to the real property recorded in the Crook County Official Records as document number 2008-228325.
- B. Tenant’s predecessor in interest and Tenant entered into that certain Assignment of Lease (the “Assignment”) with respect to the real property governed by the Lease dated December 17, 2019 and recorded in the Crook County Official Records as document number 2019-297387. Said Assignment received the requisite consent from Airport Manager Kelly Coffelt.
- C. Notwithstanding the Lease reference to Prineville Airport Commission (the “Commission”) as Lessor, Crook County is the Lessor as the fee title owner of the real property. The authority granted to the Commission by Crook County was repealed pursuant to Crook County Ordinance 249.
- D. Tenant is transferring ownership of the improvements and the new owner is entering into a lease with Landlord for the leased premises.
- E. Landlord and Tenant desire to record this Termination to put third parties on notice.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- 1. **Termination.** Notwithstanding any provisions to the contrary, the aforementioned Lease is hereby terminated as of March ___, 2022.
- 2. **Use of the Property.** Tenant’s rights to access, use, and exclude others from the leased premises are extinguished concurrently with this Termination.
- 3. **Ownership of Improvements.** All improvements constructed or installed on the leased premises are not the property of Landlord, even though attached or affixed to the leased premises.
- 4. **General.**

- a. This Termination must be construed in accordance with the laws of the State of Oregon.
- b. This Termination may be amended only by a written instrument by the parties hereto.
- c. All capitalized terms not otherwise defined herein have the meaning ascribed in the Lease.

IN WITNESS WHEREOF, the parties have executed this Termination effective as of the date first set forth above.

For Tenant

Cannon Braatz

Steve Burnett

For Landlord

CROOK COUNTY COURT

Seth Crawford, County Judge

Jerry Brummer, County Commissioner

Brian Barney, County Commissioner

STATE OF OREGON)
) ss:

COUNTY OF CROOK)

This instrument was acknowledged before me on _____, 2022 by Seth Crawford in his capacity as Crook County Judge, and Jerry Brummer and Brian Barney in their capacities as Crook County Commissioners of Crook County, Oregon.

Notary Public for Oregon

STATE OF OREGON)
) ss:

COUNTY OF _____)

This instrument was acknowledged before me on _____, 2022 by Cannon Braatz.

Notary Public for Oregon

STATE OF OREGON)
) ss:

COUNTY OF _____)

This instrument was acknowledged before me on _____, 2022 by Steve Burnett.

Notary Public for Oregon

**2022 AMENDMENT
to the
PARTICIPATING PROVIDER AGREEMENT**

Effective April 1, 2022 the Participating Provider Agreement (the “Agreement”) between PacificSource Community Solutions (“Health Plan”) and Central Oregon Community Mental Health Programs (“Provider”) is amended to include the following:

1. New Attachments G and H.

Except for the changes described herein, the Participating Provider Agreement, and all other Exhibits, remain unchanged.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first set forth above.

PACIFICSOURCE COMMUNITY SOLUTIONS

DESCHUTES COUNTY HEALTH SERVICES

By: _____
PETER MCGARRY

By: _____
ANTHONY DeBONE, CHAIR

PHIL CHANG, VICE CHAIR

PATTY ADAIR, COMMISSIONER

Title: VP PROVIDER NETWORK

Title: BOARD OF DESCHUTES COUNTY COMMISSIONERS

Date: _____

Date: _____

Address: PO Box 7469
Bend, OR 97701

Address: 2577 NE Courtney Drive
Bend, OR 97701

**JEFFERSON COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISSIONERS**

By: _____

Name: WAYNE FORDING

Title: COMMISSIONER

Date: _____

**JEFFERSON COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISSIONERS**

By: _____

Name: KELLY SIMMELINK

Title: COMMISSIONER

Date: _____

**JEFFERSON COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISSIONERS**

By: _____

Name: MAE HUSTON

Title: COMMISSIONER

Date: _____

PACIFICSOURCE COMMUNITY SOLUTIONS

By: _____

Name: PETER MCGARRY

Title: VP PROVIDER NETWORK

Date: _____

**CROOK COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISIONERS**

By: _____

Name: SETH CRAWFORD

Title: COUNTY JUDGE

Date: _____

**CROOK COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISIONERS**

By: _____

Name: BRIAN BARNEY

Title: COUNTY COMMISSIONER

Date: _____

PACIFICSOURCE COMMUNITY SOLUTIONS

By: _____

Name: PETER MCGARRY

Title: VP PROVIDER NETWORK

Date: _____

**CROOK COUNTY HEALTH SERVICES
BOARD OF COUNTY COMMISIONERS**

By: _____

Name: JERRY BRUMMER

Title: COUNTY COMMISSIONER

Date: _____

ATTACHMENT G

RISK MODEL

1.0 RISK MODEL

The 2022 Risk model agreed upon by Health Plan and Central Oregon Community Mental Health Programs (“Provider(s)” or (“CMHP(s)”) shall contain the following:

- (A) A construct involving two (2) main Coordinated Care Organization (CCO) territories (Central Oregon CCO and Columbia Gorge CCO) and settlements within each CCO for OHP Members, as well as the potential for settlement impacts for CMHPs should CMHPs provide services to OHP Members from the Lane, Marion/Polk or Portland area CCOs. In the Central Oregon CCO, the single community budget settlement shall be for those OHP Members who are assigned to primary care providers of SCMG, Mosaic Medical and COIPA. In the Central Oregon CCO, there are some OHP Members who are assigned to primary care providers other than SCMG, Mosaic Medical and COIPA, for whom there is no settlement as of the Effective Date of this amendment.
- (B) A Hospital Capitation Payment to St. Charles Health System (SCHS) for certain hospital services in the Central Oregon CCO as a component of the single community budget settlement, and for which there is a Hospital Capitation Withhold (HCW) which shall be settled for SCMG, Mosaic Medical, COIPA, SCHS and the CMHPs in Central Oregon and distributed independently of any single community Health Care Budget (HCB) settlement determining a surplus or deficit.
- (C) Capitated payment for primary care providers of SCMG, Mosaic Medical and COIPA for certain primary care services provided to any assigned OHP Members from any CCO, for which there will be no withhold and no independent settlement.
- (D) Fee-for-service payment for all other professional services provided by SCMG, Mosaic Medical and COIPA for any CCO members not designated as capitated primary care services per (D) above.
- (E) Capitated and fee-for-service payment to the CMHPs for services provided as detailed in Attachment H. Fee-for-service payments shall have a Claims Risk Withhold.
- (F) Patient-Centered Primary Care Home (PCPCH) and Behavioral Health Integration (BHI) per member per month payments for which primary care providers can qualify.

Both parties acknowledge the Hospital Capitation Payment is not intended to include reimbursement for behavioral health services funded via behavioral health/CD Residential or other OHP revenue. In the event of a duplicate payment to SCHS for such services paid under the Hospital Capitation Payment, Health Plan will present such information to all risk model entities adjust for such duplicate payment.

2.4 Other Hospital Services: The following hospital services provided to Central Oregon CCO OHP members will be reimbursed via methods other than the Hospital Capitation Payment:

- Professional Services billed by SCHS professional and hospital-based providers and billed on a CMS 1500 form or UB-04 or other form, which, unless covered under a separate agreement, will be reimbursed at one hundred percent (100%) of current OHP allowable amounts and eight percent (8%) claims risk withhold.
- Services provided by and billed under St. Charles Medical Group and St. Charles Family Care.
- Services provided by and billed under Sageview Behavioral Health.
- Inpatient and outpatient Behavioral Health/CD, Alcohol/Drug – Residential, or Behavioral Health – Residential services funded via OHP’s Behavioral Health/CD, Alcohol/Drug - Residential or Behavioral Health – Residential revenue.
- Inpatient and outpatient Dental Services funded as the Oregon Health Plan and OHA’s Dental revenue via dental care providers and Dental Care Organizations (DCOs).

2.5 Primary Care Capitation Rate. For services provided by SCMG, Mosaic Medical and COIPA who is providing certain primary care services for SCMG, Mosaic Medical and COIPA-assigned OHP Members, reimbursement will be made on or around the 15th of every month, and shall be:

Primary Care Capitation Rate \$26.53 per member per month

This Primary Care Capitation rate will be **\$26.53** per member per month for any Federally Qualified Health Centers or Rural Health Centers, upon identification as such by Health Plan.

This Primary Care Capitation Rate will be applied to the following PCP Adjustment Factors attributed to the individual rate categories, which are:

5.0 PREMIUM ALLOCATION.

Health Plan and CMHPs have established the following allocation of premium in order to implement the compensation and risk incentive structure:

5.1 Definitions. Estimated Earned Net Premium Revenue. Estimated Earned Net Premium Revenue shall consist of those global capitation payments (including adjustments and reconciliations with the state of Oregon) received by Health Plan from the State of Oregon for OHP Members assigned to SCMG, Mosaic Medical and COIPA's primary care providers in the Central Oregon CCO for health services under OHP, less premium allocations and/or payments for services in Section 1,H, which include: Dental Care premium allocation paid to DCOs, Non-Emergent Medical Transportation premium allocation paid to NEMT vendors, payments to COHC per the agreement with the COHC, taxes, adjustments, premium transfers, innovation grant revenue, OHA-required Hepatitis C reconciliations with OHA as necessary, and any portion of QIM bonus or QIM withhold retained per agreement with the COHC.

5.2 Allocation of Estimated Earned Net Premium Revenue.

After the application of any QDP/GME/MCO/Provider taxes, ACA taxes, OHA-required qualified directed pass-through payments, Health Plan Income Taxes for Medicaid, a payment to fund the COHC in the amount of one percent (1%) of gross premium (not counting pass-through funds), premium transfers for Dual Eligible Medicare premium and excluding: Dental Care premium allocation paid to DCOs, Non-Emergent Medical Transportation premium allocation paid to NEMT vendors, innovation grant revenue, OHA-required Hepatitis C reconciliation adjustments with the OHA/state of Oregon as necessary, and QIM withhold retained per agreement with the COHC, the remaining Estimated Earned Net Premium Revenue will be allocated as follows:

5.2.1 Administration. Eight and seventy hundredths percent (8.70%) of the remaining Estimated Earned Net Premium Revenue shall be allocated to Health Plan for administration.

5.2.2 Amounts Allocated to the single community HCB. Ninety-one and thirty hundredths percent (91.30%) of the remaining Estimated Earned Net Premium Revenue shall be allocated to the single community HCB.

6.0 ALLOCATIONS AND DISBURSEMENT

6.1 Computation of Budget Expenses.

For all OHP Members assigned to primary care providers of SCMG, Mosaic Medical and COIPA, all claims expenses (including Claims Risk Withhold), PMPM fees (including credentialing and any CPC+ expenses), reinsurance/stop loss premium expenses (less recoveries), Pharmacy Expenses (less rebates), Hospital Capitation Payments (including HCW), PCP Capitation Expense, subrogation adjustments, premium/MCO taxes, coinsurance expenses, out-of-area expenses, ancillary expenses, behavioral health/Chemical Dependency (CD) expenses paid to CMHPs, SCHS and other panel providers, Alcohol/Drug Residential expenses, Behavioral Health – Residential expenses, Health Services and other expenses iterated in the Joint Management Agreement (JMA) and JMA budget between Health Plan and the COHC shall be charged to the single community HCB based on the day services were actually rendered with the exception of Late Claims, as defined in Section 6.2 below, which shall be charged to the next year's applicable budget.

6.2 Disposition of Late Claims.

Late Claims are those claims received, processed, and paid later than four months (120 days) after the close of the contract period. Late Claims will be attributed to the next year's applicable budget.

7.0 SETTLEMENT PARAMETERS.

7.1 Settlement Parameters for OHP Members

The following settlement parameters for this Section 7 pertain for OHP Members assigned to SCMG, Mosaic Medical and COIPA's primary care providers. It shall not include the experience of OHP Members assigned to primary care providers of entities other than SCMG, Mosaic Medical and COIPA. CMHPs understand and agree to be subject to the settlement terms of non-provider agreements when CMHPs provide services for OHP Members assigned to non-SCMG, non-Mosaic Medical and non-COIPA entities.

7.2 Time Period.

Annual Claims Risk Withhold and HCW settlement reports will occur for the 2022 calendar year four months (120 days) after the close of the contract period ending December 31st. Any charges/credits to the applicable budgets that have occurred since the settlement of the previous contract period are accounted for in the settlement of the current period.

7.3 Claims Risk Withhold Settlement Summary.

Health Plan shall be responsible for computing, documenting, and reporting annual Claims Risk Withhold settlement summary. This report shall be submitted approximately five months (151 days) after year-end. In the event of a dispute regarding the accuracy and completeness of the data reported by Health Plan, Health Plan agrees to an audit of the data by an independent third party mutually agreed upon between Health Plan and CMHPs, which shall be at the sole cost and expense of CMHPs.

7.4 Settlement Sequence – First Settlement (Hospital Capitation Withhold)

There will be two (2) independent settlements. The first settlement will be the settlement of the HCW for OHP Members assigned to primary care providers of SCMG, Mosaic Medical and COIPA.

7.4.1 Allocation. The HCW of twelve percent (12%) of the Hospital Capitation Payment as allocated for the members assigned to primary care providers of SCMG, Mosaic Medical and COIPA will be held by Health Plan until the time of settlement of the single community HCB. This HCW as allocated for the OHP Members assigned to SCMG, Mosaic Medical and COIPA can be earned by the following parties in the following approximate proportions, with the SCMG, Mosaic Medical and COIPA shares adjusted for actual OHP Members assigned to their primary care providers for 2022:

- | | |
|------------------|---------------|
| • SCMG | 12.25% of HCW |
| • Mosaic Medical | 16.00% of HCW |
| • COIPA | 20.75% of HCW |
| • SCHS | 49.00% of HCW |
| • CMHPs | 2.00% of HCW |

7.4.2 HCW settlement for CMHPs. HCW for OHP Members assigned to primary care providers of SCMG, Mosaic Medical and COIPA will be awarded upon the meeting of performance goals in utilization and process areas as follows and as updated for automatic changes in calendar years or Oregon Health Authority benchmark changes, or as changed via amendment:

**2022 CENTRAL OREGON CCO ST CHARLES HOSPITAL PERFORMANCE MEASURES
FOR HOSPITAL CAPITATION WITHHOLD RETURN**

1. Follow-Up After Hospitalization for Mental Illness within 7 days (2022 OHA Aligned Measure #39)	
Weighting	20%
Performance Monitoring	PacificSource reporting using PacificSource administrative claims data
Final Result <input type="checkbox"/>	PacificSource data, administrative claims only
Target	Greater than or equal to (\geq) 88.1%
Population	Central Oregon CCO Members
Measure Specification	OHA Current Specification: Follow-Up after Hospitalization for Mental Illness
Denominator	Per OHA Current Specification. Deviation from Specification: Discharges from Sage View only are included in the Denominator.
Numerator	Per OHA Current Specification
2. Prenatal & Postpartum Care - Postpartum Care (2022 OHA Aligned Measure #14)	
Weighting	20%
Performance Monitoring	PacificSource reporting using PacificSource administrative claims data
Final Result <input type="checkbox"/>	OHA Central OR CCO 2022 Final Hybrid QIM Results
Target	OHA Central OR CCO 2022 QIM Measure Target
Population	Central Oregon CCO Members
Measure Specification	OHA (QIM) Current Specification: Prenatal and Postpartum Care
Denominator	Per OHA (QIM) Current Specification
Numerator	Per OHA (QIM) Current Specification
3. Follow-up After ED Visit for Mental Illness within 30 days (2022 OHA Aligned Measure #40)	
Weighting	20%
Performance Monitoring	PacificSource reporting using PacificSource administrative claims data
Final Result <input type="checkbox"/>	PacificSource data, administrative claims only
Target	Greater than or equal to (\geq) 69.5%
Population	Central Oregon CCO Members
Measure Specification	HEDIS Current Specification: Follow-Up After Emergency Department Visit for Mental Illness
Denominator	Per HEDIS Current Specification
Numerator	Per HEDIS Current Specification

Health Plan and CMHPs acknowledge that the COVID-19 pandemic in 2022 may have an impact on the achievability of these metrics, and that Health Plan, SCMG, Mosaic Medical, SCHS, COIPA and CMHPs may meet to discuss appropriate and mutually agreeable adjustments from time to time as a result. Any modifications made shall be consistent with known state or federal rules, requirements and guidance.

