City of Biddeford
Capital Projects / Operations Committee

February 11, 2026 at 6:00 PM
City Hall Council Chambers & Teams

Teams Instructions

Join Teams Meeting Online:

Capital Projects/Operations Committee | Meeting-Join | Microsoft Teams

Meeting ID: 287 796 860 357 17

Passcode: 68EF77B5

Dial in by phone
+1 872-242-8054,,692727679#

Members:
Marc Lessard, Councilor-at-Large (Chair)
Dylan Doughty, Ward 4 Councilor
Brad Cote, Ward 7 Councilor
Dominic Deschambault
Kenneth Griffin

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1. Roll Call
2. Adjustment(s) to Agenda
3. Approval of Minutes
   - 3.a 20251112 Minutes
4. Old Business
   - 4.a Biddeford Municipal Airport Ground Leases
5. New Business
   - 5.a Verizon Lease Agreement
   - 5.b Community Center Lease Agreements
   - 5.c Skatepark Feasibility Bid

6. Adjourn

Minutes: Capital Projects / Operations Committee

November 12, 2025 at 6:00 PM

Members Present: Council President LaFountain, Councilor St. Cyr

No Quorum Present – no votes taken

4.a Update - Support for Rotary Park Citizen-Managed Dog Park (DPW Bone Yard)

Jeff Demers, Director of Public Works gave a status report. Working with Director Thompson they are moving the whole dog park over 60 ft and putting it on flat ground. Home Depot will put in the new fence and Public Works will remove the old fence.

4.b Update - Status of Main Street Pump Station Project (DPW)

Jeff Demers, Director of Public Works informed the members of quotes from three contractors to do the work. The lowest bidder was Shaw. They priced out the wet well and determined that Superior Concrete out of Auburn will pour the concrete in 8-10 weeks. They will do the forced main part themselves depending on how winter operations are going.

4.c Remove from Table: Review - Biddeford Municipal Airport Ground Leases

The item cannot be removed from the table. The Council President allowed several members of the public to speak on the airport ground leases.

5. New Business- NONE

5.a Skatepark Feasibility Bid

Director Thompson presented the RFP for the skate park feasibility study. This past summer Recreation put out the RFP for location and design and they received one bid. They offered a variety of options. Rotary Skate Park safety assessment stated that a geographical technical report should be done on that area due to some erosion. President LaFountain noted that the committee cannot give much direction, but this will likely be a topic for the next council to take on. The director spoke to potential matching funds that the project may qualify for.

5.b Approval To Sign Contract To Place The Order To Purchase A New Fire Department Tower Truck

Chief Best spoke to the need to place an order given the long lead times for purchases of vehicles. If they get approval they can lock in on the price and there is a three-year lead time. Truck 32 is the tower truck from 2013 with over 54K miles. Because of high engine idle speed there is a need to factor in the engine miles in addition to the actual miles. There have been significant repairs and out of service times with the current truck. There were

questions from the committee members regarding potential sale of the current vehicle. Looking at financing options, he would lean towards a lease purchase. They also offer incentives for pre-payments.

5.c Approval To Sign Contract To Place The Order To Purchase A New Fire Department Ambulance

Chief Best noted that they are 30 -36 months out to obtain an ambulance once the order is placed. The department would want to place the order this year to get the new ambulance in 2028. The next ambulance in line to be replaced is a 2017 with 149k miles on it currently. This would be a fourth ambulance for the fleet to potentially have an ambulance for a potential new fire station.

5.d Review - FY25 CIP Project Balances and Potential Carryover

The City manager gave an update regarding audit status and any potential carryover. There isn’t good visibility into the current finances because of the lack of an audit and high turnover in staffing in the Finance Department.

Adjourn

Capital Projects / Operations Committee

Meeting Date:	February 11, 2026
Meeting Time:	6:00 PM
Agenda Item No:	4.a
Item Description:	Biddeford Municipal Airport Ground Leases
Submitted By:	Jeff Demers, Public Works Director

Key Terms:

Executive Summary:

The City of Biddeford leases ground space at the Biddeford Municipal Airport (B-19) to private hangar owners at a per-square-foot rate. Current lease rates are $0.134/SqFt for the Saucier (6B) and Apte (6E) leases, and $0.11965/SqFt for the O'Donnell (7I) lease (adjusted by CPI). Leases for three tenants expired in August and November 2025.

The City Council's Capital Projects Operations Committee has been reviewing potential changes to lease terms and revenue structures to support airport self-sustainability and the creation of a dedicated capital improvement sinking fund. Under FAA rules and grant assurances, the City is permitted to establish fair, reasonable, and non-discriminatory rates and charges to ensure the airport's financial self-sufficiency, provided revenues are used only for airport capital or operating purposes.

On August 13, 2025, the Committee recommended changes to the ground lease form. This item is a continuation of that review.

Detailed Review:

The Biddeford Municipal Airport, designation B-19, leases land to various tenants for hangars. The City does not own the hangars and only leases the land beneath them. Please note the attached document titled *Memo to the Council President (updated)*, prepared by the City Solicitor in response to questions from the Council President. This document is relevant to available actions and decisions of the Capital Projects Operations Committee (Committee) under Code of Ordinances §62-6, which grants the Committee, subject to Mayor and Council approval, the authority to recommend leasing City-owned lots not already under lease, for terms not exceeding 15 years with one renewal option of ten years.

Historically, the City has not strictly observed the lease review, renewal, or creation process set forth in the Code. Three current leases expired in 2025 (two in November, one in August), and the City had to determine whether the required 180-day tenant notices were provided as identified in the expired/expiring leases. Without the proper notice in writing, the City may propose new lease terms.

FAA policy and Grant Assurances allow the airport to maintain a fee and rental structure that makes the airport as self-sustaining as possible, taking into account traffic volume and collection economy. FAA rules also allow sponsors to establish separate charges, provided they are reasonable, applied uniformly to similarly situated tenants, and used exclusively for airport purposes.

At its July 9, 2025 meeting, the Committee tabled review of the leases, requesting that staff evaluate:

- Shorter lease terms (e.g., two-year leases with renewal options)
- Minimum lease fees to fund capital expenses ($1,000–$1,500)
- A revenue structure supporting a sinking fund for capital improvements
- Possible tiered fee structures

Following the staff evaluation, staff recommends continuing the per-square-foot ground lease rates at levels consistent with fair market value and FAA requirements, and establishing a separate $1,500 annual Capital Improvement Fee for all hangar leaseholders. This capital improvement fee will not be part of the lease agreement but will be adopted as part of the airport's published Rates and Charges Schedule, if approved. Current lease language at section 5.6., allows for such fees to be imposed.

If approved, revenues from the Capital Improvement Fee will be deposited into a dedicated, restricted Airport Capital/Sinking Fund to be used solely for FAA-eligible airport capital projects, grant matches, and repayment of prior City grant match advances, infrastructure maintenance, and other permissible airport operating costs. This approach is consistent with FAA Grant Assurances 24 and 25 and provides a predictable funding source for ongoing and future improvements without requiring full lease renegotiation.

On August 13, 2025, the Committee reviewed the ground lease draft and, through consensus, asked that renewal terms be removed. The revised draft ground lease agreement reflecting this change is included in the packet for review.

This review was intended to include a full review of lease agreements and unit rates calculated

for each lease, recalculating each using appropriate CPI factors. The CPI calculation has not been completed due to competing priorities. However, all other changes have been incorporated into the draft ground lease agreement template.

Funding Source:
N/A

Staff Recommendation:
Since the review and renewal process is being formally implemented with the expired leases, it is recommended that the Committee finalize the ground lease template.

Next Steps:
If removed from the table, the Committee will continue reviewing the ground lease template. Once finalized, the template will be used as the basis for renewals moving forward.

Attachments:
1. 2050910 Airport Ground Lease Agreement - CLEAN DRAFT
2. 2050910 Airport Ground Lease Agreement - REDLINE DRAFT
3. Memo to Council President (updated)
4. Ground Lease Agreement Lot 6B
5. Ground Lease Agreement Lot 6E
6. Ground Lease Agreement & Exhibit A for Lot 7I

CITY OF BIDDEFORD

Biddeford Municipal Airport

Ground Lease Agreement

Adopted: Month xx, xxxx

GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this _____ day of _____, by and between the **CITY OF BIDDEFORD,** a Maine municipal corporation, (the "**CITY**"), and _____ _____**,** with a mailing address of _____, (the "**TENANT**").

W I T N E S S E T H:

WHEREAS, CITY owns, controls and operates for the use and benefit of the public, Biddeford Municipal Airport, located in Biddeford, Maine, (the "Airport").

WHEREAS, **TENANT** wishes to enter into a Ground Lease Agreement with **CITY** in order to construct and/or maintain a hangar for **TENANT**'s aircraft related equipment and materials and conduct certain permitted uses at the Airport;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, **CITY** and **TENANT** hereby agree as follows:

ARTICLE 1 - LEASED PREMISES

1.1. DESCRIPTION OF LEASED PREMISES

The term "Leased Premises" or "Premises" as used in this Lease Agreement, shall mean and include real estate located at Biddeford Municipal Airport, Biddeford, York County, State of Maine, consisting of approximately _____square feet, as shown on Exhibit A attached hereto and incorporated herein, and including the rights of ingress thereto and egress therefrom and the right to install, use and maintain utilities, subject to any utility or other easements of record.

1.2 "AS IS" CONDITION.

TENANT takes the Premises in "as is" condition. Other than **CITY** ownership thereof, **CITY** makes no representation or warranty as to the physical condition of the Premises nor as to any other matter concerning the Premises, including but not limited to the presence of any environmental hazards thereon. Without limiting the foregoing, the **CITY** represents that, as of the execution date of this Lease, it has not received notice of any such hazards. All **TENANT** improvements, additions and alterations at or to the Premises will be at **TENANT**'s sole cost and expense and **CITY** shall have no responsibility therefor.