7.4.3 HCW for SCHS. HCW return for SCHS, per Section 7.4.1 above, shall be determined based on the terms in the agreement between Health Plan and SCHS.

7.4.4 Overage Settlement. In addition to the HCW settlement in Section 7.4.1, there shall be a second settlement intended to share any overage of any Hospital Capitation Payment to SCHS beyond the fee-for-service equivalent of 100% of OHP Allowable Amounts (consistent with all OHA/state of Oregon rules/calculations of DRG inclusion/exclusions and other terms used to calculate revenue paid to Health Plan as CCO). The report to be used as a basis for this calculation is Health Plan's Central Oregon CCO "St. Charles OHP Hospital Capitation Report" (see attached example, concluding this amendment).

Health Plan will calculate: (A) The amount of payment which would have been received by SCHS based on its Hospital Capitation Payment, less HCW, plus its full portion/49% share of HCW calculated as if full performance metrics in Section 7.4.2 are achieved, even if they are not.

Health Plan will calculate: (B) The amount of payment SCHS would have received in lieu of Hospital Capitation Payment, had it been paid 100% of OHP Allowable Amounts (consistent with all OHA/state of Oregon rules/calculations of DRG inclusion/exclusions and other terms used to calculate revenue paid to Health Plan as CCO).

If A is greater than B, Health Plan will calculate this differential and distribute it in the following manner, with the Provider and COIPA shares adjusted for actual OHP Members assigned to primary care providers between the two (2) entities for 2021:

• SCMG	12.25% of HCW
• Mosaic Medical	16.00 % of HCW
• COIPA	20.75% of HCW
• SCHS	49.00% of HCW
• CMHPs	2.00% of HCW

If B is greater than A, there will be no additional overage calculation or settlement impact on the HCW settlement.

If there is insufficient amounts in the settlement calculation in Section 7.4.1 to cover the amounts owed by SCHS to other entities in Section 7.4.4., it is understood that SCHS will make such payment to other entities directly.

7.4.5 Unearned HCW

Any HCW not paid shall be considered Unearned HCW. Unearned HCW shall be allocated in the following manner:

- 1st Used to offset any Deficits for the single community HCB settlement, after the application of Claims Risk Withhold.
- 2nd Any remaining Unearned HCW will contribute to Health Plan margin, consistent with limitations in the Joint Management Agreement (JMA) between Health Plan and the COHC.
- 3rd Any remaining Unearned HCW will be treated as shared savings under the terms of the JMA.

7.5 **Settlement Sequence – Second Settlement (Health Care Budget, (HCB))**

After completion of the HCW settlement, the single community HCB shall be settled.

- 7.5.1 The single community HCB is established for the following health care expenses for those OHP Members assigned to primary care providers of SCMG, Mosaic Medical and COIPA: Hospital Capitation Payments (including HCW) consistent with Section 2, PCP Capitation payments consistent with Section 2, claims expenses for professional services including those established by the reimbursement terms in Section 3 (including Claims Risk Withhold), Pharmacy expenses (less rebates), out-of-area expenses, and other provider PMPM fees per Sections 4, or other PMPM expenses, ancillary services, reinsurance premium (less recovery amounts), premium/MCO taxes, coinsurance expense, subrogation adjustments, behavioral health/Chemical Dependency (CD) expenses paid to CMHPs, SCHS and other panel providers, Alcohol/Drug – Residential expenses, Behavioral Health-residential expenses, and Health Services and other expenses iterated in the JMA and JMA budget between Health Plan and COHC.

7.6 **Budget Surplus or Deficit.**

For the contract period for the experience of OHP Members assigned to SCMG, Mosaic Medical and COIPA, the single community HCB will be compared to actual expenses incurred per Section 7.5 to determine whether a Surplus or Deficit exists.

2022 CENTRAL OREGON CCO PROVIDER PERFORMANCE MEASURES FOR SURPLUS RETURN

1. Child Well-Care Visits (Age 3-6) (2022 OHA Aligned Measure #4)	
Weighting	20%
Performance Monitoring	PacificSource reporting using PacificSource administrative claims data
Final Result	OHA Central OR CCO 2022 Final QIM Results
Target	OHA Central OR CCO 2022 QIM Measure Target
Population	Central Oregon CCO Members
Measure Specification	OHA (QIM) Current Specification: Child and Adolescent Well-Care Visits
Denominator	Per OHA (QIM) Current Specification
Numerator	Per OHA (QIM) Current Specification
2. Members Receiving Preventive Dental or Oral Health Services (2022 OHA Aligned Measure #27)	
Weighting	20%
Performance Monitoring	PacificSource reporting using PacificSource administrative claims data
Final Result	OHA Central OR CCO 2022 Final QIM Results
Target	OHA Central OR CCO 2022 QIM Measure Targets - This is a two-component measure with a target for Age 1-5 and a separate target for Age 6-14. Only one component's target needs to be met to achieve measure.
Population	Central Oregon CCO Members
Measure Specification	OHA (QIM) Current Specification: Members Receiving Preventive Dental or Oral Health Services
Denominator	Per OHA (QIM) Current Specification
Numerator	Per OHA (QIM) Current Specification
3. Comprehensive Diabetes Care: Hemoglobin A1c (HbA1c) Poor Control (>9.0%) (2022 OHA Aligned Measure #33)	
Weighting	20%
Performance Monitoring	PacificSource reporting using Central Oregon CCO clinic submitted electronic health record data [□]
Final Result	OHA Central OR CCO 2022 Final QIM Results
Target	OHA Central OR CCO 2022 QIM Measure Target
Population	Central Oregon CCO Members
Measure Specification	OHA (QIM) Current Specification: Diabetes: HbA1c Poor Control (CMS122v10)
Denominator	Per OHA (QIM) Current Specification
Numerator	Per OHA (QIM) Current Specification

4. Initiation and Engagement of Substance Use Disorder Treatment (2022 OHA Aligned Measure #42)	
Weighting	20%
Performance Monitoring	PacificSource reporting using PacificSource administrative claims data
Final Result	OHA Central OR CCO 2022 Final QIM Results
Targets	OHA Central OR CCO 2022 QIM Measure Targets - This is a two-part measure with a target for Initiation and a separate target for Engagement. Both targets must be met to achieve measure.
Population	Central Oregon CCO Members
Measure Specification	OHA (QIM) Current Specification: Initiation and Engagement of Substance Use Disorder Treatment (NQF0004)
Denominator	Per OHA (QIM) Current Specification
Numerator	Per OHA (QIM) Current Specification
5. Behavioral Health Integration for Members with Diabetes and an HbA1c >9	
Weighting	20%
Performance Monitoring	PacificSource monitoring, using data submitted at least quarterly by participating clinics [□]
Final Result	PacificSource, using final report data submitted by participating clinics
Target	Aggregated total of all clinics greater than or equal to (>=) 28.1%.
Population	Central Oregon CCO Members receiving care at Mosaic, St Charles Medical Group, La Pine Community Health Center, Madras Medical Group and Summit Health clinics
Measure Specification	N/A – Measure Steward: PacificSource
Denominator	All Members with a diagnosis of Diabetes Mellitus who had at least one HbA1c >9 during the 2022 calendar year
Numerator	Members in denominator who received at least one visit with an integrated Behavioral Health Consultant (BHC) in the 2022 calendar year.
<p>□ Participating organizations must report monthly data to PacificSource by the 20th of each month. To be eligible for payout, final 2022 eCQM data submissions must be received by PacificSource from participating clinics no later than 11:59 PM PST on January 20, 2023. All submissions are subject to audit by PacificSource for accuracy.</p> <p>All reporting data submissions must be sent via previously agreed upon SFTP or via email to the following recipient: ecqmreporting@pacificsource.com</p> <p>□ To be eligible for payout, participating clinics are required to submit reporting at a minimum of once per quarter using the “DM-BH Reporting Template” provided by PacificSource. Quarterly reports due:</p> <ul style="list-style-type: none"> • April 30, 2022 (time period 1/1/2022 – 3/31/2022) • July 31, 2022 (time period 1/1/2022 – 6/30/2022) • October 31, 2022 (time period 1/1/2022 – 9/30/2022) • January 31, 2023 (time period 1/1/2022 – 12/31/2022) *Final Report <p>Final results must be sent via email to the following recipients:</p> <p>RiskReportAnalytics@pacificsource.com</p> <p>Beth.Quinlan@pacificsource.com</p> <p>Peter.McGarry@pacificsource.com</p>	

Health Plan and Providers acknowledge that the COVID-19 pandemic in 2022 may have an impact on the achievability of these metrics, and that Health Plan, SCMG, Mosaic Medical, COIPA, SCHS and CMHPs may meet to discuss appropriate and mutually agreeable adjustments from time to time as a result. Any modifications made shall be consistent with known state or federal rules, requirements and guidance.

7.6.2 Unearned Surplus and Claims Risk Withhold Contingent On Quality

Any Unearned Quality Surplus and Claims Risk Withhold shall be allocated in the following manner:

- 1st Used to contribute to Health Plan margin, consistent with the limitation in the Joint Management Agreement (JMA) between Health Plan and the COHC.
- 2nd Any remaining Unearned Surplus Contingent On Quality will be treated as shared savings under the terms of the JMA.

7.6.3 Deficit. If the value of total covered claims and expenses, including HCW and accumulated Claims Risk Withhold from all providers, is more than the single community HCB, a Deficit exists, and any and all Claims Risk Withhold will be used to satisfy the Deficit at an equal percentage for all providers. If any Claims Risk Withhold remains upon the Deficit being reduced to zero dollars (\$0.00), it will be returned with twenty-five percent (25%) of any distributable Claim Risk Withhold return contingent on the performance of the quality metrics in Section 7.6.

Once all Claims Risk Withhold is used to offset a Deficit, the only remaining dollars from CMHPs to offset any remaining Deficit shall come from unearned HCW.

7.6.4 Limited Liability. If the Deficit of the HCB exceeds the amount of total Claims Risk Withhold, no further amounts will be payable from CMHPs to reduce the Deficit beyond any unearned amounts.

8.0 GENERAL PROVISIONS.

8.1 Defined Terms.

Any terms not otherwise defined herein shall have the meaning set forth in the Participating Provider Service Agreement.

8.2 Precedence.

In the event of any conflict or inconsistency between this Exhibit and the Participating Provider Service Agreement, such conflict or inconsistency shall be resolved by giving precedence first to this Exhibit then the Participating Provider Service Agreement.

8.3 Health Plan Reporting

Health Plan shall provide accurate and timely reports to assist CMHPs in monitoring utilization, financial, and quality-related data. A schedule of reports and the frequency with which these reports are to be provided is listed below.

Existing Claims Risk	Monthly in 2022 and through March of
Withhold Settlement	2023, by the end of the month, starting six
Report, Central Oregon CCO	(6) months after the beginning of the contract start date.

8.4 Health Services Understanding

Health Plan and SCMG and COIPA signed a separate Letter of Understanding in July of 2015 which detailed the appropriate allocation of certain health care expenses as being part of the single community HCB per Section 6.1 and 7.5. Consistent with that understanding Health Plan (a) has entered into a contract with OHA whereby Health Plan has agreed to manage programs to optimize cost, quality and experience of care for OHP Members, (b) is mandated to operate such programs with auditable reporting requirements, (c) has signed an agreement with OHA (consistent with OHA rules and regulations) which stipulates such program expenses are accounted for outside Health Plan administrative/general expenses and are part of health care expenses which are part of the single community HCB in this Agreement, and (d) calculates a PMPM expense as a percentage of the CCO global budget, to pay for such Health Services programs.

8.5 Requirements

CMHPs will participate in and attest to performing (a) data submission activities pertinent to CCO eQMs EHR-based incentive metrics, (b) data submission requirements including sending accurate data in time and formats determined by CCO to comply with OHA measure specifications, (c) submitting eQm data to Health Plan on a monthly basis by the 20th of the month and acknowledging reports for the first four months of the calendar year will be provided as early as possible based on the delivery from CMHPs' software vendor, (d) requests for surveys or other information, (e) requests to complete successful CCO data collection/submission activities, and (f) reporting expectations for eQMs for diabetes, hypertension, depression, tobacco prevalence and BMI. CMHPs acknowledges that submission of these requirements is essential as failure to do so for each EHR-based incentive will lead to failure for each eQm measure, failure to meet the population threshold required and will cause the entire Central Oregon CCO to fail the measure.

CMHPs will perform patient satisfaction surveys in alignment with PCPCH standard requirements, and will share such survey results with Health Plan upon reasonable request.

CMHPs will cooperate with Health Plan on Health Plan's CAHPS Improvement Plans.

CMHPs allows Health Plan to share individual provider performance information such as quality performance metrics with CCO-contracted providers and Health Councils.

8.6 Oregon Health Plan/OHA Capitation Administration Regulations

In the event of (a) requirements rules, regulations or guidance related to applicable provider capitation payments made by Health Plan to CMHPs, and per Health Plan Exhibit L filing and Medical Loss Ratio filings submitted to OHA, and/or (b) Health Plan's and/or OHA's interpretation of applicability of such requirements, rules, regulations, or guidance and applicability of Health Plan's capitation payment methodology with CMHPs, Health Plan may enact the following:

- A charge commensurate with any OHA recoupment, demand for repayment, charge, tax or fee, to be charged against Health Care Budget, and/or
- A renegotiation with CMHPs to revert all payment methodologies entailing CMHP's capitation, to a fee-for-service payment methodology.

CMHPs shall cooperate with Health Plan to produce reports for Health Plan and/or OHA that satisfy to Health Plan and OHA discretion, the requirements, rules, regulations or guidance from OHA related to capitation payments.

8.7 Oregon Health Plan/OHA Possible Premium Revision / MLR-based repayment to OHA

In the event of a revision of premium levels for OHP Members by the state of Oregon/OHA by a net amount deemed by Health Plan to be inconsistent with the 2022 (a) primary care provider capitation rate, (b) professional conversion factors, or (c) hospital capitation rates agreed to in this 2022 amendment to the Agreement, Health Plan will notify CMHPs of such inconsistency in writing, and both parties will enter into a renegotiation of 2022 reimbursement rates in order to achieve consistency with any new Oregon Health Plan/OHA premium levels.

In the event OHA determines Health Plan must pay OHA any sum because the Central Oregon CCO Medical Loss Ratio (MLR), as determined by OHA, does not meet a minimum threshold for the entire population or any benefit-category specific sub populations, Health Plan reserves the right to (a) deduct a pro-rata portion of such repayment from the single community HCB in Section 7, or (b) make direct investments to increase the MLR and offset such expenses with the settlement, upon communication with CMHPs and the COHC.

8.8 MLR Reporting for 2021.

CMHPs shall submit to Health Plan a report for the cost year January 1, 2021 – December 31, 2021 no later than March 30, 2022 using a format accepted by OHA. CMHPs shall refer to “2021 Medical Loss Ratio Rebate Instructions” (as published on the OHA CCO Contract Forms website at <http://www.oregon.gov/oha/healthplan/Pages/cco-contract-forms.aspx>) for support.

8.9 MLR Reporting for 2022.

CMHPs shall submit to Health Plan reports for the cost year January 1, 2022 – December 31, 2022 no later than March 30, 2023 using a format accepted by OHA. CMHPs shall refer to “2022 Medical Loss Ratio Rebate Instructions” (as published on the OHA CCO Contract Forms website at <http://www.oregon.gov/oha/healthplan/Pages/cco-contract-forms.aspx>) for support.

8.10 Health Related Services (Flexible Services and Community Based Health-Related Services.

Consistent with the Health-Related Services Rule adopted by the OHA (which includes member-level disbursements often called “flexible services”, and community-based Health-Related Services, often called “Community Benefit Initiatives”) and the Health-Related Services Brief released by the OHA, along with Health Plan policies approved by OHA, Health Plan will make certain disbursements from the single community HCB from time to time and at Health Plan’s discretion. These disbursements are distinct from Health Plan-provided Health Services.

8.11 Community Health Improvement Plan, Transformation Plan and Health Council Activities.

CMHPs will collaborate with Health Plan, the COHC, and other stakeholders in completing a Community Health Assessment (CHA) and a Community Health Improvement Plan (CHIP), and in carrying out activities to implement the CHIP including any recommendation tied to community access studies. CMHPs will collaborate with Health Plan, the COHC, and other stakeholders to carry out the Transformation And Quality Strategies. For purposes of the CHA, CHIP, or Transformation And Quality Strategies, for reporting to the COHC or any of its subcommittees, or for reporting to OHA, Health Plan may share CMHP’s utilization, membership numbers, and additional performance data. CMHPs will collaborate with Health Plan and the COHC to meet Transformation And Quality Strategies requirements and participate in Transformation And Quality Strategy projects.

Overage Settlement Example

ST CHARLES OHP HOSPITAL CAPITATION REPORT

CENTRAL OREGON CCO

Coordinated Care Organization (Medicaid)

Incurred: 01/2020 - 08/2020

Paid through: 10/2020

FINANCIALS

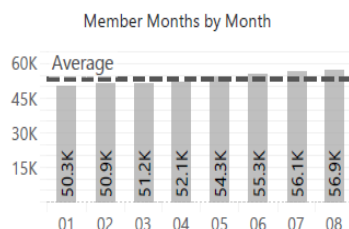
MEMBERS

Member
Months

427,051

Average
Membership

53,381



HOSPITAL CAPITATION

PMPM

Hospital Capitation (Total)	\$46.8M	\$109.7
Hospital Cap Withhold (HCW)	\$5.8M	\$13.5
Hospital Capitation (w/o Withhold)	\$41.1M	\$96.1
HCW Eligible for Return (SCHS Estimate at 49%)	\$3.0M	\$7.1
Hospital Cap + Estimated SCHS HCW Eligible Return	\$44.1M	\$103.2

	IP	NON-IP	TOTAL
Billed Charges	\$137.05M	\$111.16M	\$248.21M
Billed Completed	\$140.40M	\$113.88M	\$254.27M
Billed PMPM (COMPL)	\$328.76	\$266.66	\$595.41
FFS est	\$21.16M	\$20.48M	\$41.64M
FFS Est Completed	\$21.68M	\$20.98M	\$42.66M
FFS PMPM (COMPL)	\$50.77	\$49.13	\$99.90
FFS Equiv/Billed (%)	15.4%	18.4%	16.6%

WITHHOLD RETURNED DUE TO
COVID19

Incurred 202004 - 202010, Paid Through 202010

HCW Return IPA + SCMG	\$2,339,498	\$5.99
HCW Return SCHS	\$2,339,498	\$5.99
HCW Return CMHP	\$95,490	\$0.24

FFS Equivalent (Completed)
vs. Hosp Cap with Return

93.2%

FFS Equivalent (Completed)
vs. Hosp Cap

87.7%

Attachment H

CCO Fee-for-service and Capitation for Behavioral Health Services Community Mental Health Program for Central Oregon CCO

Effective 04/01/2022

1. CMHP Fee-for service and Monthly Capitation Payment

Health Plan will reimburse CMHPs for Therapy Services and Assessment Services on a Fee-for-service basis and on a capitation PMPM basis for Non Encounterable Health Care Costs and Program Allocation costs according to the below rate schedule. These expenses will be charged to the single community HCB in Attachment G.

Intensive In-Home Behavioral Health Treatment (IIBHT) Deschutes County Health Services:

CMHP shall provide access to Intensive In-Home Behavioral Health Treatment (IIBHT) services for all eligible Members age twenty (20) and younger in accordance with OARs 309-019- 0167, 410-172-0650, and 410-172-0695. For Deschutes County, IIBHT services shall be submitted using HCPCS code of H0023 and shall be reimbursed through the below capitation table. The services under H0023 are separate from services billed for Behavioral Health outreach and engagement, for which a CPT code will be designated by Health Plan. Until such a time as an alternative code is identified, CMHP will submit non-billable Behavioral Health Outreach and Engagement (H0023) claims valued at the agreed rate of \$169.90 and attributed to Non-Encounterable Healthcare Services Costs in the capitation portion of this contract.

Intensive In-Home Behavioral Health Treatment (IIBHT) Jefferson County Health Services and Crook County Health Services:

CMHP shall provide access to Intensive In-Home Behavioral Health Treatment (IIBHT) services for all eligible Members age twenty (20) and younger in accordance with OARs 309-019- 0167, 410-172-0650, and 410-172-0695. For Jefferson County and Crook County CMHPs, IIBHT services shall be submitted using HCPCS code H0023 and shall be reimbursed at one hundred percent (100%) of the current OHA allowable, with an eight percent (8%) Claims Risk Withhold to be settled per Attachment G.

Deschutes Stabilization Center

Deschutes County's CMHP shall be paid seventy cents (\$0.70) per OHP Member, per month, for OHP Members assigned to SCMG, Mosaic Medical, and COIPA primary care providers in Central Oregon, to support a Deschutes Stabilization Center. This amount will be an expense toward the single community HCB.

Therapy Services for all CMHPs: Therapy Services FFS CPT Codes: 90832, 90834, 90837, 90846, 90847, H0004, H0005, H0016, H0038 at one hundred thirty percent (130%) of the current OHA fee schedule, with an eight percent (8%) Claims Risk Withhold to be settled per Attachment G.

Assessment Services for all CMHPs: Assessment Services FFS CPT Codes: 90791, 90792, H0001, H0031, H2000 at 165% of current OHP fee schedule with an eight percent (8%) Claims Risk Withhold to be settled per Attachment G.

Non Encounterable services/other billed services and Program Allocation Definition: CMHPs shall provide and report non-encounterable services and system supports. Non-encounterable services and system supports include, but are not limited to: travel, prevention, education and outreach, internal case consultation, co-provided services, outreach and engagement, socialization, and psycho-educational services that are not otherwise encounterable. Payments for such services and programs shall be as follows:

	Non Encounterable services and all other CMHP billed services PMPM	Program Allocation PMPM
Deschutes County Health Services, Public Health Division members domiciled in Deschutes/Klamath County	\$14.36	\$5.10
BestCare members domiciled in Jefferson County	\$12.38	\$7.99
BestCare domiciled in Crook County	\$12.38	\$7.99

**AMENDMENT TO
PHARMACY SERVICES AGREEMENT BETWEEN
CROOK COUNTY AND LEVI MARTIN, RPh**

This Amendment to Pharmacy Services Agreement between Crook County and Levi Martin, RPh (Amendment) is retroactively entered into on the 15th day of January 2022, by and between Crook County, a political subdivision of the State of Oregon (hereinafter “County”), and Levi Martin, RPh, an independent contractor, (hereinafter “Pharmacist”). Individually, a party may be referenced as a “Party” and the two collectively as the “Parties.”

RECITALS

WHEREAS, on or about August 13, 2019, County and Pharmacist entered into a Pharmacy Services Agreement for jail pharmacy consulting services (the “Agreement”); and

WHEREAS, the Agreement contemplates termination upon 90 days’ written notice to the other Party; and

WHEREAS, the Parties have agreed to terminate the Agreement on fewer than 90 days’ notice.

AGREEMENT

NOW, THEREFORE, in consideration of the promises set forth herein, the parties to this Amendment agree as follows:

1. Duration. The Agreement’s termination is effective as of January 15, 2022.
2. Reaffirmation of Agreement. Notwithstanding the foregoing, this termination does not prejudice any right or obligation that accrued to either Party prior to the Effective Date of this Termination Agreement, including but not limited to the right of Pharmacist to receive payment for services validly performed.
3. Counterparts. This Amendment may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

///

///

In witness whereof, the parties have hereunto affixed their hands and seals the date first hereinabove written.

For Pharmacist:

LEVI MARTIN, RPh



Date: 02 / 23 / 2022

For Crook:

CROOK COUNTY COURT

Seth Crawford, County Judge

Date: _____

Jerry Brummer, County Commissioner

Date: _____

Brian Barney, County Commissioner

Date: _____



Request to place business before the Crook County Court

Important Note: The County Court is the legislative, policy-setting body of Crook County. Matters which come before the Court should as a general rule be those of general concern to Crook County residents and Crook County. Administrative matters which are the purview of individual departments will be placed on the agenda at the request of the Department Head. By completing this form, you are asking to be placed on the agenda.

Please return this form to Crook County Administration Office via
Email: amy.albert@co.crook.or.us; or Mail: 300 NE 3rd St., Prineville OR 97754

Your name: Casey Daly Date of Request: February 14, 2022
Email: casey.daly@co.crook.or.us Phone: 541-447-6575
Address (optional): _____

1. What is the date of the Court meeting you would like to appear at? March 2, 2022
2. Describe the matter to be placed before the Court: Indoor Arena Kitchen Repair Bid
3. What action are you requesting that the Court take? Approval of Bid Over \$10,000
4. What is the cost involved with your request, if applicable? \$15,314.00
5. Please estimate the time required for your presentation.
XX 5 minutes ☐ 10 minutes ☐ 15 minutes ☐ other _____ minutes
6. Are you (or will you be) represented by legal counsel?
_____ Yes (please name your attorney) _____
_____ No, I am not currently represented. **(Note: it is your obligation to advise the Court if at any time you retain legal counsel to assist you in this matter.)**
7. If you have a physical disability and require an accommodation, please specify your need:

Optional Endorsement:

Signature of County Judge/Commissioner endorsing this request and requesting placement of the agenda: *(A request submitted at the request of a sponsoring commissioner, will be placed on an appropriate agenda. All other matters will be considered for appropriateness for consideration by the full Court in view of the above criteria.)*

Court member signature

Date



February 11, 2022

RE: CC Fairgrounds Concession Ceiling Drywall/Insulation Repair - Proposal

Griffin Construction LLC is pleased to offer this proposal for consideration and we are excited to build upon our great relationship with Crook County as a result of this project.

We have priced the demolition and replacement of the water damaged drywall ceiling in the concession area, which is approximately 250 SF. Also included is the replacement of the water damaged insulation above the drywall (R-50 batt insulation). We will tape, texture and paint the new ceiling as well. We will clean up our mess.

We strive to do quality work and build lasting relationships with our clients. Please allow us to prove our expertise to you again and I thank you for your consideration for your project.

Base Bid = \$15,314

Exclusions: builders risk insurance, unforeseen conditions, building permits and plan review fees, special inspections/testing.

Sincerely,

A handwritten signature in cursive script that reads 'Samuel Griffin'.

Griffin Construction LLC

1411 NW Murphy Court
Prineville, OR 97754
p. (541) 447-7237

Website: www.griffinconstructionllc.com

1537 Bargeway Road Ste. 100
The Dalles, OR 97058
p. (541) 447-7237



Crook County

Community Development Department
Planning Division

TO: Crook County Court

FROM: Will Van Vactor, Community Development Director

DATE: February 23, 2022

SUBJECT: 217-21-000876-PLNG (Lot Validation)

Crook County requested a lot validation (217-21-000876-PLNG) for real property located in the southeast quarter of Section 34, Township 14S, Range 15E (Tax Lot 300). As part of the land use approval, to complete the lot validation, the County must record a single parcel partition. Thus, the intent of this partition is only to complete the lot validation process. No new parcels will be created.

The lot validation confirms the legal status of the subject property and will allow the County to complete a boundary line adjustment with County owned property to the immediate east.

Attachments:

1. Location map
2. Copy of the partition plat.

Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 301 NE 3rd St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



MEMO

TO: Crook County Court

FROM: John Eisler, Asst. County Counsel

DATE: February 17, 2022

RE: Order No. 2022-07 Findings for Belknap Exhibit Center CM/GC
Our File No.: Bowman 17(B)

Enclosed is Order number 2022-07, which will exempt the Belknap Exhibit Center CM/GC procurement from competitive bidding. The exemption is a bit of misnomer, as the exemption merely allows the Evaluation Committee and County Court to make their selection off factors other than solely the lowest proposer. This will be the same process that the County used to procure a CM/GC for the Justice Center project.

The RFP to secure the CM/GC was published on February 18, 2022. Publications include the Daily Journal of Commerce, the Bend Bulletin, and the Central Oregonian. The notice for this Order was included in the RFP advertisement, which is allowed under statute when necessary for non-emergency reasons outside the County's control. With the supply chain, inflation, and worker issues present as the country pulls out of the COVID-19 pandemic, it will help reduce costs and delays to procure the CM/GC as early as possible.

The timeline for the RFP itself is as follows:

- Publication February 18, 2022
- Pre-proposal meeting March 3, 2022
- Proposals due March 17, 2022
- Interviews (if any) March 24, 2022
- County selection April 6, 2022

Current estimates are for the completion of the project by June of 2023. Please let me know if you have any questions.

Please place this memo and the attached document(s) on the Wednesday, March 2, 2022 County Court Agenda as a DISCUSSION/PUBLIC HEARING ITEM

IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CROOK

**IN THE MATTER OF GRANTING AN EXEMPTION
FROM COMPETITIVE BIDDING, AUTHORIZING
THE CONSTRUCTION OF THE BELKNAP EXHIBIT
CENTER BY MEANS OF THE CONSTRUCTION
MANAGER/ GENERAL CONTRACTOR METHOD OF
CONTRACTING AND AUTHORIZING SELECTION
BY REQUEST FOR PROPOSALS**

ORDER 2022-07

WHEREAS, the Crook County Court is the Local Contract Review Board for Crook County and in that capacity has authority to exempt certain contracts from competitive bidding requirements of Oregon Revised Statute (ORS) 279C, and

WHEREAS, the Court has determined that the construction project of the Justice Center should be constructed by a CONSTRUCTION MANAGER/ GENERAL CONTRACTOR (CM/GC) pursuant to ORS 279C.337; and

WHEREAS, the “Findings of Fact” (attached as Exhibit A hereto) reflect that an exemption from competitive bidding for the project complies with the requirements of ORS 279C.335(2) and the Attorney General’s Model Contract Rules 137-049-0630(2) for exemption of the project from competitive bidding.

NOW, THEREFORE, the Crook County Court **ORDERS** as follows:

A contract for the construction of the Belknap Exhibit Center is exempted from competitive bidding, and the CM/GC Team shall be selected by the Request-for-Proposals method in accordance with the Attorney General’s Model Contract Rules and the process described in the attached Findings of Fact and ORS 279C.337.

DATED this 2nd day of March 2022.

Seth Crawford
County Judge

Jerry Brummer
County Commissioner

Brian Barney
County Commissioner

Exhibit A

FINDINGS OF FACT FOR THE USE OF THE CONSTRUCTION MANAGER / GENERAL CONTRACTOR FORM OF CONTRACTING FOR THE DEVELOPMENT AND CONSTRUCTION OF THE BELKNAP EXHIBIT CENTER AND ASSOCIATED INFRASTRUCTURE

Before the Crook County Court

FINDING OF FACTS AND CONCLUSIONS OF LAW

The Oregon Revised Statutes require that all public improvement contracts be based upon competitive bids. Any exception to competitive bids must be justified by “findings” as stated in ORS 279C.330 and ORS 279C.335. The Crook County Court’s findings regarding the Belknap Exhibit Center (the “Project”) are as follows.

FUNDING SOURCE

1. **Finding:** The sources of funding for the Project are donations and grants made to the Crook County Historical Society (Society) for the purposes of constructing this Project. This Project would not be a public improvement contract but for the contractual arrangement between County and Society wherein the property for the Project is Society’s to use as a museum for as long as it is used as a museum, with a reversionary interest back to the County.

WILL NOT SUBSTANTIALLY DIMINISH COMPETITION OR ENCOURAGE FAVORITISM

2. **Finding:** The Construction Manager / General Contractor (CM/GC) will be selected through a competitive process in accordance with a Request for Proposals authorized by the County Court. Pursuant to ORS 279C.360, a CM/GC solicitation will be advertised in the trade publication entitled Daily Journal of Commerce, Bend Bulletin, and Central Oregonian to maximize exposure. The CM/GC proposals and interviews will be rated based on a predetermined list of criteria as required by ORS 279C.337 and the Attorney General’s Model Contract Rules. County will enter contract negotiations with the highest-ranking firm. Should negotiations fail, the County will have the right to negotiate with the second highest-ranking firm.