ARTICLE 2 - OBJECTIVES AND PURPOSES OF LEASE

2.1 PERMITTED AND PROHIBITED USES OF LEASED PREMISES

2.1.1 Permitted Uses: **TENANT** shall use the Premises solely for the construction and/or maintenance of an aircraft storage hangar ("Hangar") and associated ramp and apron, which may be used for storage of

TENANT's owned or leased aircraft and aircraft related materials and equipment, provided, however, that any such uses shall be subject to all applicable Federal, State and Local law including, without limitations, the Biddeford Zoning Ordinance, the Minimum Standards and Procedures for the Lease and/or Use of the Property and Facilities for Aeronautical Activities (the "Minimum Standards") and all regulations of the Biddeford Municipal Airport currently in effect or enacted during the term of this Lease (See Section 5.8.1). Nothing in this section is intended, nor shall it be deemed, to permit **TENANT** to establish or carry out any commercial activity from the **PREMISES** (See Section 2.1.4).

2.1.2 **TENANT** shall have the right to install or improve therein and thereon such fixtures, equipment and facilities as **TENANT** may deem necessary or desirable; provided, however, that no such structure, improvement, fixture, equipment or facility shall be constructed, improved or installed by **TENANT** without the prior written consent of the **CITY**; provided, further, that any such construction shall be subject to all Federal, State and Local Law including, without limitation, the Biddeford Building Codes and the regulations of the Biddeford Municipal Airport on hangar construction. **TENANT** covenants and agrees that prior to the construction or installation of any such structure, improvement, fixture, equipment, or facility, **TENANT** will submit detailed plans or other appropriate information showing the location, design and character to the Airport Manager and Biddeford Planning Office. Any such construction shall be subject to the approval of the Biddeford City Council or its designee.

2.1.3 **TENANT** shall have the right unless prohibited by any Fixed Base Operator Agreement to purchase or otherwise obtain personal property or services of any nature required by or incident to the operation and maintenance of the **TENANT**'s aircraft from any person, partnership, firm, association or corporation it may choose, provided such person, partnership, firm, association or corporation shall have first obtained written approval from the **CITY** to operate within the airport and shall be in compliance with the Minimum Standards.

2.1.4 Prohibited Uses: **TENANT** shall not use the Premises for the conduct of any non-aeronautical business, for residential or non-aeronautical commercial use, or for non-aeronautical storage or non-aeronautical activities. TENANT shall obtain the written consent of the **CITY** prior to undertaking any commercial activities on the Premises

2.1.5 **TENANT** shall park his or her vehicle only in those areas designated for parking and only when using the Airport, **TENANT**'s hangar or **TENANT**'s aircraft.

2.1.6 All activities hereunder must be conducted pursuant to the Minimum Standards and Rules and Regulations and policies in effect on the date of execution of this Agreement and as may be later amended or revised, and all applicable Federal, State and Local laws and regulations. Prior to undertaking any activities hereunder, **TENANT** shall obtain, at **TENANT**'s own cost and expense, all approvals and permits required under the Minimum Standards, as well as any other required Federal, State or Local approvals and permits.

2.1.7 **TENANT** agrees that it shall not provide any Fixed Base Operator (FBO) services as defined by the **CITY**. **TENANT** may make a written request to perform FBO services, during the Lease term provided, that the Lease is not in default. The **CITY** shall have sole discretion to accept or reject **TENANT's** request. If the City grants **TENANT** request that it conduct FBO service(s)**, TENANT shall** provide such service at its own cost and expense and shall comply will all applicable conditions imposed by the City including the Minimum Standards and Rules and Regulations and policies in effect on the date of this Agreement, as may be later amended or revised, and all applicable Federal, State and Local laws and regulations. **TENANT** recognizes and agrees the **CITY** may revoke such consent at its sole discretion.

ARTICLE 3 - TERM

3.1 INITIAL TERM; RENT COMMENCEMENT DATE

3.1.1 This Lease shall be effective as of the date of execution of this Lease Agreement (the "Lease Commencement Date") for a term of up to thirty-six months (36) months to expire on June 30th of the respective year with such term defined in Subsection 4.1.1.

3.1.2 **TENANT** shall pay annual rent to the **CITY** during the Term of this Lease as provided in Article 4 below beginning on the Lease Commencement Date.

3.2 RENEWAL TERM

TENANT shall have the option to renew this Lease at expiration through negotiations with the City so long as **TENANT** has been and is continuing in full compliance with all of the terms and conditions herein, and subject to any applicable rent increase as provided in Article 4 below. **TENANT** shall provide **CITY** with no less than One Hundred and Eighty (180) days' notice of its intent to renew prior to expiration of the term of this Lease. **CITY** shall renew the Lease pursuant to Section 4.3 below and subject to the continuing compliance by **TENANT** with all the terms and conditions herein. Such renewal shall be negotiated in good faith and be in writing signed by both parties.

3.3 HOLDING OVER

3.3.1 In the event **TENANT** shall continue to occupy the Leased Premises beyond the Lease term or any extension thereof without **CITY**'s written renewal thereof, such holding over shall not constitute a renewal or extension of this Lease, but shall create a tenancy at sufferance which may be terminated at any time by **CITY** or **TENANT** by giving thirty (30) days' written notice to the other party. Any such tenancy at sufferance shall otherwise be on all of the terms and conditions of this Lease Agreement.

ARTICLE 4 - RENTALS, FEES AND RECORDS

4.1 FIXED RENT

4.1.1. Fixed annual rent. **TENANT** agrees to pay **CITY**, a fixed rent of $xxx.xx, with the first payment prorated from the month of execution through the next June 30. The second payment and all subsequent payments shall be calculated from July 1, 20xx through June 30, 20xx.

4.1.2 Rent increases. Beginning on the first day of July 20xx, and annually thereafter, the fixed rent in Section 4.1.1 will be adjusted, based on the increase in the prior 12 months' Consumer Price Index of the U.S. Department of Labor, All Urban Consumers (CPI-U), all items (1982-84 = 100) for the U.S. City Average (Table 10, Northeast Urban areas, Size A – more than 1,500,000), June to June, or comparable successor index for the immediately prior twelve months. In no event shall such adjustment result in a reduction of the prior year's fixed annual rent. Rent shall be invoiced by the City Finance Department in August of each year.

4.2 RENEWAL RENT

In the event **TENANT** wishes to renew this Lease as provided in Section 3.2 above, **TENANT** shall provide the **CITY** with a notice of intent to renew the lease no less than 180 days prior to renewal of the Lease.

Rent for the Renewal Term shall be equal to the then current published general aviation ground rent in effect as of the commencement of the renewal term multiplied by the leased square footage referenced in Section 1.1 or as amended, with any then current inflation adjustment applicable to general aviation ground leases. Upon request, **CITY** shall provide **TENANT** with documentation as to those current rents and adjustments.

4.3 TIME AND PLACE OF PAYMENTS

4.3.1 The foregoing rent shall be payable, on or before September 1 of each year, at the Finance Department, Biddeford City Hall, or such other place as the **CITY** may direct in writing from time to time.

4.3.2 **TENANT** shall make prompt and timely payment, without deduction or setoff, of all rentals, fees, assessments, taxes and other charges due hereunder as the same may from time to time come due.

4.4 DELINQUENT RENTALS

There shall be added to all sums which the **TENANT** is required to pay hereunder (whether as rental or otherwise) to **CITY** and which are unpaid after their due date, a late charge of one and one-half percent (1-1/2%) of the unpaid sum for each full calendar month of delinquency computed as simple interest on a monthly basis which corresponds to eighteen percent (18%) per annum. Any late charge assessed shall be computed from the original due date of the unpaid sum. The rate of the late charge may be changed from time to time pursuant to generally applicable Airport rules and regulations. Any late charge hereunder shall be additional to any interest or other charge imposed by the **CITY** generally, including without limitation, interest on unpaid real or personal property taxes.

ARTICLE 5 - OBLIGATIONS OF TENANT

5.1 NET LEASE

The use and occupancy of the Leased Premises by **TENANT** will be without cost or expense to **CITY** and all rent payable hereunder shall be net to the **CITY.** It shall be the sole responsibility of **TENANT** to maintain, repair and operate the entirety of the Leased Premises and any improvements and facilities constructed thereon at **TENANT**'s sole cost and expense, except as otherwise explicitly stated herein.

5.2 CITY'S CONSENT TO IMPROVEMENTS REQUIRED.

5.2.1 If a hangar has not been previously constructed on the Premises, **TENANT** shall design and construct, at **TENANT**'s own cost and expense, a hangar and associated ramp and apron in accordance with the Minimum Standards. Prior to Planning Board review, the proposed design and materials to be used for such construction shall be subject to the review and approval of the Biddeford Planning Office, which approval shall not be unreasonably withheld or delayed. The Planning Office's review shall include review for compatibility with existing airport design and materials and for compliance with the Airport Master Plan then in effect. **TENANT**'s proposed landscaping plan shall be part of the Planning Office's review, and if required subject to final approval by the Planning Board. **TENANT** shall pay for and obtain all required Federal, State, County and **CITY** permits or approvals prior to such construction, including but not limited to any required Planning Board approval, and Federal Aviation Agency (hereinafter the "FAA") approvals, including filing FAA Form 7460, Notice of Proposed Construction or Alteration. In addition to complying with any applicable **CITY** ordinance, all exterior signage to be placed or erected on the Premises shall be subject to the prior written approval of the Planning Office. In the event any substantive change is

made to the proposed design and materials to be used after all other applicable review, such changes shall be submitted to the Planning Office for review and approval, which approval shall not be unreasonably withheld or delayed.

5.2.2 **TENANT** shall apply for any necessary permits and approvals within 60 days of the execution of this Lease. In the event **TENANT** is unable to obtain any required Federal, State or Local approvals and permits necessary for construction of its project and to begin construction no later than One (1) year from the date of execution of this Lease, each Party reserves the right to terminate this Lease upon no less than thirty (30) days prior written notice, with no further obligations of either Party hereunder. Upon obtaining all approvals and permits required for construction of the project, **TENANT** shall promptly commence and diligently complete such construction. All buildings and associated landscaping shall be completed within one (1) year of permit approvals.

5.2.3 Except as provided above, **TENANT** shall not erect any structures, make any improvements, nor do any construction work on the Premises, without the prior written approval of the Planning Office**,** whose approval shall not be unreasonably withheld or delayed. Alterations, modifications, additions to or replacements of any structure constructed on the Premises are subject to the prior written approval of the Planning Office, which approval shall not be unreasonably withheld or delayed. **TENANT** also shall obtain any necessary Planning Board approval. The requirement for the Planning Office's prior approval shall not apply to any improvements, repairs or replacements which are immediately necessary because of an emergency caused by no fault of **TENANT**, but **TENANT** shall inform the Airport Manager and Planning Office of such emergency work as soon as reasonable practicable.

5.3 MAINTENANCE AND OPERATIONS

5.3.1 All repair, and maintenance of the leased Premises, including, but not limited to, landscaping, paving and snow and ice removal, shall be the responsibility of the **TENANT. TENANT** shall maintain the Premises and all of the fixtures, equipment and personal property which may be located in or upon any part thereof in a reasonably neat, clean and sanitary condition. **TENANT** shall not store snow off the Premises without written approval from the Airport Manager. Snow removal shall not block any aircraft movement areas at any time. **CITY** agrees that it shall maintain, repair and remove snow and ice from the common areas of the Airport.

5.3.2 **CITY** shall have the right to take any action it considers necessary to protect general operation of the Airport and the aerial approaches to the Airport against obstruction. **TENANT**, in the use of the roadways, approaches, taxiways and runways of the aircraft landing field and in the use of the adjacent areas for storage of aircraft, or in the use of their buildings shall abide by and conform to any and all reasonable rules and regulations now existing or as may be hereafter promulgated by the **CITY** and will comply with the requirements of any Federal, State of Local act or regulation which relates to the operation of the Airport, including, but not limited to, abiding, at **TENANT**'s sole cost and expense, with any Federal, State or Local security or certification requirements which relate to its operations at the Airport.

5.3.3 **TENANT** shall take good care of the Premises; shall reasonably maintain the Premises and the improvements, buildings and fixtures thereon in good condition at all times; shall make all repairs and replacements inside and outside, ordinary and extraordinary, structural or otherwise. Such repairs and replacements by **TENANT** shall be in quality and class not inferior to the original material and workmanship. **TENANT** shall pay promptly the costs and expenses of such repairs, replacements and maintenance, and maintain and repair all utility service lines located upon the Leased Premises to the extent they are used by **TENANT**, except to the extent such maintenance or repair is the obligation of the utility

company providing such utility service.

5.3.4 All exterior repairs, replacements and maintenance shall be subject to the prior written approval of the Planning Office, which shall not be unreasonably withheld or delayed, and shall comply with all applicable Federal, State and Local permit requirements as well as any applicable rules and regulations enacted by the **CITY** relating to the Airport.

5.3.5 **TENANT** shall paint, repair, replace or rebuild all or any part of the Premises, interior or exterior, structural or non-structural, as provided above, which may be damaged or destroyed (subject to the provisions of Article 9 below). In such case, **TENANT** shall have the right to apply any available insurance proceeds for such purposes.

5.3.6 **TENANT** shall provide, at its sole cost and expense, the necessary receptacles and arrangements for adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse that results from use of, or activities on, the Premises. **CITY** reserves the right to require **TENANT** to participate in any recycling program which may be imposed by Airport rules or by Local, State or Federal law or regulation. **TENANT** shall defend, indemnify and hold the **CITY** harmless from any cost, expense, claim, fine or liability, including without limitation attorney's fees and court costs, arising out of or resulting from **TENANT**'s storage, collection, transportation or disposal of any trash, garbage or other refuse hereunder. This obligation of defense and indemnification shall remain in full force and effect after termination or expiration of this Lease.

5.3.7 **TENANT** shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse and said receptacles must be stored inside the hangar. Piling boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Lease Premises, shall not be permitted.

5.3.8 To the extent that **TENANT** does not undertake or pay for any of its obligations under this Subsection 5.3 or Subsection 9, **CITY** reserves the right to undertake such obligations or to pay such costs, in its sole discretion, and to charge all costs thereof to **TENANT**. In the event **CITY** undertakes any such obligation or pays such cost hereunder, **TENANT** shall repay the **CITY** all such amounts immediately upon **CITY**'s demand therefor. Nothing herein shall prevent or prohibit the **CITY** from declaring a default hereunder and terminating the Lease as provided in Article 11 below.

5.4 CITY RIGHT TO INSPECT AND REPAIR

5.4.1 **CITY**, through its agents, may come on the Premises and enter the Hangar to inspect for compliance with the requirements of this Lease, Airport rules and regulations, environmental laws, or other applicable legal and regulatory requirements. Such inspection will generally take place during normal business hours and following forty eight (48) hours advance notice to the **TENANT**, but the **CITY** reserves the right to enter the Premises unannounced at any time that the Airport Manager or City determines such entry is necessary for public safety or security reasons or if necessary for Federal or State required compliance inspections. In the event of such unannounced entry, **CITY** shall notify the **TENANT** that such inspection occurred within a reasonable time thereafter. **TENANT** shall provide **CITY** with the ability to access the Premises and the Hangar for such public safety and security purposes.

5.4.2 **CITY** or its designee, at its discretion, shall be the sole judge of the quality of the exterior repair and maintenance; and **TENANT,** upon notice by **CITY** to **TENANT** shall be required to perform whatever repair and maintenance **CITY** deems reasonably necessary. If said repair and maintenance is not undertaken by **TENANT** within thirty (30) days after receipt of written notice, **CITY** shall have the right

to enter upon the Leased Premises and perform the necessary repair and maintenance, the cost of which shall be borne by **TENANT** as additional rent to be paid to **CITY** immediately upon demand therefor. Notwithstanding the foregoing, in the case of a threat to public health or safety, **CITY** may undertake such repairs as it deems reasonably necessary and charge the cost thereto to **TENANT** as additional rent to be paid to **CITY**, without regard to any notice requirement herein. No waste shall be committed or damage done to the Premises, the buildings and equipment located thereon, nor to property of CITY**.**

5.5 UTILITIES

TENANT shall assume and pay for all construction, installation and periodic costs or charges for utility services furnished to **TENANT** during the term hereof; provided, however, that, consistent with applicable laws, regulations or permit requirements, **TENANT** shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and **TENANT** shall pay for any and all service charges incurred there from. The **TENANT** must also meet the requirements of any Airport Storm Water Pollution Prevention Plan and any amendments thereto. **TENANT** agrees to relocate at its expense any utility service if **CITY** determines in its sole discretion that said utility service interferes with present or future airport operations or expansions.

5.6 PAYMENT OF TAXES AND OTHER ASSESSMENTS

5.6.1 **TENANT** agrees to pay promptly when due, and not to permit to become delinquent, levies, taxes, assessments, improvement fees, excises, permit fees, license fees, charges, impositions or burdens of whatsoever kind and nature, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or for any public improvements or utility services (hereinafter "impositions") which, at any time during the term of this Lease Agreement, may be created, levied, assessed, imposed or charged upon or with respect to the Leased Premises or any part thereof, by any Federal, State, County, Municipal or other authority, which imposition would be valid and applicable to **TENANT** irrespective of this section.

5.6.2 **TENANT** acknowledges that **CITY** has the right from time to time to establish and impose reasonable charges and fees for users of the Airport or its facilities, provided that such charges and fees are charged in a uniform and non-discriminatory manner and do not significantly increase the total fixed and percentage rent due hereunder; and provided, further, that **CITY** shall provide **TENANT** with no less than thirty (30) days prior written notice prior to imposing any new fee or charge which directly or indirectly affects **TENANT** or any subtenant of **TENANT.**

5.7 NONDISCRIMINATION; AFFIRMATIVE ACTION

5.7.1 The **TENANT**, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with this Lease of the Premises that, to the extent applicable to **TENANT**'s operations hereunder:

(a) no person on the grounds of race, color, sex, disability, religion, national origin or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subject to, discrimination in the use of said facilities;

(b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services thereon, no person on the grounds of race, color, sex, disability, religion, national origin, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) that the **TENANT** shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

5.8 OBSERVANCE OF LAWS, STATUTES, ORDINANCES, RULES AND REGULATIONS

5.8.1 During the Term hereof and any renewal term, **TENANT** shall, at its own cost and expense, promptly observe and comply with all existing and future applicable laws, ordinances, rules, regulations, licenses, permits, decisions and decrees of the Federal, State, County and CITY Governments (including but not limited to Airport Minimum Standards and Procedures for the Lease and/or Use of Property and Facilities for Aeronautical Activities (Exhibit A), Airport Rules and Regulations (Exhibit B), Airport Hangar Construction and Minimum Specifications (Exhibit C), Airport Storm Water Pollution Prevention Practices (Exhibit D), copies of which **TENANT** acknowledges having received and which are incorporated herein, as well as those of any other government authority having jurisdiction over the Premises or any part thereof, including without limitation all applicable Federal Aviation Administration rules and regulations, whether the same are in force at the commencement of the term of this Agreement or should be enacted in the future.

5.8.2 **TENANT** shall pay all fines, penalties, damages, expenses or costs, including reasonable counsel fees, and shall indemnify and hold the **CITY** harmless therefrom, which may in any manner arise out of or are imposed on **TENANT, CITY** or Airport because of the failure of the **TENANT** to comply with the requirements of this Section 5.8. Without limiting any other right of **CITY** hereunder, **TENANT**'s non-compliance with any provision of this Section 5.8 shall be grounds for termination of this Lease Agreement.