COST SAVINGS

1. **Finding:** The CM/GC will participate in the design phase of the work and thereby be able to obtain a complete understanding of the County’s and the proposed occupant’s needs, the architect’s design intent, the scope of the project, and the operational needs of the County’s staff. This will alleviate some of the financial risk to the County and reduced risk will likely result in cost savings. In making this finding, ORS 279C.335 (2)(b) requires the following issues be considered:

(A) How many persons are able to bid;

Many contractors within Central Oregon are able and qualified to bid the planned work; the only limitation is the number of qualified persons in the region.

(B) The construction budget and the projected operating costs for the completed public improvement;

The difference in operating costs will not be significant whether the project is competitively bid or the CM/GC process is used for contracting. However, the CM/GC process will incorporate the contractor with the design team and that will help ensure that the budget is maintained by use of the contractor's knowledge and expertise as to materials and equipment.

(C) Public benefits that may result from granting the exemption;

Early selection of the CM/GC allows for a more informed contractor. The CM/GC will be part of the design team and will have a better understanding of the financial requirements and other project needs. This should result in better decision making by the project construction team, thereby saving time and money. Also, the project site is in the middle of the downtown area of Prineville and all public ways will need to be maintained at all times; with the CM/GC on board early in the process, all safety requirements of working within this area can be fully explained to the CM/GC. The public benefits will thus include increased safety and cost savings, as well as greater assurance of completion on the desired date.

(D) Whether value engineering techniques may decrease the cost of the public improvement;

The CM/GC team will become a part of the project team with the responsibility of leading the value engineering process. The selected CM/GC should have considerable experience in construction and design; therefore, that experience will be of great importance in determining the best use of the budget available. When the contractor participates, the team can render the most comprehensive evaluation of all factors that affect the cost, quality, and schedule of the project.

(E) The cost and availability of specialized expertise that is necessary for the public improvement;

The functions that are planned to be within this building are a bit unique—designed to appear like a historical residential dwelling but function as an open exhibit center. It is beneficial that those selected to be part of the CM/GC team have experience in the design, construction, and functional requirements of public facilities of this type. This experience will assist the project team in determining the best and safest process to pursue. This process will allow the County to solicit local expertise to participate.

(F) Any likely increases in public safety;

The CM/GC team will work with the project team to develop the overall construction plan that integrates the needs of the County and the planned occupants to help ensure public safety is integrated in the design. Also, the CM/GC will assist in determining necessary precautions while working on the site.

(G) Whether granting the exemption may reduce risks to the contracting agency or the public that are related to the public improvement;

Including the contractor in the planning process increases safety and, thereby, reduces risk. CM/GC contracts reduce risk to the County by allowing for coordination and evaluation of constructability ahead of final project design; the contract will include a not-to-exceed cost thereby reducing the risk of budget overruns.

Including the contractor in the design process results in a design that is within the project budget, which also reduces risk. This process is not available under the Design-Bid-Build method of contracting.

(H) Whether granting the exemption will affect the sources of funding for the public improvement;

The exemption will have no effect on the funding source.

(I) Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;

The County's ability to accurately estimate the cost of these projects is complicated by the multitude of construction market conditions that exist today in Oregon (e.g., competition of other projects, shortages and supply chain disruptions from the COVID-19 pandemic, shortage of qualified craftsman, etc.), as well as the difficulty in establishing the best work sequence. Because the project has a limited budget, it is essential to reduce the risk of cost overruns.

The CM/GC process allows for more control over these market forces because the CM/GC can assist in developing design documents and a work plan that best accommodate both the County and contractor/subcontractors; identifying the best grouping of bid packages will help ensure better trade coverage; designing the most efficient construction staging area on the property; charting the most cost effective route through the site for the various utilities; and adjusting the work plan when needs change along the way.

(J) Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;

The CM/GC method controls the design and construction of the project thereby controlling the budget. This should allow the project to meet the demands of the County's proposed occupants and the budget.

(K) Whether the public improvement involves new construction or renovates or remodels an existing structure;

The public improvement will most likely be new construction.

(L) Whether the public improvement will be occupied or unoccupied during construction;

Occupation of the building will occur after all construction is complete and a Certificate of Occupancy is issued.

(M) Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions;

The present plan calls for the CMGC's work to be done in two phases; Phase 1 is design assistance up to the GMP and Phase II continues to completed construction.

(N) Whether the contracting agency has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract;

The County has legal counsel that is familiar with Oregon construction and public contracting law as well as an employee who has many years of experience administering alternative contracting method contracts.

CONCLUSIONS OF LAW

The above "Findings" show that the CONSTRUCTION MANAGER / GENERAL CONTRACTOR process for the construction of the Belknap Exhibit Center complies with the requirements of ORS 279C.335(2) for exemption of the project from competitive bidding.

Crook County Counsel's Office

Mailing: 300 NE Third St., Prineville, OR 97754

• Phone: 541-416-3919

Physical: 301 NE 3rd St., Ste 200, Prineville, OR 97754

• Fax: 541-447-6705



MEMO

TO: Crook County Court

FROM: County Counsel

DATE: 2/17/2022

RE: *Pharmacy Consulting/Audit Services*
Our File No.: JAIL 13

The jail previously had a contract with Martin Pharmacy Consulting for these services; however, those services terminated when Bi-Mart was replaced by Walgreens on 1/13/2022.

Jefferson County has an active contract with Christina Dellera-Storo, which the Sheriff's Office has requested we mirror. Ms. Dellera-Storo has agreed to act as the Jail's pharmacy consultant.

The work to be performed under the Contract is:

- Provide pharmacy consulting services for the jail inmate medical program
- Maintain appropriate records
- Provide the facility with policies and procedure relating to security, storage and distribution of drugs within the facility
- Provide guidance on the proper documentation of drug administration or dispensing
- Provide educational materials or programs as requested.

Fees for the above services are \$75/hr. (\$35 for Pharmacy Technician) and the Contract will terminate on June 30, 2022.

Please place this memo and the attached document(s) on the Wednesday, March 2, 2022, County Court Agenda as a CONSENT ITEM, for approval and signatures.

PROFESSIONAL SERVICES CONTRACT

This Agreement is made and entered into by and between Crook County, a political subdivision of the State of Oregon, hereinafter "County", and Christina Deller-Storo, hereinafter referred to as "Contractor".

IT IS HEREBY AGREED by and between the parties above mentioned, for and in consideration of the mutual promises hereinafter stated as follows:

1. Effective Date and Duration. This Agreement is effective upon execution and shall continue to be in effect through June 30, 2022, unless extended by mutual written agreement of the parties or earlier terminated.

2. Scope of Work. Contractor shall provide pharmacy consulting services for the jail inmate medical program including performing all duties and function required by the jail facility's licensure as well as relevant federal and state laws and rules. Contractor shall maintain appropriate records of their consulting activities for three years, and make them available to the Pharmacy Board for inspection and be responsible for the safe custody and security of all their records. Contractor must comply with all relevant federal and state laws and regulations concerning the security and privacy of patient information; may store health protected records outside an Oregon licensed facility if registered as an Oregon Consulting or Drugless Pharmacy outlet as defined by OAR Chapter 855, division 41; must provide the facility with policies and procedure relating to security, storage and distribution of drugs within the facility; must provide guidance on the proper documentation of drug administration or dispensing; and must provide educational materials or programs as requested. Contractor shall complete and make available the attached Consultant Pharmacist Correctional Facility Inspection Report as required by Oregon Administrative Rules.

3. Consideration. County shall pay Contractor on an hourly basis as follows: Consulting Pharmacist \$75/hr; Consultant Services—Pharmacy Technician \$35/hr. Contractor shall invoice County for work actually performed or services provided. Said sum shall be payable by County within 30 days following the receipt of an invoice. Notwithstanding any other provision of this Agreement, in the event that Contractor fails to submit any required reports when due, or fails to perform or document the performance of contracted services, the County may withhold payments under this Agreement. Such withholding of payment for cause shall continue until the Contractor submits required reports, performs the required services or establishes, to the County's satisfaction, that such failure arose out of causes beyond the control and without the fault or negligence of the Contractor.

4. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of County. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement; for payment of any fees, taxes, royalties or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to County. Contractor by signature to this Contract declares and certifies that Contractor's work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and that no rules or

regulations of Contractor's employing entity (county, state or federal) would prohibit Contractor's activities under this Contract. Contractor is not an "officer", "employee", or "agent" of the County, as those terms are used in ORS 30.265.

5. Representations and Warranties. Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract, (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards, (4) Contractor shall, at all times during the term of this Contract be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

6. Records Maintenance. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow County the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for six years after County makes final payment and all other pending matters are closed. All records and files shall be appropriately secured to prevent access by unauthorized persons. Contractor shall comply with all appropriate federal and state laws, rules and regulations regarding confidentiality of County records.

7. Compliance with Laws. Both parties shall comply with the public contracting provisions of ORS chapters 279A, 279B and 279C to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

8. Hold Harmless. Contractor shall be solely responsible for any and all injuries to any and all persons or property caused directly or indirectly by reason of any or all activities of Contractor in the performance of this Agreement. Contractor further agrees to indemnify, save harmless and defend County, its officers, agents, representatives and employees from and against all claims, suits, actions, damages, costs, losses and expenses in any manner resulting from, arising out of, connected with or related to activities or errors and omissions of Contractor, its officers, employees, subcontractors or agents pursuant to this Agreement.

9. Subcontracting. Contractor shall not enter into any subcontracts for any of the work required by this Agreement, or assign or transfer any of its interest in this Agreement, without County's written consent. In addition to any other provisions County may require, Contractor shall include in any permitted subcontracts under this Agreement a requirement that the subcontractor be bound by this Agreement as if subcontractor were Contractor.

10. Termination. This Agreement may be terminated by mutual consent of the parties or upon thirty days written notice from Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section. Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon County request, Contractor shall surrender to

anyone County designates, all documents, research or objects or other tangible things needed to complete the Work.

11. Limitations of Liability. Except for liability arising under or related to Sections 10 or 5, neither party shall be liable for (i) any indirect, incidental, consequential or special damages under the contract or (ii) any damages of any sort arising solely from the termination of this contract in accordance with its terms.

12. Insurance. In conjunction with all services performed under this Agreement:

A. Contractor shall obtain, maintain and furnish to the County, upon request, proof of professional liability insurance covering the contracted services to be performed by Contractor. Such insurance, whatever the form, shall name Crook County, its officers, agents and employees as additional insureds and shall not be less than the following \$1,000,000 for errors and omissions or professional liability/malpractice.

B. In the event of unilateral cancellation, restriction or modification by the insurance company of Contractor's insurance policies required herein, Contractor shall immediately notify County verbally and in writing.

13. Debt Limitation and Non-Appropriation. This Agreement is expressly subject to the debt limitation for Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative only to that extent. In the event that sufficient funds shall not be appropriated for the payment of consideration required to be paid under the Agreement, and if County has no funds legally available for consideration from other sources, then County may terminate this Agreement in accordance with Section 11 of this Agreement.

14. No Third-Party Beneficiaries; Successors and Assigns. The County and Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement is intended to require any party to do or undertake any activity which it is not authorized to do. This Agreement shall be binding upon and inure to the benefit of the County, Contractor, and their respective successors and assigns, except that Contractor may not assign or transfer its rights or obligations hereunder or any interest herein without the prior consent in writing of the County, which consent may be withheld for any reason.

15. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

16. Entire Agreement; Waiver. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement. The failure of County to enforce any provision of this Agreement shall not constitute a waiver by County of that or any other provision.

17. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, suit, action, or proceeding (collectively "Claim") between County and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Crook County Circuit Court

of the State of Oregon; provided, however, if the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Contractor, by execution of this Agreement, hereby consents to the in personam jurisdiction of said courts.

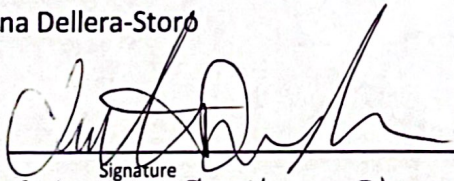
18. **Attorney Fees.** In the event an action, suit or proceeding, including any and all appeals therefrom, is brought for failure to observe any of the terms of this Agreement, each party shall be responsible for its own attorney fees, expenses, costs and disbursements incurred as a result of said action, suit, proceeding or appeal.

19. **Contractor warranty and covenant concerning tax law compliance.** Contractor represents and warrants that it has complied with the tax laws of this state or political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Contractor covenants to continue to comply with the tax laws of this state or a political subdivision of this state during the term of the public contract and Contractor's failure to comply with the tax laws of this state or a political subdivision of this state before Contractor executed the public contract or during the term of the public contract is a default for which a contracting agency may terminate the public contract and seek damages and other relief available under the terms of the public contract or under applicable law.

For Contractor

Christina Deller-Storø

By:


Signature

Christina Deller-Storø
Printed Name

Title: Pharmacy Consultant

Date: 2/16/22

For Crook County

CROOK COUNTY COURT

NOT REQUIRED

Seth Crawford, County Judge

Date: _____

NOT REQUIRED

Jerry Brummer, County Commissioner

Date: _____



Brian Barney, County Commissioner

Date: 02/17/2022

**IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CROOK**

**AN ORDINANCE AMENDING TITLE
TITLE 17 AND 18 OF THE CROOK COUNTY
CODE, ADOPTING ADDITIONAL PROCED-
URAL CLARITY, STREAMLINING AP-
PLICATION PROCESSES, AND EXPAND-
ING OPTIONS FOR LOCAL RESIDENTS, AND
DECLARING AN EMERGENCY**

ORDINANCE 330

WHEREAS, from time to time it is helpful to review the County’s subdivision and land use / planning code provisions, to identify areas where typos can be corrected, additional clarity for applicants can be provided, and efficiencies can be promoting in the conduct of the County’s land use responsibilities; and

WHEREAS, the proposed changes described herein have been considered at a public hearing of the Crook County Planning Commission, which recommends that the County Court adopt such revisions.

NOW, THEREFORE, the Crook County Court ordains as follows:

Section One: The above recitals and exhibits are adopted into and made a part of this Ordinance No. 330 as the County’s findings of fact.

Section Two: Crook County Code Section 18.16.055, “Agri-Tourism,” is amended to read as depicted on the attached Exhibit A, with additions underlined and deletions ~~struck-through~~.

Section Three: Crook County Code Section 18.162.020, “Noncommercial photovoltaic energy systems,” is amended to read as depicted on the attached Exhibit B, with additions underlined and deletions ~~struck-through~~.

Section Four: Crook County Code Section 18.108.060, “Covenant of nonremonstrance,” is amended to read as depicted on the attached Exhibit C, with additions underlined and deletions ~~struck-through~~.

Section Five: The Use Table for Crook County Code section 18.16.010, “Temporary hardship dwellings,” is amended to read as depicted on the attached Exhibit D, with additions underlined and deletions ~~struck-through~~.

Section Six: A new chapter 17.42, “Validation of a unit of land,” is added to Crook County Code Title 17, as depicted on the attached Exhibit E.

Section Seven: Crook County Code section 18.08.180, “R definitions,” and section 18.124.100, “Rimrock setback requirements,” are amended to read as depicted on the attached Exhibit F, with additions underlined and deletions ~~struck-through~~.

Section Eight: Crook County Code section 18.16.040, “Dwelling not in conjunction with farm use,” is amended to read as depicted on the attached Exhibit G, with additions underlined and deletions ~~struck-through~~.

Section Nine: A new section, 18.170.025 “Notice,” is added to Crook County Code chapter 18.170, as depicted on the attached Exhibit H.

Section Ten: Crook County Code chapter 18.172, “Administrative Provisions,” is amended to read as depicted on the attached Exhibit I, with additions underlined and deletions ~~struck-through~~.

Section Eleven: A new chapter, 18.174 “Declaratory Ruling,” is added to Crook County Code Title 18, as depicted on the attached Exhibit J.

Section Twelve: If any court of competent authority invalidates a portion of this Ordinance 330, the remaining portions will continue in full force and effect.