5.9 ENVIRONMENTAL STATUTES

5.9.1 **TENANT** covenants and agrees to comply with all applicable environmental laws, including without limitation all laws governing hazardous substances and all requirements related to storm water discharges and permits, and to provide to **CITY**, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of **TENANT** under environmental laws, or which seek civil, criminal or punitive penalties from **TENANT** for an alleged violation of environmental laws. **TENANT** further agrees to advise the **CITY** in writing as soon as **TENANT** becomes aware of any condition or circumstances that may result in a potential violation of any environmental laws. **TENANT** shall comply with any Storm Water Pollution Prevention Plan and any amendments thereto and shall grant access to the **CITY** for any inspections required by the plan. **TENANT** agrees, at its expense, and at the request of **CITY** when it has a reasonable belief that there is a problem or when required by another governmental entity**,** to permit an environmental audit solely for the benefit of **CITY**, to be conducted by **CITY**. This provision shall not relieve **CITY** from conducting its own environmental audits or taking any other steps necessary to comply with environmental laws.

5.9.2 Without limiting the foregoing, **TENANT** shall not dump, flush, or in any way introduce any hazardous materials or hazardous waste or any other toxic materials upon the Leased Premises nor shall it improperly store, or dispose of any hazardous materials or hazardous waste from any such property, except in full compliance with all applicable laws and regulations. For purposes of this paragraph, the term hazardous materials shall mean inflammable, explosives, radioactive materials and hazardous substances defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive

Environmental Response Compensation Liability Act of 1980, as amended, the Hazardous Conservation and Recovery Act, and the Resources Conservation and Recovery Act, or any similar federal, state or local law, or in any regulations promulgated pursuant thereto, or in any other applicable law. The term "hazardous materials" shall also include any other chemical, material or substance which is or may be regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal, state or other government authority or agency or which, even if not so regulated, may or could pose a hazard to human health and safety.

5.9.3 If in the opinion of **CITY**, there exists any uncorrected violation by **TENANT** of an environmental law which requires, or may require, a cleanup, removal or any condition or other remedial action by **TENANT** under any environmental law, regulation, permit, license, judgment or decree, and such cleanup, removal or other remedial action is not completed, or commenced and diligently pursued, within thirty (30) days from the date of written notice from **CITY** to **TENANT**, the same shall, at the option of **CITY**, constitute an event of default hereunder.

5.9.4 For the purposes of this Section 5.9, the term "environmental law or laws" shall mean all Federal, State and Local laws including statutes, regulations, ordinances, codes, rules, permits, licenses, judgments, decrees, or other governmental restrictions and requirements relating to the environment or any hazardous substance, including but not limited to, the State of Maine environmental protection statutes, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Research Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility, Cleanup and Liability Act of 1980 as amended by the Super Fund Amendments and Reauthorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any State Department of Environmental Protection or successor agency now or anytime hereafter in effect.

5.9.5 **TENANT** shall defend, indemnify and hold the **CITY** harmless from and against any and all damages, costs and expenses, including without limitation, fines, penalties, reasonable attorney's fees, consequential damages and remedial costs and other liabilities arising from claims based upon the environmental condition of the Premises and the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), resulting from (a) **TENANT**'s use of the Premises or operations thereon by or on behalf of **TENAN**T; (b) claims arising out of, related to, or in connection with (i) the release by **TENANT** of any hazardous material into, onto or from the Premises; or (ii) any arrangement by **TENANT** for the treatment, recycling, storage or disposal at any facility owned or operated by any person or entity of a hazardous material which is present on the Premises or has been or may be deposited at, disposed on or released onto the Premises; and (c) claims related to demolition, cleanup or other remedial measure with regard to environmental conditions on or around the Premises by **TENANT;** or (d) claims resulting from any act or omission of **TENANT** in violation of any Federal, State or Local environmental laws or regulations with respect to **TENANT**'s use of the Leased Premises.

5.9.6 **CITY** shall give to **TENANT** prompt and reasonable notice of any such claim or action, and **TENANT** shall have the right to investigate, compromise, and defend the same.

5.9.7 **TENANT,** as used in this Section 5.9, shall mean and include the named **TENANT,** or anyone for whose act **TENANT** may be legally liable.

5.9.8 The Terms of this Section 5.9 shall expressly survive the expiration or earlier termination of this Lease Agreement, including without limitation the terms of Subsection 5.9.5.

5.10 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Lease and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 6 - OBLIGATIONS OF CITY

6.1 OPERATION AS A MUNICIPAL AIRPORT

CITY agrees that at all times during the term of this Lease it will operate and maintain the Airport as a municipal airport. If **CITY** permanently ceases operations of the Airport during the term of this Lease, **CITY** will pay **TENANT** the appraised value of any building constructed on the Premises in accordance with the terms of this Lease as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

6.2 INGRESS AND EGRESS

Upon paying the rent hereunder and performing the covenants of this Lease, **TENANT** shall have the right of ingress to and egress from the Premises for the **TENANT**, over the roadway provided by **CITY** serving the Premises. **TENANT's** access shall be in common with other users and shall be subject to applicable security requirements and to possible episodic interruptions due to security or safety concerns. **CITY**'s roadway shall be used jointly with other tenants at the Airport, and **TENANT** shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as **CITY** deems necessary. **TENANT** shall have the right to bring utilities to the Premises at its own cost and expense and in accord with all applicable laws, rules and regulations for the extension and hookup of such utilities. **TENANT** shall be responsible for paying for all hookup and periodic usage charges for such utilities and **CITY** shall have no responsibility therefor.

ARTICLE 7 - CITY'S RESERVATIONS

7.1 IMPROVEMENT, RELOCATION OR REMOVAL OF STRUCTURES

7.1.1 **CITY**, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport, including the right to remove or relocate any structure on the Airport, as it sees fit, and to take any action it considers necessary to protect the approaches of the Airport against obstructions, together with the right to prevent **TENANT** from erecting or permitting to be erected, any buildings or other structure on the Airport which, in the opinion of **CITY,** would limit the usefulness of the Airport or constitute a hazard to aircraft.

7.1.2 In the event **CITY** requires the use of the Premises for expansion, improvement, or development of the Airport, **CITY** reserves the right, on six (6) months' notice, to relocate or replace **TENANT**'s improvements in substantially similar form at another generally comparable location on the Airport. The reasonable costs of such relocation or replacement shall be paid or reimbursed, as appropriate, by **CITY**. Alternatively, **CITY** reserves the right to terminate this Lease. In that event, **CITY** will pay **TENANT** the appraised value of any building constructed on the premises as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further

obligations financial or otherwise to **TENANT**.

7.2 WAR OR NATIONAL EMERGENCY

During any time of war or national emergency, **CITY** shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease or agreement is executed, the provisions of this Lease Agreement insofar as they are inconsistent with the lease or agreement with the Government shall be suspended or terminated, and in that event, a just and proportionate part of the rent hereunder shall be abated. **CITY** shall have no further obligations financial or otherwise to the **TENANT**.

ARTICLE 8 - INDEMNITY AND INSURANCE

8.1 INDEMNIFICATION

8.1.1 To the fullest extent permitted by law, **TENANT** agrees to defend, indemnify, and save forever harmless the **CITY**, its officers, agents and employees, from and against all claims and actions and all reasonable expenses incidental to the investigation and defense thereof, based on or arising out of claims for damages or injuries to any person or property, including wrongful death and loss of use of property, and arising, in whole or in part, out of **TENANT**'s use or occupancy of the Leased Premises; **CITY** shall give to **TENANT** prompt and reasonable notice of any such claims or actions, and **TENANT** shall have the right to investigate, compromise and defend the same; and provided further, that **TENANT** shall not be liable for any claims, actions, injury, damages or losses to the extent they are occasioned by the negligent or intentional act of **CITY**, its officers, agents or employees. **TENANT** as used in this Subsection 8.1.1 and in Section 8.2 shall mean and include the named **TENANT**, and anyone for whose act **TENANT** may be legally liable.

8.1.2 **TENANT** shall, at its own cost and expense defend any and all suits or actions, just or unjust, which may be brought against **CITY** or in which **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. **CITY** shall have the right to participate in such suits, and no action shall be settled without prior consent of the **CITY**. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to the **CITY** that would otherwise exist. The extent of this indemnity provision shall not be limited by any requirement of insurance contained herein.

8.1.3 If **TENANT** is required to obtain workers compensation coverage under Maine law, **TENANT** agrees to procure and maintain throughout the term of this Lease Agreement, an endorsement to its Workers Compensation coverage waiving any and all rights of subrogation against CITY**.**

8.1.4 The indemnity and hold harmless provision of Section 8.1 includes indemnity against all reasonable expenses, fees, costs and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the **CITY.** The provisions of this Article 8 and the obligations of **TENANT** hereunder shall survive the termination or expiration of this Lease.

8.1.5 In no case shall **CITY** be liable to **TENANT** or to any third party for any incidental, indirect, consequential, special or punitive damages arising out of or relating to this Lease.

8.2 LIEN INDEMNIFICATION

Throughout the term of this Lease, **TENANT** shall not cause nor permit any lien against the Leased Premises, any portion thereof or any City property wherever located, or any improvements thereto, to arise out of or accrue from any action, omission or use thereof by **TENANT**. **TENANT** may in good faith, however, contest the validity of any alleged lien. **TENANT** shall defend and indemnify and hold the **CITY** harmless from any cost, expense, attorney's fees or other liability arising out of or resulting from any such lien or liens, and shall promptly discharge such lien or stay or prevent its foreclosure by bond or other appropriate legal procedure that is acceptable to the **CITY**. So long as **TENANT** defends **CITY** in any action concerning any such lien, **TENANT** shall not be required to post a bond with respect to such lien prior to the commencement of a foreclosure action against the **CITY.** This provision shall survive termination or expiration of this Lease Agreement. **CITY** may, at its sole discretion, pay any amounts secured by any such lien and in such case, **TENANT** shall repay all such payments to **CITY** immediately upon **CITY**'s demand therefor.

8.3 INSURANCE

8.3.1 Without expense to the **CITY**, and with no lapse in coverage, **TENANT** shall obtain and cause to be kept in force at all times during the term of this Agreement, insurance required by the Minimum Standards for a category 1X FBO – Aircraft Tie Down and Storage.

8.3.2 **TENANT** and the **CITY** understand and agree that the minimum limits of the insurance herein required may become inadequate during the term of this Agreement and **CITY** reserves the right to amend the minimums as needed throughout the term of this Lease. **TENANT** agrees that it will increase such minimum limits upon receipt of notice in writing from the CITY.

8.3.4 In the event any construction or renovation on the Premises is approved by the **CITY**, **TENANT** shall procure and maintain, or cause to be procured and maintained, comprehensive general liability insurance covering bodily injury and property damage, including special hazards insurance, in such amount as the **CIT**Y may reasonably require, covering such construction. Said insurance shall protect **TENANT** and **CITY** from any claims or damages arising out of or resulting from such construction or renovations, and shall name the **CITY** as an additional insured thereon. In addition to the foregoing, **TENANT** shall cause to be procured and maintained automobile liability in such amounts as the CITY may reasonably require.

8.3.5 All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy affecting the Premises shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Airport Manager. Each liability policy required to be obtained hereunder shall name the **CITY** as an additional insured thereunder and shall be on an occurrence basis. All policies required hereunder shall be primary to any insurance or self-insurance that **CITY** may maintain for its own benefit.

8.3.6 Certificates or other evidence of insurance coverage required of **TENANT** in this Article, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the **CITY** prior to the execution of this Lease Agreement and annually thereafter. **TENANT** shall at all times during the term of this Lease Agreement provide **CITY** with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier affecting the Leased Premises. Insurer shall provide no less than thirty (30) days written notice prior to cancellation, reduction in coverage or expiration of each policy required hereunder, said notice to be sent to the Airport Manager. It shall be **TENANT**'s responsibility throughout the term of this Lease to provide or have provided to the Airport Manager renewal insurance certificates with no lapse in coverage prior to such renewal.

8.3.7 If at any time **TENANT** should fail either to obtain or to maintain in force the insurance required herein, the **CITY** shall notify **TENANT** of its intention to purchase such insurance for **TENANT**'s account; and, if **TENANT** has not delivered evidence of insurance to the Airport Manager prior to the date on which the current insurance expires, the **CITY** may effect such insurance by taking out policies in companies satisfactory to the **CITY**. Such insurance shall be in amounts no greater than those stipulated herein or as may be in effect from time-to-time. The amount of the premiums for such insurance obtained by the **CITY** shall be payable by **TENANT** as additional rental immediately upon demand therefor by CITY.

ARTICLE 9 - DESTRUCTION OF PREMISES

9.1 In the event the buildings and improvements on the Premises, or any substantial part thereof, should be damaged or destroyed by an insured casualty, such buildings or improvements shall be repaired or rebuilt by **TENANT** and paid for with **TENANT**'s insurance proceeds; and, if such proceeds are insufficient for such purposes **TENANT** shall pay the deficiency, unless otherwise agreed as provided herein. Repair or restoration of the buildings and improvements shall be in accordance with the original Plans and Specifications, together with alterations or modifications made or agreed upon prior to the casualty, unless the Parties otherwise mutually agree to new or modified plans.

9.2 Notwithstanding the foregoing, during the term of this Agreement or any renewal thereof, in the event the buildings and improvements on the Premises, or a substantial part thereof, should be destroyed, then **TENANT** may terminate this Agreement by written notice to **CITY** within ninety (90) days of the casualty and all obligations of each party hereunder shall terminate. In the event of such termination, **TENANT** shall return the Premises to **CITY** restored to a clean and usable condition, with removal of all personal and real property as provided in Article 12 below. If **TENANT** does not provide notice of such termination, **TENANT** shall proceed diligently to rebuild and restore the Premises and the buildings and improvements thereon in accord with the original plans and specifications or such other plans and specifications as may be approved by the Planning Office and, if required, the Planning Board.

ARTICLE 10 - CONDEMNATION

10.1 **CITY** agrees to give prompt written notice to **TENANT** of any eminent domain, condemnation, compulsory acquisition or like proceedings by any competent authority which might result in a partial or full taking of the Leased Premises and of which **CITY** has actual notice. Each party may file and prosecute their respective claims for an award, but all awards and payments on account of a taking shall be held in trust by the recipient to be distributed according to the respective interests of the parties, i.e., payments allocable to the value of the Leased Premises and the residual interest in the Leased Premises shall be paid to **CITY** and payments allocable to **TENANT**'s leasehold interest and improvements shall be paid to **TENANT.**

10.2 In the case of a taking (other than for temporary use) of the fee of the entire Leased Premises, or so substantial a part of the Leased Premises that such taking materially impairs **TENANT**'s conduct of its operations at or from the Premises, this Agreement shall terminate as of the effective date of such taking. In the case of a temporary taking (including without limitation a temporary taking as a result of relocation under 7.1.2 above), this Agreement shall be suspended during such time as **TENANT** is unable to use the Leasehold Premises for the uses provided herein. In the case of a temporary taking which does not permit **TENANT** to use the Premises as provided herein for a period of ninety (90) days or more, at the conclusion of said ninety (90) day period, **TENANT** may, in its discretion, give **CITY** a thirty (30) day notice of its intent to terminate the Lease Agreement. This Lease shall terminate at the end of the thirty (30) day notice period, with no further obligation by either party. **TENANT**'s obligation to pay rent hereunder shall be

suspended during any temporary taking during which **TENANT** is unable to conduct its operations at or from the Leased Premises; provided, however, to the extent **TENANT** is able to continue its operations hereunder from the Premises or from an alternative site, the **TENANT** shall continue to pay the fixed rent based upon the square footage then available to **TENANT**.

ARTICLE 11 - TERMINATION OF LEASE

11.1 **CITY**'s Right to Terminate. The **CITY**, in addition to any other rights to which it may be entitled by law, acting by and through its **CITY MANAGER**, may declare this Lease Agreement terminated in its entirety, subject to and in the manner provided herein, upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the Premises:

(a) To the extent permitted by law, the filing by **TENANT** of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of **TENANT**'s assets;

(b) To the extent permitted by law, the entry of an order for relief against the **TENANT,** by a court of applicable jurisdiction, pursuant to any involuntary bankruptcy petition filed against the **TENANT**;

(c) To the extent permitted by law, the taking of jurisdiction by a court of competent jurisdiction of **TENANT** or its assets, pursuant to proceedings brought under the provisions of any Federal reorganization act;

(d) To the extent permitted by law, the appointment of a receiver or trustee of **TENANT**'s assets by a court of competent jurisdiction or a voluntary agreement with TENANT's creditors;

(e) The voluntary abandonment by **TENANT** of the Leased Premises (and the failure to pay rent thereon) for a period in excess of sixty (60) days; or

(f) The material breach by **TENANT** of any of the covenants or agreements herein contained and not cured as provided below. A material breach shall include, but not be limited to, the failure of the **TENANT** to comply with the Minimum Standards, **TENANT**'s use of the premises in a manner prohibited under this Lease, or the failure of **TENANT** to pay any rental, fee, or charge required to be paid by the terms of this Lease Agreement when the same is due and payable.

11.2 **TENANT**'s Right to Terminate. **TENANT**, in addition to any other right given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the happening of any one of the following events:

(a) The issuance by any court of competent jurisdiction of an injunction which materially prevents or restrains the use of the Airport or the Leased Premises for the purposes permitted under this Lease Agreement and such injunction remaining in force for a period of at least ninety (90) days after the date of receipt of written notice of such injunction by CITY**;**

(b) Subject to **TENANT**'s obligation to restore or repair the Premises under Article 9 above, the inability of **TENANT** to use said Leased Premises and Airport facilities due to war, earthquake or other casualty for a longer period than ninety (90) days after the date of receipt of written notice of such inability from **TENANT;**

(c) Any action of any governmental authority, board, agency or officer having jurisdiction

thereof preventing **TENANT** from conducting the activities permitted hereunder at or on the Leased Premises by a taking, directly or indirectly, in whole or a substantial part, of the Leased Premises for a period of at least ninety (90) days after receipt of written notice of such action by **CITY**, subject to Article 10 above**;**

(d) The taking, through the process of eminent domain, of all or a substantial part of the Premises leased by **TENANT**, subject to Article 10 above**;** or

(e) The material breach by **CITY** of any of the covenants or agreements herein contained and not cured as provided below.

11.3 Default by **CITY.** In the event of any default by **CITY** of any of its obligations under this Lease Agreement, **TENANT** may declare the **CITY** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to the **CITY MANAGER** addressed and copied as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. No termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **TENANT** to **CITY,** and the City shall not have cured such default during such thirty (30) day period**.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **CITY** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable.

11.4 Default by **TENANT.** In the event of any default by **TENANT** of any of its obligations under this Lease Agreement, **CITY** may declare the **TENANT** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to **TENANT** addressed as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. Except as provided otherwise in this Lease Agreement whereby no opportunity to cure is required, no termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **CITY** to **TENANT,** and such default shall not have been cured during such thirty (30) day period by the **TENANT.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **TENANT** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable. In the event **TENANT** knew or should have known of the default prior to receipt of **CITY** notice, said thirty (30) day period to cure shall be deemed to begin as of the date **TENANT** knew or should have known of said default. Notwithstanding the foregoing, if **TENANT** should fail to pay any sum, including without limitation any rental, tax, assessment or use fee or charge, as required hereunder, **TENANT** shall have ten (10) days from receipt of **CITY** notice of default to cure said default, and if not so cured, termination of this Lease Agreement shall be effective as of the eleventh day following said receipt of notice.