Section Thirteen: Ordinance 330 being immediately necessary for the health, welfare, and safety of the people of Crook County, an emergency is hereby declared to exist, and this Ordinance 330 shall become effective upon signing.

First Reading: _____

Second Reading: _____

Dated this _____ day of _____, 2022

Judge Seth Crawford

Commissioner Jerry Brummer

Commissioner Brian Barney

Vote:	Aye	Nay	Excused
Seth Crawford	_____	_____	_____
Jerry Brummer	_____	_____	_____
Brian Barney	_____	_____	_____

EXHIBIT A

CCC 18.16.055 Agri-Tourism

Agri tourism is defined in 18.08.010:

- “Agri-tourism” means a common, farm-dependent activity that is incidental and subordinate to a working farm and that promotes successful agriculture and generates supplemental income for the owner. Such uses may include hayrides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally based activities such as animal or crop care, picking fruits or vegetables, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not agri-tourism.

18.16.055 Agri-tourism and other commercial events.

The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:

(1) A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(a) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(b) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(c) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(d) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(e) The agri-tourism or other commercial event or activity ~~complies with the standards described in CCC 18.16.020(1) and (2)~~ will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;

(f) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(g) The agri-tourism or other commercial event or activity complies with conditions regarding ~~established subsections (2)(b), (d), and (g) of this section.~~

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(2) In the alternative to subsections (1) and (3) of this section, the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of the County or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

- (a) Must be incidental and subordinate to existing farm use on the tract;
- (b) May not begin before 6:00 a.m. or end after 10:00 p.m.;
- (c) May not involve more than 100 attendees or 50 vehicles;
- (d) May not include the artificial amplification of music or voices before 8:00 a.m. or after 8:00 p.m.;
- (e) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
- (f) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
- (g) Must comply with applicable health and fire and life safety requirements.

(3) In the alternative to subsections (1) and (2) of this section, the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

- (a) Must be incidental and subordinate to existing farm use on the tract;
- (b) May not, individually, exceed a duration of 72 consecutive hours;
- (c) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
- (d) ~~Must comply with the standards described in CCC 18.16.020(1) and (2)~~ Will not force a significant

change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;

(e) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(f) Must comply with: ~~the requirements of subsection (8) of this section.~~

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(g) A permit authorized by this subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of this subsection, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(4) In addition to subsections (1) to (3) of this section, the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with subsections (1) to (3) of this section if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(a) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(b) Comply with the requirements of subsections (3)(c), (d), (e), and (f) of this section;

(c) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(d) Do not exceed 18 events or activities in a calendar year.

(5) A holder of a permit authorized by a county under subsection (4) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (4) of this section.

(6) Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.

(7) The authorizations provided by this section are in addition to other authorizations that may be provided by law, except that "outdoor mass gathering" and "other gathering," as those terms are used in

ORS 197.015(10)(d), do not include agri-tourism or other commercial events and activities.

8) Conditions of Approval. Agri-tourism and other commercial events permitted under subsections (3) and (4) of this section are subject to the following standards and criteria:

(a) A permit application for an agri-tourism or other commercial event or activity shall include the following:

(i) A description of the type of agri-tourism or commercial events or activities that are proposed, including the number and duration of the events and activities, the anticipated daily attendance and the hours of operation and, for events not held at wineries or cider businesses, how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract;

(ii) The types and locations of all existing and proposed temporary structures, access and egress, parking facilities, sanitation and solid waste facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iii) Authorization to allow inspection of the event premises. The applicant shall provide in writing consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and the exclusive farm use zone and any other applicable laws or ordinances.

(b) Approval Criteria.

(i) The area in which the agri-tourism or other commercial events or activities are located shall be set back at least 100 feet from the property line.

(ii) No more than two agri-tourism or commercial events or activities may occur in one month.

(iii) The maximum number of people shall not exceed 500 per calendar day.

(iv) Notification of Agri-Tourism and Other Commercial Events or Activities.

~~(A)The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1st of the subject calendar year or within 30 days of new or renewed permits to the county's planning department and a list of all property owners within 500 feet of the subject property, as notarized by a title company.~~

~~(B)The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the department at least 72 hours prior to any change in the date of approved dates.~~

~~(C)If notice pursuant to subsection (8)(b)(iv)(A) of this section is not provided, the property owner shall provide notice by registered mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.~~

~~(D)The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.~~

~~(v)Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 12:00 p.m.~~

~~(vi)Overnight camping is prohibited.~~

~~(vii)Noise Control.~~

~~(A)All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.~~

~~(B)A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.~~

~~(viii)Transportation Management.~~

~~(A)Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.~~

~~(B)Driveways extending from paved roads shall have a paved apron, requiring review and approval by the county road department.~~

~~(C)The parcel, lot or tract must have direct access from a public road or is accessed by an access easement or private road, whereby all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time~~

of initial application.

(D) Adequate traffic control must be provided by the property owner and must include one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time. All traffic control personnel shall be certified by the state of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.

(E) Adequate off-street parking will be provided pursuant to provisions of the Chapter ~~18.128~~ CCC.

~~(ix) Health and Safety Compliance.~~

~~(A) Sanitation facilities shall include, at a minimum, portable restroom facilities and standalone handwashing stations.~~

~~(B) All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the county building department and any other applicable federal, state and local laws.~~

~~(C) Compliance with the requirements of the building department shall include meeting all building occupancy classification requirements of the state of Oregon adopted building code. (Ord. 309 § 2 (Exh. C), 2019)~~

Exhibit B

18.162 Noncommercial energy systems

18.162.010 Noncommercial wind energy systems.

All new or replacement wind energy systems that are not commercial power generating facilities shall be a permitted use in all zones. In addition to any requirements of the applicable zone, all new or replacement wind energy systems that are not commercial power generating facilities shall be subject to the following standards:

- (1) Wind energy systems are subject to the setback requirements of the zone. In addition, the wind energy system shall be set back at least the height of the wind energy system from all property lines. The wind energy system shall not be located closer to dwellings on adjacent property than to existing dwellings on the parcel or lot where the wind energy system is located.
- (2) Roof-mounted, building-integrated, building-mounted or architectural wind energy systems may extend an additional five feet above the highest ridge of the building's roof or 15 feet above the highest cave, whichever is higher.
- (3) Wind energy system towers must meet the dimensional standards for building and structure heights in the applicable zone.
- (4) Wind energy systems and meteorological towers shall comply with all applicable state construction and electrical codes, and the National Electrical Code. The applicant shall obtain all necessary building and electrical permits from the Crook County building department prior to installation or alteration of the wind energy system. (Ord. 245 § 1, 2011; Ord. 229 § 1 (Exh. A), 2010)

18.162.020 Noncommercial photovoltaic energy systems

All new or replacement photovoltaic energy systems that are not commercial power generating facilities are allowed without land use review shall be a permitted use in all zones. Although the use is allowed without land use review In addition to any requirements of the applicable zone, all new or replacement photovoltaic energy systems that are not commercial power generating facilities shall meet ~~still be subject to~~ the following standards:

- (1) Ground mounted noncommercial photovoltaic energy systems shall meet ~~are subject to~~ the setback requirements for the underlying zone.
- (2) All components of a noncommercial photovoltaic energy system shall comply with the height restrictions of the zone.
- (3) Photovoltaic energy systems may be mounted to an approved on-site structure or established as a freestanding structure; ~~provided, that the other requirements of this section are met.~~

(4) Noncommercial photovoltaic energy systems shall comply with all applicable state construction and electrical codes, and the National Electrical Code. The applicant shall obtain all necessary building and electrical permits from the Crook County building department prior to installation or alteration of the photovoltaic energy system. (Ord. 245 § 1, 2011; Ord. 229 § 1 (Exh. A), 2010)

Exhibit C

18.108.060 Covenant of nonremonstrance**18.108.060 Covenant of nonremonstrance**

The county shall require, as a condition of site plan or conditional use approval, the property owners whose lots adjoin land zoned for exclusive farm use to sign and record in the records of the Crook County clerk a covenant of nonremonstrance in favor of adjacent EFU zoned land. The covenant shall provide that the property owners will not remonstrate against farming practices, as the term is defined by ORS ~~30.390~~. ~~30.930~~. The covenant shall be an equitable servitude and be binding on all heirs, devisees, vendees and successors in interest of the property owner. (Ord. 18 § 3.220(6), 2003)

Exhibit D
CCC 18.16.010 -Temporary Hardship Dwelling

Chapter 18.16 EXCLUSIVE FARM USE ZONES, EFU-1 (POST-PAULINA AREA), EFU-2 (PRINEVILLE VALLEY-LONE PINE AREAS), EFU-3 (POWELL BUTTE AREA)

18.16.010 Use table

(1) Use Type

{c} "C" means the use is a conditional use. Conditional uses are permitted subject to county review, any specific standards for the use set forth in CCC 18.16.015, the conditional use review criteria in CCC 18.16.020, the general standards for the zone, and specific requirements applicable to the use in Chapter 18.160 CCC.

2.8	Temporary hardship dwelling.	C	Notice and Opportunity for Hearing	18.16.015(4) 18.16.015(25) <u>18.16.020(1)(2)</u>
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Exhibit E

CCC 17.42 Validation of a unit of land

Title 17, SUBDIVISIONS

17.42.010 VALIDATION OF A UNIT OF LAND

- (1) An application to validate a unit of land that was created by a sale or foreclosure that did not comply with the applicable criteria for creation of a unit of land may be submitted and reviewed as an Administrative Decision if the unit of land:
 - (a) Is not a lawfully established unit of land; and
 - (b) Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.
- (2) Notwithstanding CCC 17.42.010(1)(b), an application to validate a unit of land under this section may be submitted and reviewed if the County approved a permit, as defined in ORS 215.402, for the construction or placement of a dwelling or other building on the unit of land after the sale. If the permit was approved for a dwelling, the County must also determine that the dwelling qualifies for replacement under the following criteria:
 - (a) Has intact exterior walls and roof structure;
 - (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (c) Has interior wiring for interior lights; and
 - (d) Has a heating system.
- (3) An application for a permit as defined in ORS 215.402 or a permit under the applicable state or local building code for the continued use of a dwelling or other building on a unit of land that was not lawfully established may be submitted and reviewed if:
 - (a) The dwelling or other building was lawfully established prior to January 1, 2007; and
 - (b) The permit does not change or intensify the use of the dwelling or other building.
- (4) An application to validate a unit of land under CCC 17.42.010 is an application for a permit, as defined in ORS 215.402. An application under CCC 17.42.010 is not subject to the minimum lot or parcel sizes established by the underlying zoning.
- (5) A unit of land only becomes a lawfully established parcel when the County validates the unit of land

under this chapter and according to that approval, the owner of the unit of land records a partition plat within 365 days of validation.

- (6) An application to validate a unit of land may not be approved if the unit of land was unlawfully created on or after January 1, 2007.
- (7) Development or improvement of a parcel created under CCC 17.42.010(5) must comply with the applicable laws in effect when a complete application for the development or improvement is submitted as described in ORS 215.427(3)(a).

Exhibit F

CCC 18.08.180 Rimrock Definition

Title 18 Zoning

Chapter 18.08 DEFINITIONS

18.080.180 R definitions

“Rimrock” means any ledge, outcropping or top, or overlying stratum of rock, which forms a face in excess of 45 degrees. Setbacks shall be measured from the closest point of covered ground area of a structure to the closest point of the identified rimrock that meets this definition, above the rim. Setbacks shall only apply to rimrock within the following geographical areas:

- A. The intersection of Elliot Lane and O’Neil Highway, including Westwood Subdivision and Ochoco Wayside Viewpoint, to Stearns Ranch.
- B. Rimrock that parallels Juniper Canyon and Combs Flat Road.
- C. Rimrock that parallels Ochoco Creek and Ochoco Reservoir.

Chapter 18.124 SUPPLEMENTARY PROVISIONS

18.124.100 Rimrock setback requirements

A proposed structure locating on the rimrock shall be set back 200 feet from the edge of said rimrock. Please reference CCC 18.08.180 for the applicable geographic areas, and definition. (Ord. 280 § 15 (Exh. O), 2015; Ord. 18 § 4.210, 2003)

Exhibit G

CCC 18.16.040 Nonfarm date clarification

Title 18 Zoning

Section 18.16.040 Dwelling not in conjunction with farm use.

(1) Nonfarm Dwelling. A nonfarm dwelling is subject to the following requirements:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

(2) Nonfarm Dwelling Suitability Standards.

(a) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(b) A new parcel or portion of an existing lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not “generally unsuitable.” A new parcel or portion of an existing lot or parcel is presumed to be suitable if it is composed predominantly of Class I – VI soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(c) If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the forest practices rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not “generally unsuitable” simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not “generally unsuitable.” If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

(3) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subsections (3)(a) through (c) of this section. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subsections (3)(a) through (c) of this section.

(a) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

(b) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved under CCC 18.16.035(1) and this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4), 215.263(5), and 215.284(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subsection; and

(c) Determine whether approval of the proposed nonfarm/lot of record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(4) If a single-family dwelling is established on a lot or parcel as set forth in Use 2.4 in Table 1, no additional dwelling may later be sited under the provisions of this section.

(5) The dwelling will be sited on a lot or parcel created before January 1, 1993; if the lot or parcel was created after that date, the lot or parcel must have been approved through the provisions of CCC 18.16.070(3) or (4).

(56) All new nonfarm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County comprehensive plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2,000-acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2, provided the methodology and size of the study area are explained and are found to be consistent with the purpose of Crook County comprehensive plan Wildlife Policy 2.

(67) All new nonfarm dwellings on existing lots or parcels proposed within the Paulina Ranches or Riverside Ranches subdivisions, which are in the county's EFU-1 zone and were created prior to January 1, 1993, shall require a minimum of 20 acres for the nonfarm dwelling.

(a) The 20-acre requirement for these subdivisions may be met either by a single lot or parcel which is at least 20 acres or through multiple, separate lots or parcels within the same subdivision in common ownership, which in the aggregate total 20 acres or more. For the purposes of this section, Riverside Ranch Unit 1 is treated as a separate subdivision and Riverside Ranch Units 2 and 3, together, are treated as a separate subdivision. The aggregation of lots or parcels for the purposes of this section must be contiguous in Paulina Ranches and Riverside Ranch Unit 1.

(b) Where multiple lots or parcels in common ownership are the basis to meet the 20-acre requirement, upon approval of a nonfarm dwelling and prior to the issuance of a building permit, the applicant/owner shall record a deed restriction with the county clerk limiting the further development of any lots or parcels used by the applicant/owner to meet the 20-acre requirement. (Ord. 326 § 3 (Att. A), 2021; Ord. 309 § 2 (Exh. C), 2019)

Exhibit H

CCC 18.170 Quasi-Judicial Amendments

Title 18 Zoning

18.170.010 Quasi-judicial amendment standards.

An applicant requesting a quasi-judicial amendment must satisfy the following factors for quasi-judicial amendments:

(1) Comprehensive Plan Map Change.

(a) That the amendment complies with the Statewide Planning Goals and applicable Administrative Rules (which include OAR 660-12, the Transportation Planning Rule) adopted by the Land Conservation and Development Commission pursuant to ORS 197.240 or as revised pursuant to ORS 197.245.

(i) The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the county transportation system plan.

(A) The applicant shall cite the identified comprehensive plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the county transportation system plan.

(B) The jurisdiction providing direct access (county or ODOT) may require the applicant to submit a traffic impact analysis or traffic assessment letter consistent with the requirements of Section 7.1.7 of the Crook County transportation system plan to support the findings used to address this subsection (1)(a).

(b) That the amendment provides a reasonable opportunity to satisfy a local need for a different land use. A demonstration of need for the change may be based upon special studies or other factual information.

(c) That the particular property in question is suited to the proposed land use, and if an exception is involved, that the property in question is best suited for the use as compared to other available properties.

(d) If it appears that it is not possible to apply an appropriate goal to specific properties or situations, then the application shall set forth the proposed exception to such goal when:

(i) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(ii) The land subject to the exception is irrevocably committed as described by the Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(iii) The following standards are met:

- (A)) Reasons justifying why the state policy embodied in the applicable goals should not apply;
- (B) Areas which do not require a new exception cannot reasonably accommodate the use;
- (C) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. ("Compatible," as used in this subsection, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.)