ARTICLE 12 - RIGHTS UPON TERMINATION

12.1 **TENANT** agrees that upon the expiration of the Initial Term of this Lease or sooner termination thereof, the Leased Premises will be promptly delivered to **CITY. TENANT** shall remove all buildings, fixtures and personal property located on the Leased Premises within thirty (30) days of the date of expiration or termination and repair any damage resulting from such removal and restore the Premises, all at **TENANT**'s cost and expense. In lieu of removal, **TENANT** may, at its option, offer to transfer title, through execution of appropriate documents, to some or all of the buildings and improvements on the

Premises to **CITY** at no cost to **CITY** and in such case, **TENANT** shall provide **CITY** of notice of such offer at least ninety (90) days prior to termination of this Agreement. **CITY** shall notify **TENANT** in writing within the ninety (90) day period whether it accepts or rejects said offer. In the event CITY rejects the offer, **TENANT** shall be obligated to remove the buildings and improvement from the Premises within thirty (30) days of expiration or termination as provided herein. Upon the termination or expiration of the Initial Term of this Lease Agreement, all rights of **TENANT** hereunder to possession of the Premises under this Agreement shall immediately terminate.

12.2 If the **TENANT** elects, and **CITY** agrees, to enter into a Renewal of this Agreement, at expiration or termination of any Renewal term, at **CITY**'s option, the **CITY** may take title or require removal of improvements, alterations and additions made by **TENANT** in the same manner and on the same terms as provided in Section 12.1 at termination or expiration of the Initial Term.

12.3 Unless **CITY** has agreed in writing to accept title to buildings and improvements under Section 12.1 above, in the event **TENANT** fails to remove the buildings, fixtures or personal property from the Premises within thirty (30) days of termination or expiration of this Lease, title to said buildings, fixtures and personal property shall vest in **CITY** on the thirty-first (31st) day after the date of such termination or expiration, and **CITY** may dispose of such buildings, fixtures and personal property as it sees fit, in **CITY** discretion, and retain any proceeds from such disposal. In the event **CITY** incurs a net loss for such disposal, **TENANT** shall be liable to **CITY** for reimbursement of such loss.

ARTICLE 13 - ASSIGNMENT AND SUBLETTING

13.1 The **TENANT** shall not assign, rent, sublease, sell, convey, mortgage, encumber or otherwise transfer in any manner all or any part of the Leased Premises or the improvements located thereon or any of the privileges granted to **TENANT** hereunder, without the prior written consent of the **CITY**, which approval shall be at the **CITY**'s sole discretion. **CITY** reserves the right to review the form of all such proposed transfers. **TENANT** shall notify **CITY** annually of the identity of all subleases of any portion of the Premises or shall provide such information upon **CITY**'s request. **CITY** further reserves the right to place such reasonable conditions upon any such transfer as it deems to be in the best interest of the CITY.

In the event of any approved transfer, sublease or assignment, **TENANT** shall continue to be liable to **CITY** for all rent, fees, taxes, assessments and all other obligations under this Lease for which it is liable hereunder. All approved transferees, subleases or assignees shall be required to conform to all of the terms and conditions of this Lease Agreement, including without limitation, all insurance requirements hereunder. Additionally, all approved transferees, subleases or assignees shall be required to register their aircraft as "based" at the Biddeford Municipal Airport (B19) if such aircraft will be located at the Biddeford Municipal Airport for a cumulative period of One Hundred and Eighty (180) days or more, within any twelve month period.

13.2 Any violation of the terms of this Article by any person at or on the Premises, or conducting any activities from, at or on the Premises, shall be deemed a breach of this Lease Agreement and, at **CITY's** option, may result in termination of this Lease Agreement pursuant to Article 11.

13.3 Any sale or transfer, whether to one or more persons or entities and whether at one or more different times, of a total of fifty percent (50%) or more of the ownership interest in any corporation, partnership, limited liability company or other entity which is then the legal tenant under this Lease Agreement shall be deemed an assignment of this Lease Agreement within the meaning of this Article 13, for the first 30 days or until a new lease is signed, whichever occurs first. The new owner(s), will be required to enter into a new Lease Agreement with the City for the leased premises within the first 30 days of taking ownership.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 NON-INTERFERENCE WITH OPERATION OF AIRPORT

14.1.1 **TENANT,** by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard or interfere with or endanger general operations at the Airport. In the event the aforesaid covenant is breached, the **CITY** reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the **TENANT**, and reimbursement for such **CITY** expense shall be paid by **TENANT** immediately upon **CITY**'s demand therefor.

14.1.2 **CITY** hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport. In addition, **TENANT** acknowledges that because of the close location of the Premises to the "airfield operations area", that noise, vibration, fumes, debris and other interference with the Premises will be caused by Airport operations. **TENANT** hereby waives any and all rights and remedies against **CITY** arising out of any noise, vibration, fumes, debris and/or interference that is caused by the operation of the Airport.

14.2 QUIET ENJOYMENT

The **CITY** agrees that on payment of the rentals and fees hereunder, and subject to performance and compliance by **TENANT** of the covenants, conditions and agreement on its part to be performed and complied with herein, **TENANT** shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities, and of the Leased Premises, to the extent granted herein.

14.3 AGREEMENTS WITH FEDERAL GOVERNMENT

This Lease Agreement is subject and subordinate to the provisions of any agreements that have been or shall be made between the **CITY** and the United States of America relative to the operation or maintenance of the Airport, the execution of which have been or shall be required as a condition to the expenditure of Federal funds for the extension, expansion, improvement, maintenance or development of the Airport. **TENANT** agrees to comply with all applicable laws and regulations and to modify or amend this Agreement as required to comply with such applicable laws and regulations.

14.4 LICENSE FEES AND PERMITS

TENANT shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or Local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

14.5 SECURITY AGREEMENT

TENANT, at its own cost and expense, shall be responsible for ensuring that all building entrances, exits, and any access to the Leased Premises are in compliance with all applicable Airport Security Programs. It shall be **TENANT**'s responsibility, at its own cost and expense, to be in compliance with all existing and

future security requirements of the Department of Transportation, Transportation Security Administration, and/or the Airport Security Program, and **TENANT** shall hold the **CITY** harmless and shall pay any fines, penalties, cost or expenses incurred by **CITY** or by **TENANT** and arising out of any breach of said security requirements by **TENANT,** its invitees, subtenants, or anyone for whose act **TENANT** may be liable.

14.6 PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of the Lease.

14.7 INTERPRETATIONS

The laws of the State of Maine shall govern the validity, interpretation, performance and enforcement of this Agreement. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires. Unless the context specifically provides otherwise, "person" wherever used in this Lease shall include, without limitation, an individual, a sole proprietor, a corporation, a partnership or any legal entity authorized by law.

14.8 DISPUTE RESOLUTION

All disputes hereunder which are not mutually resolved shall be resolved by trial without a jury in the Courts of York County, State of Maine. TENANT hereby agrees to waive any rights which **TENANT** may have to a trial by jury. Notwithstanding the foregoing, **TENANT** and **CITY** may mutually agree to submit any dispute hereunder to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

14.9 NOTICES

Except as otherwise provided in Article 11 for certified mail or hand delivery of notice of default, whenever any notice or payment is required by this Lease Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to, or hand-delivered to:

CITY:

City Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

Airport Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

TENANT:

Name
Xxxx, xxxxx Street
City, State

or such place as either party shall designate in writing.

14.10 ENTIRE AGREEMENT

This Lease Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties and all other representations or statements heretofore made, verbal or written, are merged herein, and this Lease Agreement may be amended only in a writing executed by duly authorized representatives of the parties hereto.

14.11 NON-WAIVER

No waiver by either Party of any of the terms, covenants, and conditions hereof to be performed kept and observed by the other Party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept, and observed by the other party. The receipt by **CITY** of any rent with knowledge of any breach of this Lease Agreement by **TENANT** or of any default by **TENANT** in the observance or performance of any of the terms, covenants or conditions of this Lease Agreement shall not be deemed to be a waiver of any provision of this Lease Agreement. If any action by **TENANT** shall require the consent or approval of **CITY, CITY**'s consent to, or approval of, such action on any one occasion shall not be deemed a consent to, or approval of, said action on any subsequent occasion, or consent to, or approval of, any other action on the same or any subsequent occasion.

14.12 REMEDIES CUMULATIVE

All rights and remedies of the parties herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by either party of any remedy provided herein or allowed by law shall not be to the exclusion of any other remedy.

14.13 TIME OF ESSENCE

Time is and shall be of the essence in respect to the performance of each and every provision of this Lease Agreement.

14.14 FORCE MAJEURE

Neither the **CITY** nor **TENANT** shall be deemed in violation of this Lease Agreement if either should be prevented from performing any of the obligations hereunder (other than any obligations to make payments) by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control. The party claiming force majeure shall give prompt written notice to the other party of such event or events, and shall resume performance promptly upon the conclusion of the event or events preventing its performance.

14.15 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Lease Agreement shall be valid

and be enforced to the fullest extent permitted by law.

14.16 MEMORANDUM OF LEASE

Either party at the request of the other, shall execute, acknowledge and deliver for recording, a memorandum or short form lease prepared by the requesting party; provided, however, that the relations between **CITY** and **TENANT** shall be governed solely by the provisions of this Lease Agreement and not by any such memorandum or short form lease which may be executed, delivered and recorded.

14.17 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations in this Lease Agreement shall extend to and bind the legal representatives, heirs, successors, and any permitted assigns of the respective parties hereto. Nothing herein shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of **TENANT** in violation of any other provisions contained in this Lease Agreement.

14.18 ASSIGNMENT TO CITY SUCCESSOR IN INTEREST

The **CITY** may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed by their duly authorized representatives as of the date first above mentioned at Biddeford, Maine.

WITNESS	**CITY OF BIDDEFORD, MAINE**
_____	_____
By: Airport Manager	By: City Manager
	TENANT
_____	_____
By:	By:

CITY OF BIDDEFORD

Biddeford Municipal Airport

Ground Lease Agreement

Adopted: Month xx, xxxx

GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this _____ day of _____, by and between the **CITY OF BIDDEFORD,** a Maine municipal corporation, (the "**CITY**"), and _____ _____**,** with a mailing address of _____, (the "**TENANT**").

W I T N E S S E T H:

WHEREAS, CITY owns, controls and operates for the use and benefit of the public, Biddeford Municipal Airport, located in Biddeford, Maine, (the "Airport").

WHEREAS, **TENANT** wishes to enter into a Ground Lease Agreement with **CITY** in order to construct and/or maintain a hangar for **TENANT**'s aircraft related equipment and materials and conduct certain permitted uses at the Airport;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, **CITY** and **TENANT** hereby agree as follows:

ARTICLE 1 - LEASED PREMISES

1.1. DESCRIPTION OF LEASED PREMISES

The term "Leased Premises" or "Premises" as used in this Lease Agreement, shall mean and include real estate located at Biddeford Municipal Airport, Biddeford, York County, State of Maine, consisting of approximately _____square feet, as shown on Exhibit A attached hereto and incorporated herein, and including the rights of ingress thereto and egress therefrom and the right to install, use and maintain utilities, subject to any utility or other easements of record.

1.2 "AS IS" CONDITION.

TENANT takes the Premises in "as is" condition. Other than **CITY** ownership thereof, **CITY** makes no representation or warranty as to the physical condition of the Premises nor as to any other matter concerning the Premises, including but not limited to the presence of any environmental hazards thereon. Without limiting the foregoing, the **CITY** represents that, as of the execution date of this Lease, it has not received notice of any such hazards. All **TENANT** improvements, additions and alterations at or to the Premises will be at **TENANT**'s sole cost and expense and **CITY** shall have no responsibility therefor.

ARTICLE 2 - OBJECTIVES AND PURPOSES OF LEASE

2.1 PERMITTED AND PROHIBITED USES OF LEASED PREMISES

2.1.1 Permitted Uses: **TENANT** shall use the Premises solely for the construction and/or maintenance of an aircraft storage hangar ("Hangar") and associated ramp and apron, which may be used for storage of

TENANT's owned or leased aircraft and aircraft related materials and equipment, provided, however, that any such uses shall be subject to all applicable Federal, State and Local law including, without limitations, the Biddeford Zoning Ordinance, the Minimum Standards and Procedures for the Lease and/or Use of the Property and Facilities for Aeronautical Activities (the "Minimum Standards") and all regulations of the Biddeford Municipal Airport currently in effect or enacted during the term of this Lease (See Section 5.8.1). Nothing in this section is intended, nor shall it be deemed, to permit **TENANT** to establish or carry out any commercial activity from the **PREMISES** (See Section 2.1.4).

2.1.2 **TENANT** shall have the right to install or improve therein and thereon such fixtures, equipment and facilities as **TENANT** may deem necessary or desirable; provided, however, that no such structure, improvement, fixture, equipment or facility shall be constructed, improved or installed by **TENANT** without the prior written consent of the **CITY**; provided, further, that any such construction shall be subject to all Federal, State and Local Law including, without limitation, the Biddeford Building Codes and the regulations of the Biddeford Municipal Airport on hangar construction. **TENANT** covenants and agrees that prior to the construction or installation of any such structure, improvement, fixture, equipment, or facility, **TENANT** will submit detailed plans or other appropriate information showing the location, design and character to the Airport Manager and Biddeford Planning Office. Any such construction shall be subject to the approval of the Biddeford City Council or its designee.

2.1.3 **TENANT** shall have the right unless prohibited by any Fixed Base Operator Agreement to purchase or otherwise obtain personal property or services of any nature required by or incident to the operation and maintenance of the **TENANT**'s aircraft from any person, partnership, firm, association or corporation it may choose, provided such person, partnership, firm, association or corporation shall have first obtained written approval from the **CITY** to operate within the airport and shall be in compliance with the Minimum Standards.

2.1.4 Prohibited Uses: **TENANT** shall not use the Premises for the conduct of any non-aeronautical business, for residential or non-aeronautical commercial use, or for non-aeronautical storage or non-aeronautical activities. TENANT shall obtain the written consent of the **CITY** prior to undertaking any commercial activities on the Premises

2.1.5 **TENANT** shall park his or her vehicle only in those areas designated for parking and only when using the Airport, **TENANT**'s hangar or **TENANT**'s aircraft.

2.1.6 All activities hereunder must be conducted pursuant to the Minimum Standards and Rules and Regulations and policies in effect on the date of execution of this Agreement and as may be later amended or revised, and all applicable Federal, State and Local laws and regulations. Prior to undertaking any activities hereunder, **TENANT** shall obtain, at **TENANT**'s own cost and expense, all approvals and permits required under the Minimum Standards, as well as any other required Federal, State or Local approvals and permits.

2.1.7 **TENANT** agrees that it shall not provide any Fixed Base Operator (FBO) services as defined by the **CITY**. **TENANT** may make a written request to perform FBO services, during the Lease term provided, that the Lease is not in default. The **CITY** shall have sole discretion to accept or reject **TENANT's** request. If the City grants **TENANT** request that it conduct FBO service(s)**, TENANT shall** provide such service at its own cost and expense and shall comply will all applicable conditions imposed by the City including the Minimum Standards and Rules and Regulations and policies in effect on the date of this Agreement, as may be later amended or revised, and all applicable Federal, State and Local laws and regulations. **TENANT** recognizes and agrees the **CITY** may revoke such consent at its sole discretion.

ARTICLE 3 - TERM

3.1 INITIAL TERM; RENT COMMENCEMENT DATE

3.1.1 This Lease shall be effective as of the date of execution of this Lease Agreement (the "Lease Commencement Date") for a term of up to thirty-six months (36) months to expire on June 30th of the respective year with such term defined in Subsection 4.1.1.

3.1.2 **TENANT** shall pay annual rent to the **CITY** during the Term of this Lease as provided in Article 4 below beginning on the Lease Commencement Date.

3.2 RENEWAL TERM

TENANT shall have the option to renew this Lease ~~for five (5) additional two (2) year terms~~at expiration through negotiations with the City so long as **TENANT** has been and is continuing in full compliance with all of the terms and conditions herein, and subject to any applicable rent increase as provided in Article 4 below. **TENANT** shall provide **CITY** with no less than One Hundred and Eighty (180) days' notice of its intent to renew prior to expiration of the ~~initial~~ term of this Lease~~ and each subsequent term~~. **CITY** shall renew the Lease pursuant to Section 4.3 below and subject to the continuing compliance by **TENANT** with all the terms and conditions herein. Such renewal shall be negotiated in good faith and be in writing signed by both parties.

3.3 HOLDING OVER

3.3.1 In the event **TENANT** shall continue to occupy the Leased Premises beyond the Lease term or any extension thereof without **CITY**'s written renewal thereof, such holding over shall not constitute a renewal or extension of this Lease, but shall create a tenancy at sufferance which may be terminated at any time by **CITY** or **TENANT** by giving thirty (30) days' written notice to the other party. Any such tenancy at sufferance shall otherwise be on all of the terms and conditions of this Lease Agreement.

ARTICLE 4 - RENTALS, FEES AND RECORDS

4.1 FIXED RENT

4.1.1. Fixed annual rent. **TENANT** agrees to pay **CITY**, a fixed rent of $xxx.xx, with the first payment prorated from the month of execution through the next June 30. The second payment and all subsequent payments shall be calculated from July 1, 20xx through June 30, 20xx.

4.1.2 Rent increases. Beginning on the first day of July 20xx, and annually thereafter, the fixed rent in Section 4.1.1 will be adjusted, based on the increase in the prior 12 months' Consumer Price Index of the U.S. Department of Labor, All Urban Consumers (CPI-U), all items (1982-84 = 100) for the U.S. City Average (Table 10, Northeast Urban areas, Size A – more than 1,500,000), June to June, or comparable successor index for the immediately prior twelve months. In no event shall such adjustment result in a reduction of the prior year's fixed annual rent. Rent shall be invoiced by the City Finance Department in August of each year.

4.2 RENEWAL RENT

In the event **TENANT** wishes to renew this Lease as provided in Section 3.2 above, **TENANT** shall provide

the **CITY** with a notice of intent to renew the lease no less than 180 days prior to renewal of the Lease. Rent for the Renewal Term shall be equal to the then current published general aviation ground rent in effect as of the commencement of the renewal term multiplied by the leased square footage referenced in Section 1.1 or as amended, with any then current inflation adjustment applicable to general aviation ground leases. Upon request, **CITY** shall provide **TENANT** with documentation as to those current rents and adjustments.

4.3 TIME AND PLACE OF PAYMENTS

4.3.1 The foregoing rent shall be payable, on or before September 1 of each year, at the Finance Department, Biddeford City Hall, or such other place as the **CITY** may direct in writing from time to time.

4.3.2 **TENANT** shall make prompt and timely payment, without deduction or setoff, of all rentals, fees, assessments, taxes and other charges due hereunder as the same may from time to time come due.

4.4 DELINQUENT RENTALS

There shall be added to all sums which the **TENANT** is required to pay hereunder (whether as rental or otherwise) to **CITY** and which are unpaid after their due date, a late charge of one and one-half percent (1-1/2%) of the unpaid sum for each full calendar month of delinquency computed as simple interest on a monthly basis which corresponds to eighteen percent (18%) per annum. Any late charge assessed shall be computed from the original due date of the unpaid sum. The rate of the late charge may be changed from time to time pursuant to generally applicable Airport rules and regulations. Any late charge hereunder shall be additional to any interest or other charge imposed by the **CITY** generally, including without limitation, interest on unpaid real or personal property taxes.