(2) Zone Map Change.

- (a) That the zone change conforms with the Crook County comprehensive plan, and the change is consistent with the plan's statement and goals.
- (b) That the change in classification for the subject property is consistent with the purpose and intent of the proposed amendment.
- (c) That the amendment will presently serve the public health, safety and welfare considering the following factors:
 - (i) The availability and efficiency of providing necessary public services and facilities.
 - (ii) The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Crook County comprehensive plan.
- (c) That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question. (Ord. 236 § 6 (Exh. F), 2010)

18.170.020 Notice.

- (1) Notice of the hearing to enact any quasi-judicial matter will be given pursuant to the provisions of CCC 18.172.070.
- (2) When applicable notice to DLCD shall be provided as required by ORS 197.610 and 197.615.
- (3) When applicable notice to affected property owners shall be provided as required by ORS 215.503. (Ord. 323 § 5 (Att. A), 2021; Ord. 236 § 6 (Exh. F), 2010)

18.170.025 Authorization to approve or deny proposed amendments.

Proposed quasi-judicial amendments requested pursuant to this Chapter will be reviewed in accordance with CCC 18.172.

18.170.030 Limitations on reapplications.

No application of a property owner for an amendment to the text of the comprehensive plan, the development zoning ordinance or of this title or its zoning map shall be considered by the ~~p~~Planning ~~e~~Commission within the six-month period immediately following a previous denial on the same application. If, in the opinion of the ~~p~~Planning ~~e~~Commission, new evidence or a change of circumstances warrants it, however, the ~~p~~Planning ~~e~~Commission may permit a new application. (Ord. 236 § 6 (Exh. F), 2010)

18.170.040 Record of amendments.

The County Clerk shall maintain a recorded copy of all amendments to the comprehensive plan and land use regulation text and maps. (Ord. 236 § 6 (Exh. F), 2010)

Exhibit I

CCC 18.172 Administration Provisions

Title 18 Zoning

18.172.005 Definitions.

For the purpose of this chapter, unless the context requires otherwise, the following words and phrases mean:

- (1) Acceptance. Received and considered by the director to contain sufficient information and materials to begin processing in accordance with the procedures of this chapter.
- (2) Appearance. Submission of testimony or evidence in the proceeding, either oral or written. A person's name appearing on a petition filed as a general statement of support or opposition to an application without additional substantive content ~~and that typically contains the names of a number of other persons,~~ does not constitute an appearance. A petition or letter containing substantive content directed at the applicable approval criteria and that explains why the signers support or oppose an application shall be considered an appearance for each signer of the petition.
- (3) Appellant. A person who submits to the Department a timely appeal of a decision issued by the County.
- (4) Applicant. A person who applies to the Department for a decision under this chapter. An applicant must be an owner of the property, or someone authorized in writing by the property owner to make application.
- (5) Approval Authority. A person or a group of persons, given authority by Crook County Code to review and make decisions upon certain applications in accordance with the procedures of this chapter. The approval authority may either be the director, the Planning Commission, hearings officer, or Crook County court as specified for application types by this chapter or otherwise specified in this chapter.
- (6) Argument. The assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by a party to a decision. Argument does not include facts.
- (7) De Novo. A hearing by the Approval Authority as if the action had not previously been heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous ~~consideration~~ proceeding will be considered a part of the review on the record.
- (8) Department. The Crook County Community Development Department.
- (9) Director. The Crook County Community Development Director or the Director's designated representative.
- (10) End of Business. The end of the business day is 4:00 p.m. Pacific Time.
- (11) Evidence. The facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.
- (12) Hearing Authority. The County Ccourt, Planning Commission, or a hearings officer appointed by the County

Court under CCC 18.172.010(2).

(13) Land Use Decision. A final decision or determination made by a Crook County approval authority that concerns the adoption, amendment, or application of the statewide planning goals, a comprehensive plan provision, a land use regulation, or a new land use regulation where the decision requires the interpretation or exercise of policy or legal judgment.

(14) Land Use Regulation. Any Crook County zoning ordinance, land division ordinance adopted under ORS 92.044 to 92.046, or similar general ordinance establishing standards for implementing the Crook County comprehensive plan.

(15) Legislative. An action or decision involving the creation, adoption, or amendment of a law, rule, or a map when a large amount of properties are involved, as opposed to the application of an existing law or rule to a particular use or property.

~~(16) Ministerial. An action or decision based on clear and objective standards and criteria where no discretion by the Approval Authority is required.~~

(16) Owner. A person on the title to real property as shown on the latest assessment records in the office of the Crook County tax assessor. Owner also includes a person whose name does not appear in the latest tax assessment records, but who presents to the county a recorded copy of a deed or contract of sale signed by the owner of record as shown in the Crook County tax assessor's records.

(17) Party. With respect to actions under this chapter, the following persons or entities are defined as parties:

(a) The applicant;

(b) Any owner of the subject property that is the subject of the decision under consideration in accordance with this chapter; and

(c) A person who makes an appearance before the Approval Authority or Hearing Authority.

(18) Permit. A discretionary approval of a proposed development of land under ORS 215 or county legislation or regulation adopted in accordance with ORS 215.

(19) Planning Commission. The Planning Commission of Crook County, Oregon.

(20) Quasi-Judicial. A land use action or decision that requires discretion or judgment in applying the standards or criteria of this code to an application for approval of a development or land use proposal. (Ord. 317 § 6, 2020)

18.172.010 Quasi-judicial hearing authority.

(1) The County Court hereby designates that the Hearing Authority to conduct hearings in a quasi-judicial capacity in order to make land use decisions is the Planning Commission.

(2) Whenever the County Court determines it necessary, the court may appoint a hearings officer to have the

same authority and powers as the Planning Commission.

(3) The County Court may appoint agents to issue ~~zoning~~ permits and to otherwise assist the Director in the processing of applications.

(4) “Quasi-judicial” zone changes or plan amendments generally refer to a plan amendment or zone change directly affecting individual property owners and involve the application of existing policy to a specific factual setting. (The distinction between legislative and quasi-judicial actions must ultimately be made on a case-by-case basis with reference to case law on the subject.) (Ord. 317 § 6, 2020; Ord. 18 § 9.010, 2003)

18.172.015 Authority to make land use decisions.

(1) Except for comprehensive plan amendments and zone changes, and other instances where a public hearing is required by state law or by other ordinance provision, the Director may make any land use decision by issuing an administrative determination either with prior notice or without prior notice, in accordance with ORS 215.416(11) and CCC 18.172.060(1). The Director may refer any application for a land use decision to the Planning Commission for a hearing.

(2) The Planning Commission shall annually establish a list of the types of land use applications the Planning Commission will review in a public hearing. The list shall be approved by the last meeting in January. The Director shall, to the extent practicable, follow the decision of the Planning Commission. The Director's choice between making an administrative decision or submitting an application to the Planning Commission for a public hearing shall not be an appealable decision. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010)

18.172.20 Application.

(1) The applicant shall ~~make~~ submit an application to the Director on forms provided by the County.

(2) An application is not considered accepted until all applicable fee(s) are paid to the county and all required materials of that application are submitted.

(3) Acceptance of the application indicates only that the application is ready for processing and review. It does not represent the application has been deemed complete. Acceptance of an application shall not preclude a determination at a later date that additional criteria need to be addressed and/or that the application is incomplete.

~~An application is deemed to be complete when in the judgment of the director all application issues have been adequately addressed in the application and all applicable fees have been paid to the county.~~

~~If an application is incomplete, the director shall, within 30 days of receipt of the application, notify the applicant in writing of exactly what information is missing. The applicant may amend the original application or submit a new application supplying the missing information.~~

The applicant shall have 180 days from the date of notice from the director to supply the missing information.

(4) An application is deemed to be complete when in the judgment of the Director, all applicable approval criteria have been adequately addressed in the application, supplemental materials provided by the applicant, and all applicable fees have been paid to the County.

~~(5) If the applicant submits the missing information within the 180-day period specified in subsection (4) of this section, the application shall be deemed complete upon receipt of the missing information.~~

(5) If an application is incomplete, the Director shall, within 30 days of accepting the application, notify the applicant in writing of what information is missing. The application will be deemed complete upon receipt of:

- (a) All of the information.
- (b) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (c) Written notice from the applicant that none of the missing information will be provided.

~~(5)~~(6) If the applicant submits the missing information within the 180-day period specified in subsection (5) of this section, the application shall be deemed complete upon receipt of the missing information.

~~(6)~~(7) For lands located within the urban growth boundary and for applications for mineral aggregate extraction, the Approval Authority shall act upon a completed application within 120 calendar days of the filing of a completed application. For all other permit applications, the Approval Authority shall act upon a completed application within 150 calendar days of filing of a completed application. Such time limitations can be extended with the consent of the applicant. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 231 § 1 (Exh. A), 2010; Ord. 216 § 2, 2009; Ord. 18 § 9.020, 2003)

18.172.025 Consolidated review of applications.

When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application. (Ord. 317 § 6, 2020; Ord. 303 § 1 (Exh. C), 2017)

18.172.030 ~~Health department~~ Sanitarian approval.

No ~~zoning~~ permit shall be issued for any use or structure which will have an individual sanitary subsurface disposal system until written approval is obtained by the applicant for said system from the County Sanitarian ~~ation department~~. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.030, 2003)

18.172.040 Form of petitions, applications and appeals.

Petitions, applications and appeals provided for in this title shall be made on forms prescribed by the County. Applications shall be accompanied by plans and specifications, drawn to scale, showing actual shape and

dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this title. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.040, 2003)

18.172.050 Filing fees.

All fees described in this section shall hereafter be set annually as determined by the County Ccourt.

- (1) All fees for permits, variances, zone map amendments, comprehensive plan amendments, zone text amendments, appeals, and any other necessary review or permits pursuant to this title shall be set annually as determined by the County Ccourt.
- (2) Acceptance and filing ~~Filing~~ of an application is not considered complete until all applicable fee(s) are paid to the county.
- (3) Refunds.
 - (a) If the applicant withdraws a land use application prior to the mailing of the notice on the matter, the applicant may apply to the ~~planning~~ Director for a refund of a fee paid for that action.
 - (b) If the applicant withdraws a land use application before the seventh working day prior to the commencement of the first hearing on the matter or prior to the action of the Director, the applicant may apply to the ~~planning~~ Director for a partial refund of a fee paid for that action.
 - (c) No refunds or partial refunds shall be granted by the Director if the applicant withdraws a land use application on or after the seventh working day prior to the commencement of the first public hearing on the matter or after action of the Director.
 - (d) The Director shall within five working days of receiving an application for a refund or a partial refund make a determination whether to grant the refund or partial refund. If the Director makes a determination to grant a refund or a partial refund, the director shall make the appropriate refund or partial refund of that fee to the applicant within 30 days.
 - (e) The applicant may file with the County Ccourt an appeal of a determination by the Director to deny a refund or a partial refund of a land use application fee. The County Ccourt may grant a refund or a partial refund of a land use application fee upon good cause shown by the applicant.
 - (f) For purposes of this subsection, “partial refund” shall mean the filing fee less notice and reasonable staff costs.
- (4) Fees charged for processing permits shall be no more than the actual or average cost of providing that service. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 155 § 1, 2005; Ord. 18 § 9.050, 2003)

18.172.060 Director Decisions and Extensions.

(1) Administrative Decisions.

- (a) Subject to ORS 215.416(11), the Director shall have the authority to make an administrative determination on a land use application as set forth in specific zones in this title.
- (b) After receiving a complete application for an administrative determination, the Director shall make a determination and, if approved, issue a permit to the applicant in accordance with the requirements of ORS 215.427.
- (c) The Director shall cause a written notice of administrative determination and of the appeal procedure to be given to the applicant and to those persons who would have had a right to notice under this title if a hearing had been scheduled or who are adversely affected or aggrieved by the administrative determination. Such notice shall be given in accordance with the requirements of ORS 215.416(11).

(2) Approval Period and Extensions.

- (a) A request for an extension to a land use approval shall be handled administratively by the Director without public notice or hearing, and is not subject to appeal as a land use decision.
- (b) A land use approval is void two years after the date the discretionary decision becomes final if the use approved in the permit is not initiated within that time period, except as provided in 18.172.060(2)(c) below or as otherwise provided under applicable ordinance provisions.
- (c) The approval period for conditional use permits issued under CCC 18.160 and the following dwellings in the Exclusive Farm Use zones (CCC 18.16, EFU and CCC 18.112, EFU-JA) and Forest Use Zone (CCC 18.28, F-1) is four (4) years:
 - i. Nonfarm dwelling
 - ii. Lot of Record Dwelling
 - iii. Large Tract Dwelling
 - iv. Template Dwelling
 - v. Alteration, restoration or replacement of a lawfully established dwelling in the Forest Use Zone.
 - vi. Caretaker residences for public parks and public fish hatcheries.
- (d) Except for the dwellings listed in 18.172.060(2)(c), the Director shall grant up to four extensions to a land use approval regardless of whether the applicable criteria have changed (except where state law precludes), if:
 - (i) An applicant makes a written request for an extension of the development approval period; and

(ii) The request, along with the appropriate fee, is submitted to the county prior to the expiration of the approval period.

(e) Notwithstanding CCC 18.160.070, the Director shall grant one 2-year extension for a dwelling permit described in CCC.172.060(2)(c) above if the applicant submits the information required by CCC 18.172.060(2)(d)(i) and (ii) above. The Director may grant up to five additional 1-year extensions for a dwelling permit described in CCC 18.172.060(2)(c) above if:

(i) The applicant makes a written request for the additional extension prior to the expiration of an extension.

(ii) The applicable residential development statute has not been amended following approval of the permit.

(iii) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.

(f) For all temporary uses granted under Title 18, the Director shall grant one 6-month extension.

(g) Approval of a modification to a land use approval pursuant to CCC 18.172.100 shall be treated as a new final decision for purposes of calculating the expiry provisions of subsection (2)(b) and (d) of this section and CCC 18.172.100(2). (Ord. 323 § 6 (Att. A), 2021; Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 216 § 2, 2009; Ord. 18 § 9.060, 2003)

18.172.070 Notice of public hearing.

(1) A hearing shall be held only after notice to the applicant and any other person required by law to be given notice.

(2) Notice of the hearing to approve any quasi-judicial land use matter shall be provided:

(a) to the applicant, and;

(b) to the owners of record of property on the most recent tax assessment roll in accordance with ORS 197.763(2)-of property located;

(i) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

(ii) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

(iii) Within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

(3) Notice shall also be given to the following persons or agencies:

- (a) Any person, agency, or organization that may be designated by this title;
- (b) Any other person, agency, or organization that may be designated by the County Court or its agencies;
- (c) An owner of a “public use airport” ~~an airport, as defined by the Department of Transportation as a “public use airport” in accordance with applicable state law~~ state law;
- (d) ~~(On a zone change application.) A tenant of a mobile home or manufactured dwelling park as defined by state law in accordance with applicable state law;~~ The tenants of a mobile home or manufactured dwelling park when the application is for rezoning all or part of such park.
- (e) Transportation agencies whose facilities are impacted by the proposed action or jurisdictions affected by the transportation impacts of future development resulting from the proposal.

(4) Notice of any quasi-judicial matter shall be mailed ~~in accordance with the requirements of ORS 197.763(3)(f)~~ at least:

- (a) Twenty calendar days before the evidentiary hearing; or
- (b) If two or more hearings are allowed, 10 calendar days before the first evidentiary hearing.

(5) The notice shall ~~contain at least the following information:~~

- (a) ~~An explanation of~~ Explain the nature of the application and the proposed use or uses which could be authorized;
- (b) ~~A listing of~~ List the applicable criteria from this title and the comprehensive plan that apply to the application at issue;
- (c) ~~A statement setting~~ Set forth the street address or other easily understood geographical reference to the subject property;
- (d) ~~The~~ State the date, time and location of the hearing;
- (e) ~~A statement~~ State that the failure of an issue to be raised to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;

(f) Include the name of a local government representative, the Director or assigned representative to contact and the telephone number where additional information may be obtained; ~~The telephone number of the director and that the director is the person to contact for additional information;~~

(g) ~~A statement~~ State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(h) ~~A statement~~ State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost; and

(i) ~~A~~ Include a general explanation of the requirements for submission of testimony and the procedures for conduct of hearings.

(6) The failure of a property owner, airport owner or tenant of a mobile home or manufactured dwelling park to receive notice shall not invalidate such proceedings if the Director, commission or court can demonstrate by affidavit that such notice was given.

(7) For the purpose of personal notification, the records of the county assessor's office shall be used.

(8) These notice requirements by mail shall not restrict the giving of notice by other means, including posting, newspaper publication, radio, television, electronic mail or the county website.

(9) Notice may be posted in a conspicuous manner in any of the following three locations:

(a) Crook County Courthouse;

(b) City of Prineville City Hall; and

(c) The United States Post Office located in Prineville, Oregon. (Ord. 317 § 6, 2020; Ord. 303 § 1 (Exh. C), 2017; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.070, 2003)

18.172.80 Members of the Planning Commission.

(1) Members of the Planning Commission.

(a) The Planning Commission shall consist of seven members appointed by the County Court for four-year terms, or until their respective successors are appointed and qualified.

(b) Any vacancy on the Planning Commission shall be appointed by the County Court for the unexpired term.

(c) Members of the Planning Commission shall serve without compensation. However, the Director may authorize mileage reimbursement at the standard county rate for Planning Commission members who must travel from outlying areas of the county to attend Planning Commission meetings.

(d) Members of the Planning Commission shall, ~~as much as possible,~~ be residents of the various geographic areas of the county. The various geographic areas are depicted in the map of citizen planning areas in the Crook County comprehensive plan. The County Court may deviate from these areas to the extent practicable needed to obtain a full seven-member Planning Commission from the applicant pool available. An objection to an applicant by the majority of the County Court may be the basis for deviating from the geographic areas in the citizen planning areas.

(e) No more than two members shall be engaged principally in buying, selling or developing real estate for profit as individuals or be members of any partnership, or officers or employees of any corporation, that is engaged principally in buying, selling or developing real estate for profit.

(f) No more than two voting members shall be engaged in the same kind of business, trade or profession.

(g) A member may have his or her term of appointment terminated by the County Court if a change in occupation results in more than two members being engaged in the same kind of business, trade or profession.

(h) A member's term of appointment ~~may~~ shall be terminated by the County Court, after a determination that the member has unexcused absences from 20 percent or more of the scheduled commission meetings or if they exhibit personal or business conduct which raises questions concerning their bias or objectivity in fulfilling the duties of a commissioner.

(i) During the temporary absence or disability of a member of the Planning Commission, the chair shall select a commissioner pro tem to serve during the absence or disability of the absent member. At the chair's request, a commissioner pro tem shall be selected from a list of one or more commissioners pro tem and be appointed by the County Court.

(2) Chairperson and Vice-Chairperson. The Planning Commission shall elect a chairperson and a vice-chairperson. The election shall be held annually at the first regularly scheduled meeting in January of each year, or at a later regularly scheduled meeting if necessary.

(3) The Department shall keep an accurate record of all commission proceedings.

(4) Procedures.

(a) The Planning Commission shall meet at least once a month, at such time and places as may be fixed by the Planning Commission or the ~~planning department~~ Department.

(b) A member of the Planning Commission shall not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: the member or his or her spouse, sibling, child, parent, parent-in-law, partner, or any business in which he or she has a financial interest, or by which he or she is employed or has been employed within the previous two years, or any business with which he or she is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

(c) A quorum of the Planning Commission shall be a majority of the Planning Commission members. A majority of the quorum voting in favor of a motion shall be sufficient to adopt that motion.

(5) Recommendation to County Court. All recommendations and suggestions made to the County Court by the Planning Commission shall be in writing.

(6) Advisory Committees.

(a) The Planning Commission will serve as the county's citizen involvement committee for land use issues. For the purpose of obtaining citizen participation in, and to assist in coordinating, land use planning for all lands situated within the county, the Planning Commission may establish advisory committees on land use planning for each geographic area considered to be a reasonable land use planning unit. Each such committee shall be composed of residents of the area concerned.

(b) The Planning Commission may also establish advisory committees on specific planning issues such as economics, housing, transportation, solid waste, natural resource management, open space, and recreation.

(c) The Planning Commission shall consult with each advisory committee established under subsections (6)(a) and (b) of this section in the preparation, adoption, revision, and implementation of a comprehensive plan and other plans for the county. The commission shall furnish each such committee with technical and other assistance.

(7) Finances. The Planning Commission may employ consultants to advise on county problems, and pay for their services, and for such other expenses as the commission may lawfully incur, including the necessary disbursements incurred by its members in the performances of their duties as members of the commission, out of funds at the disposal of the commission as authorized by the County Court.

(8) Powers. The Planning Commission shall have all of the powers which are now or hereafter granted to it by the ordinances of this county or by the general laws of the state of Oregon. The commission shall make recommendations regarding subdivisions of land and land use to the County Court, to public officials, and to individuals, and may make recommendations regarding location of thoroughfares, public buildings, parks, and other public facilities, and regarding any other matter related to the planning and development of the county. The commission may make studies, hold hearings, and prepare reports and recommendations on its own initiative or at the request of the County Court.

(9) Expenditures. The Planning Commission shall have no authority to make expenditures on behalf of the county, or to obligate the county for the payment of any sums of money, except as herein provided, and then only after the County Court shall have first authorized such expenditures by appropriate resolution, which resolution shall provide administrative method by which such funds shall be drawn and expended. (Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 298 § 1 (Exh. A), 2016; Ord. 266 § 2, 2013; Ord. 236 § 5 (Exh. E), 2010; Ord. 212 § 2, 2009; Ord. 18 § 9.080, 2003)

18.172.81 Public hearings and order of proceedings.

(1) Staff Report. At least seven days prior to a public hearing, the Director will provide a staff report to the Hearing Authority and parties to the application, and make it available to the public upon request. If the report is not provided by such time, the hearing will be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date certain that is at least seven days after the date the staff report is provided. The granting of a continuance under these circumstances will be at the discretion of the Hearing Authority.

(2) Personal Conduct.

- (a) No person may be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- (b) No person may testify without first receiving recognition from the Hearing Authority and stating their full name and address.
- (c) No person may present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- (d) Audience demonstrations such as applause, cheering, and display of signs, or other conduct disruptive of the hearing are not permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of the offender from the hearing.

(3) Limitations on Oral Presentations. The Hearing Authority may set reasonable time limits on oral testimony.

(4) Appearing. Any interested person may appear either orally before the close of a public hearing or in writing before the close of the written record, except that for an on-the-record hearing, persons who may appear are limited to those described at CCC 18.172.110(6). Any person who has appeared in the manner prescribed in CCC 18.172.110(6) will be considered a party to the proceeding.

(5) Disclosure of Ex Parte Contacts.

- (a) Any member of a Hearing Authority for a quasi-judicial application must reasonably attempt to avoid ex parte contact. As used in this section, ex parte contact is communication directly or indirectly with any party or their representative outside of the hearing in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should a Hearing Authority member engage in ex parte contact, that member must:
 - (i) Publicly announce for the record at the hearing the substance, circumstances, and parties to such communication;
 - (ii) Announce that other parties are entitled to rebut the substance of the ex parte communication during the hearing; and
 - (iii) State whether they are capable of rendering a fair and impartial decision.

(b) If the Hearing Authority or member thereof is unable to render a fair and impartial decision, or

recommendation in the case of the Planning Commission, they must recuse themselves from the proceedings.

(c) Communication between the Director and the Hearing Authority or a member thereof is not considered an ex parte contact.

(6) Disclosure of Personal Knowledge. If any member of a Hearing Authority uses personal knowledge acquired outside of the hearing process in rendering a decision, they must state the substance of the knowledge on the record.

(7) Site Visit. For the purposes of this section, a site visit by any member of a Hearing Authority will be deemed to be personal knowledge. If a site visit has been conducted, the Hearing Authority member must disclose their observations gained from the site visit.

(8) Challenge for Bias, Prejudgment, or Personal Interest. Prior to or at the commencement of a hearing, any party may challenge the qualification of any member of the Hearing Authority for bias, prejudgment, or personal interest. The challenge must be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, that member must either recuse themselves from the proceedings or make a statement on the record that they can make a fair and impartial decision and will hear and rule on the matter.

(9) Potential Conflicts of Interest. No member of the Hearing Authority may participate in a hearing or a decision upon an application when the effect of the decision would be to the private pecuniary benefit or detriment of the member or the member's relative or any business in which the member or a relative of the member is associated unless the pecuniary benefit arises out of:

(a) An interest or membership in a particular business, industry occupation or other class required by law as a prerequisite to the holding by the member of the office or position;

(b) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the member's relative is associated, is a member or is engaged; or

(c) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the member's relative is associated, is a member or is engaged.

(10) Qualification of a Member Absent at a Prior Hearing. If a member of the Hearing Authority was absent from a prior public hearing on the same matter which is under consideration, that member will be qualified to vote on the matter if the member has reviewed the record of the matter in its entirety and announces prior to participation that this has been done. If the member does not review the record in its entirety, that member must not vote and must abstain from the proceedings.

(11) Hearing Authority's Jurisdiction. In the conduct of a public hearing, the Hearing Authority will have the jurisdiction to:

- (a) Regulate the course, sequence and decorum of the hearing.
- (b) Decide procedural requirements or similar matters consistent with this chapter.
- (c) Rule on offers of proof and relevancy of evidence and testimony and exclude repetitious, immaterial, or cumulative evidence.
- (d) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony.
- (e) Take such other action appropriate for conduct of the hearing.
- (f) Grant, deny, or, in appropriate cases, attach such conditions to the matter being heard to the extent allowed by applicable law and that may be necessary to comply with the applicable approval criteria or, in appropriate cases, formulate a recommendation for the court.
- (g) Continue the hearing to a date certain as provided at subsection (16) of this section.
- (h) Allow the applicant to withdraw and cancel the application. Subsequent to the cancellation of the application, if the applicant wishes to proceed with the same or different proposal requiring a land use application, a new application may be submitted and the new application must be processed in compliance with all the provisions of this chapter.

(12) Hearing Procedures. At the commencement of a hearing, the Hearing Authority must state to those in attendance all of the following information and instructions:

- (a) Date of the hearing;
- (b) Department file number;
- (c) Nature, purpose, and type of the hearing;
- (d) When applicable, the parties that may participate in the hearing and/or issues to which the hearing is limited;
- (e) Identification of the address and assessor's map and tax lot number of, or other easily understood geographical reference to, the subject property, if applicable;
- (f) Order of the proceedings, including reasonable time limits on oral presentations by parties;
- (g) For a quasi-judicial application, a statement disclosing any pre-hearing ex parte contacts;
- (h) A statement disclosing any personal knowledge, bias, prejudgment, or personal interest on the part of the Hearing Authority;

(i) Call for any challenges to the Hearing Authority's qualifications to hear the matter. Any such challenges must be stated at the commencement of the hearing, and the Hearing Authority must decide whether they can proceed with the hearing as provided in subsection (9) of this section;

(j) List of the applicable approval standards and criteria for the application;

(k) Statement that testimony, arguments, and evidence must be directed toward applicable approval standards and criteria, or other standards and criteria in the Crook County land use regulations or comprehensive plan that the person testifying believes to apply to the decision;

(l) Statement that failure to raise an issue accompanied by statements or evidence with sufficient detail to give the Hearing Authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;

(m) Statement that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the Hearing Authority to respond to the issue precludes an action for damages in circuit court;

(n) Statement that prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Hearing Authority must grant the request by either continuing the public hearing or leaving the record open for additional written evidence, arguments, or testimony in accordance with subsection (16) of this section; and

(o) Statement that the decision of the approval authority may be appealed in accordance with CCC 18.172.110.

(13) Order of Proceeding. In the conduct of a public hearing other than an on-the-record hearing, the following order of procedure will generally be followed. However, the Hearing Authority may modify the order of proceeding.

(a) The Director will present the staff report;

(b) Allow agency comments;

(c) The applicant will be heard first;

(d) Allow persons in favor of the proposal to be heard;

(e) Allow persons neutral to the proposal to be heard;

(f) Allow persons opposed to the proposal to be heard;

(g) Allow applicant opportunity to respond or address any presented material;

(h) Allow the Director to present any further comments or information in response to the testimony and evidence;

- (i) Allow applicant to waive or maintain their seven-day final argument;
- (j) Conclude or continue the public hearing;
- (k) Present motion for deliberations or set time and date certain.

(14) Questions. The Hearing Authority at any point during the hearing may ask questions of the Director or parties.

Questions by parties, interested persons, or the Director may be allowed by the Hearing Authority at their discretion.

Questions must be directed to the Hearing Authority; questions posed directly to the Director or any party are not allowed.

The Hearing Authority may allow questions to be answered by the Director or a party if a question pertains to them. They will be given a reasonable amount of time to respond solely to the question.

(15) Presenting and Receiving Evidence. No oral testimony will be accepted after the close of the hearing. Written testimony may be received after the close of the hearing only in accordance with subsections (167) through ~~and~~ (189) of this section.

(16) Continuances and Leaving the Record Open.

(a) Grounds.

(i) Prior to the date set for an initial hearing, an applicant shall receive a continuance upon any request. If a continuance request is made after the published or mailed notice has been provided by the County, the Hearing Authority shall take evidence at that scheduled hearing date from any party wishing to testify at that time after notifying those present of the continuance.

(ii) Any party is entitled to a continuance of the initial evidentiary hearing or to have the record left open in such a proceeding in the following instances:

(A) Where additional documents or evidence are submitted by any party; or

(B) Upon a party's request made prior to the close of the hearing for time to present additional evidence or testimony.

For the purposes of subsection (16)(a)(ii)(A) of this section, "additional documents or evidence" shall mean documents or evidence containing new facts or analysis that are submitted after notice of the hearing.

(iii) The grant of a continuance or record extension in any other circumstance shall be at the discretion of the Hearing Authority ~~body~~.

(b) Except for continuance requests made under subsection (16)(a)(i) of this section, the choice between granting a continuance or leaving the record open shall be at the discretion of the ~~hearings~~ Hearing body Authority. After a choice has been made between leaving the record open and granting a continuance, the hearing shall be governed thereafter by the provisions that relate to the path chosen.

(c) Continuances.

(i) If the ~~hearings~~ Hearing body Authority grants a continuance of the initial hearing, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial hearing.

(ii) An opportunity shall be provided at the continued hearing for persons to rebut new evidence and testimony received at the continued hearing.

(iii) If new written evidence is submitted at the continued initial hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least seven days to allow submittal of additional written evidence or testimony. Such additional written evidence or testimony shall be limited to evidence or testimony that rebuts the new written evidence or testimony.

(iv) If the hearing is other than initial hearing, any continuances are at the discretion of the ~~hearings~~ Hearing body Authority.

(d)) Leaving the Record Open.

(i) If at the conclusion of the initial hearing the ~~hearings~~ body leaves the record open for additional written evidence or testimony, the record shall be left open for at least 14 additional days, allowing at least the first seven days for submittal of new written evidence or testimony and at least seven additional days for response to the evidence received while the record was held open. Written evidence or testimony submitted during the period the record is held open shall be limited to evidence or testimony that rebuts previously submitted evidence or testimony.

(e) A continuance or leaving the record open that is granted under this section shall be subject to the 150-day time limit unless the continuance or extension is requested or otherwise agreed to by the applicant. When the record is left open or a continuance is granted after a request by an applicant, the time period during which the 150-day clock is suspended shall include the time period made available to the applicant and any time period given to parties to respond to the applicant's submittal.

(17) Rescheduling. In the event that a noticed public hearing must be rescheduled due to an emergency situation, the rescheduling of the meeting will constitute sufficient notice of a public hearing provided the following minimum procedures are observed:

(a) Notice is posted on the door of the building in which the hearing is scheduled advising of the cancellation and the date, time, and place for the rescheduled meeting or that new notice will be sent indicating that new date, time, and place.

(b) Reasonable attempts are made prior to the scheduled hearing to announce the cancellation and rescheduling by direct communication to applicants and known interested parties and through available news media to the general public.

(18) Reopening the Record. When the Hearing Authority reopens the record to admit new evidence, arguments, or testimony, the Hearing Authority must allow people who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts. Upon announcement by the Hearing Authority of their intention to take notice of such facts in its deliberations, any person may raise new issues which relate to the new evidence, arguments, testimony, or standards and criteria which apply to the matter at issue.

(19) Conclusion of Hearing.

(a) After the close of the hearing record, the Hearing Authority may either make a decision and state findings which may incorporate findings proposed by any party or the Director, or take the matter under advisement for a decision to be made at a later date.

(b) The Hearing Authority may request proposed findings and conclusions from any party at the hearing. The Hearing Authority, before adopting findings and conclusions, may circulate them in draft form to parties for written comment.

(c) The decision and findings must be completed in writing and signed by the Hearing Authority within ~~10 days~~ 30 days of the closing of the record for the last hearing. A longer period of time may be taken to complete the findings and decision if the applicant provides written consent to an extension to any applicable timelines in which the county must process the application for an amount of time that is equal to the amount of additional time it takes to prepare the findings.

(20) Record of the Hearing. The Hearing Authority will consider only facts and arguments in the hearing record; except that it may consider laws and legal rulings not in the hearing record (e.g., local, state, or federal regulations; previous department decisions; or case law).

(a) The hearing record will include all of the following information:

(i) All oral and written evidence submitted to the Hearing Authority;

(ii) All materials submitted by the Director to the Hearing Authority regarding the application;

(iii) A recording of the hearing;

(iv) The final written decision; and

(v) Copies of all notices given as required by this chapter and correspondence regarding the application that the Director mailed or received.

(b) All exhibits presented will be kept as part of the record and marked to show the identity of the person offering the exhibit. Exhibits will be numbered in the order presented and will be dated.

(21) Decision and Findings Mailing. Upon a written decision adopting findings being signed by the Approval Authority, the Director will mail/email to the applicant and all parties a copy of the decision and findings, or, if the decision and findings exceed five pages, the Director will mail/email notice of the decision. (Ord. 323 § 6 (Att. A), 2021; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.081, 2003)

18.172.090 Land use decisions.

(1) Written approval or denial of an application for a use allowed by this title shall be based upon and accompanied by a brief statement that:

- (a) Explains the criteria and standards considered relevant to the decision;
- (b) States the facts relied upon in rendering the decision; and
- (c) Explains the justification for the decision based upon the criteria, standards and facts set forth.

(2) Following the signing of the land use decision made by the Hearing Authority ~~commission~~, the Director shall cause to be issued a written notice of final decision which describes the decision of the Hearing Authority, the date of the final decision and the applicable appeal period.

(3) The date the land use decision becomes final shall be the date the decision is reduced to writing and signed by the ~~commission~~ Hearing Authority or, if the ~~commission~~ Hearing Authority so orders, its designee.

(4) The written notice of final decision shall be issued to:

- (a) All parties to the proceeding;
- (b) All persons who testified at the public hearing and those who submitted written testimony; and
- (c) All persons entitled to receive a notice of disposition by other provisions of this title.

(5) Subject to CCC 18.172.110, a permit shall not be effective or issued by the county until 12 calendar days after the final decision. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.090, 2003)

18.172.100 Revocation or modification of permit.

(1) The Hearing Authority may revoke or modify any permit granted under the provisions of this title on any one or more of the following grounds:

- (a) For fraud, concealment, or misrepresentation or on the basis of wrong information supplied on the application, or given at a public hearing which materially relates to the reasons on which the permit was granted.
- (b) The use for which such permit was granted is not being exercised within the time limit set forth by the commission or this title.

(c) The use for which such permit was granted has ceased to exist or has been suspended for one year or more.

(d) The permit granted is being or recently has been exercised contrary to the terms or conditions of such approval.

(e) The proposed modification will result in a change to the original proposal sought by the permittee or permittee's successor and meets the applicable standards specified in subsection (3) of this section.

(2) Any modified permit granted pursuant to this title shall become null and void if not exercised within the time period specified in such permit, or, if no time period is specified in the modified permit, ~~within two years from the date of approval of said modified permit~~ subject to CCC 18.172.060. Appeals to higher state authorities challenging a modified permit approval shall toll the running of the periods provided in this section.

(3) The ~~commission~~ Hearing Authority shall hold a public hearing on any proposed revocation or modification requested by the ~~commission~~ Hearing Authority or the permittee after giving written notice to the permittee and other affected persons as set forth in this title. The ~~commission~~ Hearing Authority shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons as set forth in this title. The hearing on the decision, which is subject to revocation or modification, is subject only to either the standards, criteria and conditions that were applicable when the original permit was issued or in effect at the time of the revocation or modification, whichever is less restrictive. The ~~commission~~ Hearing Authority shall render its decision within 45 calendar days after the conclusion of the hearing. (Ord. 323 § 6 (Att. A), 2021; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 18 § 9.100, 2003)

18.172.110 Appeals.

(1) Every land use decision relating to the provisions of this title made by the Director, Planning Commission, hearing officer ~~or other official of Crook County~~ is subject to review when appealed within 12 calendar days of the date the decision was mailed in accordance with state statutes and the following provisions.

(2) The filing of an appeal in accordance with the provisions of this section initiates the appeal process and stays the order of the decision appealed. The process shall include appropriate public notice, a public hearing, and the preparation of findings by that authority which either affirms, amends, or reverses the decision appealed.

(3) All hearings of appeal from an administrative determination shall be de novo.

(4) All hearings of appeal from a Planning Commission final decision shall be based on the record made before the Planning Commission.

(5) A final decision not to adopt a legislative matter is not appealable.

(6) Appeals may be filed only by the following parties:

(a) The applicant or the authorized agent of the applicant; or

(b) Any person or county official testifying at the public hearing or who provided written comments may appeal a decision.

(7) The appellate body may review a lower determination or decision upon its own motion by issuing a written order to that effect on the lower body within 10 working days of the date the determination or decision becomes final. The appellate body must cause notice to be given to the parties involved within three working days of the appellate body's order to review.

(8) Appellate Body.

(a) The appellate body for appeals from administrative determinations of the Director shall be the Planning Commission.

(b) The appellate body for appeals from final decisions of the Planning Commission shall be the County Court, unless the County Court orders the appeal be sent directly to the Oregon Land Use Board of Appeals as the final decision of the county.

(c) Appeals from decisions of the County Court shall be in conformance with the applicable ORS provisions.

(9) Filing Requirements.

(a) Appeals shall be complete and the appellate body shall have jurisdiction to hear the matter appealed if all the following occur:

(i) The appeal shall be in writing on the form prescribed by the Director and shall contain:

(A) Name and address of the appellant(s);

(B) Reference to the application title and case number, if any.

(ii) A statement of the nature of the decision:

(A) A statement of the specific grounds for the appeal, setting forth the error(s) and the basis of the error(s) sought to be reviewed; and

(B) A statement as to the appellant's standing to appeal as an affected party.

(iii) Proper filing fee in accordance with CCC 18.172.050.

(iv) Written notice of appeal must be filed within 12 calendar days of the decision, no later than the End of Business on the 12th day, with the appropriate person.

(A) To the Planning Commission from an administrative determination by the ~~planning department~~ Director;

(B) To the County Court for appeals from final decisions by the Planning Commission.

(10) Notice and Hearing of the Appeal.

(a) If the Director determines that the facts stated in the notice of appeal meet the requirement for a hearing, a time and date shall be set for such hearing to be held not later than 60 calendar days after receipt of the notice of appeal.

(b) If the appeal is dismissed, the reasons will be provided in writing how the application has not met the requirements for an appeal. Upon dismissal, the appealed decision is final.

(c) If the appellate body is the County Ccourt, the County Ccourt may order the appeal sent directly to the Land Use Board of Appeals as the final decision of the county without an appeal hearing.

(d) For an appeal of a Planning Commission decision to the County Court, at least 10 calendar days prior to the appeal hearing, the Hearing Authority shall give notice of time, place and the particular nature of the appeal. Notice shall be published in the newspaper and be sent by mail to the appellant(s), to the applicant (if different) and those persons who testified at the subject hearing where a hearing was held and affected parties in accordance with this section.

(e) For an appeal of an administrative decision to the Planning Commission, the notice requirements of CCC 18.172.070 shall apply.

(11) Transcript. The appellant shall provide a copy of the transcript of the relevant portions of the Planning Commission proceedings appealed from to the ~~county planning department~~ Department seven calendar days before the hearing date set by the County Ccourt.

(12) Scope and Standard of Review of Appeal.

(a) On the Record Review. The appeal is not a new hearing; it is a review of the decision below. Subject to the exception in subsection (12)(a)(vi) of this section, the review of the final decision shall be confined to the record of the proceedings below, which shall include, if applicable:

(i) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received by the Planning Commission as evidence.

(ii) All materials submitted by Crook County staff with respect to the application.

(iii) he transcript of the relevant portions of the Planning Commission hearing.

(iv) The written final decision of the Planning Commission and the petition of appeal.

(v) Argument (without introduction of new or additional evidence) by the applicant, appellants or their ~~legal representative~~ agents.

(vi) The appellate body may, at its option, admit additional testimony and other evidence from an interested party or party of record to supplement the record of prior proceedings. The record may be supplemented by order of the appellate body or upon written motion by a party. The written motion shall set forth with particularity the basis for such request and the nature of the evidence sought to be introduced. Prior to supplementing the record, the appellate body shall provide an opportunity for all

parties to be heard on the matter. The appellate body may grant the motion upon a finding that the supplement is necessary to take into consideration the inconvenience of locating the evidence at the time of initial hearing, with such inconvenience not being the result of negligence or dilatory act by the moving party.

(b) Standard of Review on Appeal. The burden of proof in a hearing shall be as allocated by applicable law. The burden shall remain with the applicant to show that relevant criteria were met for an application throughout the local appeal process. For an appeal on the record, an appellant shall have the burden to articulate reasons why the initial decision is in error.

(13) Appellate Decisions. Following hearing the appeal, the appellate body may affirm, overrule, or modify the decision and shall set forth findings showing compliance with applicable standards and criteria. The appellate body may also remand the decision with instructions to the Planning Commission, hearing officer or Director who made the original decision to consider additional facts, issues or criteria not previously addressed.

(14) A decision made on remand is a new decision and may be appealed as described in subsections (1) through (13) of this section. (Ord. 321 § 4, 2020; Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010; Ord. 231 § 1 (Exh. A), 2010; Ord. 18 § 9.110, 2003)

18.172.120 Remand by the County Court.

When a decision is remanded by the appellate body pursuant to CCC 18.172.110(13), the following procedures shall apply:

- (1) Notice of the hearing shall be provided in accordance with CCC 18.172.110(10)(b).
- (2) Participants at the remand hearing shall be limited to Crook County staff, the applicant and the appellant(s) from the prior appeal. The hearings body may elect, in its discretion, to expand those who may participate in the remand hearing upon its own motion.
- (3) The remand hearing shall be limited solely to the issues identified in the remand order from the appellate body.
- (4) The remand hearing shall be limited to new evidence and testimony regarding the issues in subsection (3) of this section. (Ord. 317 § 6, 2020)

18.172.130 Remand by the Land Use Board of Appeals.

When a final decision of the County Court or other land use decision is remanded by the Land Use Board of Appeals:

- (1) A remand hearing shall be held when:

(a) Requested by the applicant or appellant in writing, and upon payment of the applicable fee, if any, in accordance with ORS 215.435.

(b) The County Court on its own motion initiates a remand hearing.

(2) Remand Procedures.

(a) Notice of a remand hearing shall be as provided by CCC 18.172.110(10)(b).

(b) The remand hearing shall be limited to staff, the applicant and appellants from the prior LUBA appeal. However, the County Court may expand those who may participate in the remand hearing upon the County Court's own motion.

(c) The remand hearing shall be limited solely to issues remanded in the final decision of the Land Use Board of Appeals unless the County Court expands the issues on remand upon the County Court's own motion.

(d) The remand hearing shall be limited to new evidence and testimony regarding the issues in subsection (2)(c) of this section. (Ord. 317 § 6, 2020; Ord. 236 § 5 (Exh. E), 2010)

Exhibit J

Declaratory Ruling

Title 18 Zoning

18.174 DECLARATORY RULING

18.174.005 Availability of declaratory ruling

18.174.010 Persons who may apply

18.174.015 Procedures

18.174.020 Effect of declaratory ruling

18.174.025 Interpretation

18.174.005 Availability of Declaratory Ruling.

(1) Subject to the other provisions of this section, there shall be available for the County's comprehensive plans, the County's Land Division Ordinance (Title 17) and Crook County Zoning Ordinance (Title 18), a process for:

- (a) Interpreting a provision of a comprehensive plan or ordinance (and other documents incorporated by reference) in which there is doubt or a dispute as to its meaning or application;
- (b) Interpreting a provision or limitation in a land use permit issued by the County or quasi-judicial plan amendment or zone change (except those quasi-judicial land use actions involving property that has since been annexed into the City of Prineville) in which there is doubt or a dispute as to its meaning or application;
- (c) Determining whether an approval has been initiated or considering the revocation of a previously issued land use permit, quasi-judicial plan amendment or zone change;
- (d) Determining the validity and scope of a nonconforming use;
- (e) Determining other similar status situations under a comprehensive plan, zoning ordinance or land division ordinance that do not constitute the approval or denial of an application for a permit; and
- (f) Verifying whether a lot or parcel was lawfully established.

Such a determination or interpretation shall be known as a "declaratory ruling" and shall be processed in accordance with this section. In all cases, as part of making a determination or interpretation the Director shall have the authority to declare the rights and obligations of persons affected by the ruling.

(2) A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.

(3) Declaratory rulings shall not be used as a substitute for an appeal of a decision in a land use action or for a modification of an approval. In the case of a ruling on a land use action a declaratory ruling shall not be available until six months after a decision in the land use action is final.

(4) The Director may refuse to accept an application for a declaratory ruling if:

(a) The Director determines that the question presented can be decided in conjunction with approving or denying a pending land use action application or if in the Director's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial plan amendment or zone change or a land use permit not yet filed; or

(b) The Director determines that there is an enforcement case pending in district or circuit court in which the same issue necessarily will be decided as to the applicant and the applicant failed to file the request for a declaratory ruling within two weeks after being cited or served with a complaint.

The Director determination to not accept or deny an application under this section shall be the County's final decision.

18.174.010 Persons who may apply.

(1) CCC 18.172.005(4) notwithstanding, the following persons may initiate a declaratory ruling under this section:

(a) The owner of a property requesting a declaratory ruling relating to the use of the owner's property;

(b) In cases where the request is to interpret a previously issued quasi-judicial plan amendment, zone change or land use permit, the holder of the permit; or

(c) In all cases arising under CCC 18.174.010, the Director.

No other person shall be entitled to initiate a declaratory ruling.

(2) A request for a declaratory ruling shall be initiated by filing an application with the planning department and, except for applications initiated by the Director, shall be accompanied by such fees as have been set by the Planning Department. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The application shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Department.

18.174.015 Procedures

Except as set forth in this section or in applicable provisions of a zoning ordinance, the procedures for making declaratory rulings shall be the same as set forth in 18.172.015 for land use actions. Where the Planning Department is the applicant, the Planning Department shall bear the same burden that applicants generally bear in pursuing a land use action.

18.174.020 Effect of declaratory ruling.

(1) A declaratory ruling shall be conclusive on the subject of the ruling and bind the parties declaratory ruling as to the determination made.

(2) Parties to a declaratory ruling shall not be entitled to reapply for a declaratory ruling on the same question.

18.174.025 Interpretation

Interpretations made under 18.174 shall not have the effect of amending the interpreted language in the applicable comprehensive plan or ordinance. Interpretation shall be made only of language that is ambiguous either on its face or in its application. Any interpretation of a provision of the comprehensive plan or other land use ordinance shall consider applicable provisions of the comprehensive plan and the purpose and intent of the ordinance as applied to the particular section in question.