ARTICLE 5 - OBLIGATIONS OF TENANT

5.1 NET LEASE

The use and occupancy of the Leased Premises by **TENANT** will be without cost or expense to **CITY** and all rent payable hereunder shall be net to the **CITY.** It shall be the sole responsibility of **TENANT** to maintain, repair and operate the entirety of the Leased Premises and any improvements and facilities constructed thereon at **TENANT**'s sole cost and expense, except as otherwise explicitly stated herein.

5.2 CITY'S CONSENT TO IMPROVEMENTS REQUIRED.

5.2.1 If a hangar has not been previously constructed on the Premises, **TENANT** shall design and construct, at **TENANT**'s own cost and expense, a hangar and associated ramp and apron in accordance with the Minimum Standards. Prior to Planning Board review, the proposed design and materials to be used for such construction shall be subject to the review and approval of the Biddeford Planning Office, which approval shall not be unreasonably withheld or delayed. The Planning Office's review shall include review for compatibility with existing airport design and materials and for compliance with the Airport Master Plan then in effect. **TENANT**'s proposed landscaping plan shall be part of the Planning Office's review, and if required subject to final approval by the Planning Board. **TENANT** shall pay for and obtain all required Federal, State, County and **CITY** permits or approvals prior to such construction, including but not limited to any required Planning Board approval, and Federal Aviation Agency (hereinafter the "FAA") approvals, including filing FAA Form 7460, Notice of Proposed Construction or Alteration. In addition to complying with any applicable **CITY** ordinance, all exterior signage to be placed or erected on the Premises

shall be subject to the prior written approval of the Planning Office. In the event any substantive change is made to the proposed design and materials to be used after all other applicable review, such changes shall be submitted to the Planning Office for review and approval, which approval shall not be unreasonably withheld or delayed.

5.2.2 **TENANT** shall apply for any necessary permits and approvals within 60 days of the execution of this Lease. In the event **TENANT** is unable to obtain any required Federal, State or Local approvals and permits necessary for construction of its project and to begin construction no later than One (1) year from the date of execution of this Lease, each Party reserves the right to terminate this Lease upon no less than thirty (30) days prior written notice, with no further obligations of either Party hereunder. Upon obtaining all approvals and permits required for construction of the project, **TENANT** shall promptly commence and diligently complete such construction. All buildings and associated landscaping shall be completed within one (1) year of permit approvals.

5.2.3 Except as provided above, **TENANT** shall not erect any structures, make any improvements, nor do any construction work on the Premises, without the prior written approval of the Planning Office**,** whose approval shall not be unreasonably withheld or delayed. Alterations, modifications, additions to or replacements of any structure constructed on the Premises are subject to the prior written approval of the Planning Office, which approval shall not be unreasonably withheld or delayed. **TENANT** also shall obtain any necessary Planning Board approval. The requirement for the Planning Office's prior approval shall not apply to any improvements, repairs or replacements which are immediately necessary because of an emergency caused by no fault of **TENANT**, but **TENANT** shall inform the Airport Manager and Planning Office of such emergency work as soon as reasonable practicable.

5.3 MAINTENANCE AND OPERATIONS

5.3.1 All repair, and maintenance of the leased Premises, including, but not limited to, landscaping, paving and snow and ice removal, shall be the responsibility of the **TENANT. TENANT** shall maintain the Premises and all of the fixtures, equipment and personal property which may be located in or upon any part thereof in a reasonably neat, clean and sanitary condition. **TENANT** shall not store snow off the Premises without written approval from the Airport Manager. Snow removal shall not block any aircraft movement areas at any time. **CITY** agrees that it shall maintain, repair and remove snow and ice from the common areas of the Airport.

5.3.2 **CITY** shall have the right to take any action it considers necessary to protect general operation of the Airport and the aerial approaches to the Airport against obstruction. **TENANT**, in the use of the roadways, approaches, taxiways and runways of the aircraft landing field and in the use of the adjacent areas for storage of aircraft, or in the use of their buildings shall abide by and conform to any and all reasonable rules and regulations now existing or as may be hereafter promulgated by the **CITY** and will comply with the requirements of any Federal, State of Local act or regulation which relates to the operation of the Airport, including, but not limited to, abiding, at **TENANT**'s sole cost and expense, with any Federal, State or Local security or certification requirements which relate to its operations at the Airport.

5.3.3 **TENANT** shall take good care of the Premises; shall reasonably maintain the Premises and the improvements, buildings and fixtures thereon in good condition at all times; shall make all repairs and replacements inside and outside, ordinary and extraordinary, structural or otherwise. Such repairs and replacements by **TENANT** shall be in quality and class not inferior to the original material and workmanship. **TENANT** shall pay promptly the costs and expenses of such repairs, replacements and maintenance, and maintain and repair all utility service lines located upon the Leased Premises to the extent

they are used by **TENANT**, except to the extent such maintenance or repair is the obligation of the utility company providing such utility service.

5.3.4 All exterior repairs, replacements and maintenance shall be subject to the prior written approval of the Planning Office, which shall not be unreasonably withheld or delayed, and shall comply with all applicable Federal, State and Local permit requirements as well as any applicable rules and regulations enacted by the **CITY** relating to the Airport.

5.3.5 **TENANT** shall paint, repair, replace or rebuild all or any part of the Premises, interior or exterior, structural or non-structural, as provided above, which may be damaged or destroyed (subject to the provisions of Article 9 below). In such case, **TENANT** shall have the right to apply any available insurance proceeds for such purposes.

5.3.6 **TENANT** shall provide, at its sole cost and expense, the necessary receptacles and arrangements for adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse that results from use of, or activities on, the Premises. **CITY** reserves the right to require **TENANT** to participate in any recycling program which may be imposed by Airport rules or by Local, State or Federal law or regulation. **TENANT** shall defend, indemnify and hold the **CITY** harmless from any cost, expense, claim, fine or liability, including without limitation attorney's fees and court costs, arising out of or resulting from **TENANT**'s storage, collection, transportation or disposal of any trash, garbage or other refuse hereunder. This obligation of defense and indemnification shall remain in full force and effect after termination or expiration of this Lease.

5.3.7 **TENANT** shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse and said receptacles must be stored inside the hangar. Piling boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Lease Premises, shall not be permitted.

5.3.8 To the extent that **TENANT** does not undertake or pay for any of its obligations under this Subsection 5.3 or Subsection 9, **CITY** reserves the right to undertake such obligations or to pay such costs, in its sole discretion, and to charge all costs thereof to **TENANT**. In the event **CITY** undertakes any such obligation or pays such cost hereunder, **TENANT** shall repay the **CITY** all such amounts immediately upon **CITY**'s demand therefor. Nothing herein shall prevent or prohibit the **CITY** from declaring a default hereunder and terminating the Lease as provided in Article 11 below.

5.4 CITY RIGHT TO INSPECT AND REPAIR

5.4.1 **CITY**, through its agents, may come on the Premises and enter the Hangar to inspect for compliance with the requirements of this Lease, Airport rules and regulations, environmental laws, or other applicable legal and regulatory requirements. Such inspection will generally take place during normal business hours and following forty eight (48) hours advance notice to the **TENANT**, but the **CITY** reserves the right to enter the Premises unannounced at any time that the Airport Manager or City determines such entry is necessary for public safety or security reasons or if necessary for Federal or State required compliance inspections. In the event of such unannounced entry, **CITY** shall notify the **TENANT** that such inspection occurred within a reasonable time thereafter. **TENANT** shall provide **CITY** with the ability to access the Premises and the Hangar for such public safety and security purposes.

5.4.2 **CITY** or its designee, at its discretion, shall be the sole judge of the quality of the exterior repair and maintenance; and **TENANT,** upon notice by **CITY** to **TENANT** shall be required to perform whatever repair and maintenance **CITY** deems reasonably necessary. If said repair and maintenance is not

undertaken by **TENANT** within thirty (30) days after receipt of written notice, **CITY** shall have the right to enter upon the Leased Premises and perform the necessary repair and maintenance, the cost of which shall be borne by **TENANT** as additional rent to be paid to **CITY** immediately upon demand therefor. Notwithstanding the foregoing, in the case of a threat to public health or safety, **CITY** may undertake such repairs as it deems reasonably necessary and charge the cost thereto to **TENANT** as additional rent to be paid to **CITY**, without regard to any notice requirement herein. No waste shall be committed or damage done to the Premises, the buildings and equipment located thereon, nor to property of CITY**.**

5.5 UTILITIES

TENANT shall assume and pay for all construction, installation and periodic costs or charges for utility services furnished to **TENANT** during the term hereof; provided, however, that, consistent with applicable laws, regulations or permit requirements, **TENANT** shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and **TENANT** shall pay for any and all service charges incurred there from. The **TENANT** must also meet the requirements of any Airport Storm Water Pollution Prevention Plan and any amendments thereto. **TENANT** agrees to relocate at its expense any utility service if **CITY** determines in its sole discretion that said utility service interferes with present or future airport operations or expansions.

5.6 PAYMENT OF TAXES AND OTHER ASSESSMENTS

5.6.1 **TENANT** agrees to pay promptly when due, and not to permit to become delinquent, levies, taxes, assessments, improvement fees, excises, permit fees, license fees, charges, impositions or burdens of whatsoever kind and nature, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or for any public improvements or utility services (hereinafter "impositions") which, at any time during the term of this Lease Agreement, may be created, levied, assessed, imposed or charged upon or with respect to the Leased Premises or any part thereof, by any Federal, State, County, Municipal or other authority, which imposition would be valid and applicable to **TENANT** irrespective of this section.

5.6.2 **TENANT** acknowledges that **CITY** has the right from time to time to establish and impose reasonable charges and fees for users of the Airport or its facilities, provided that such charges and fees are charged in a uniform and non-discriminatory manner and do not significantly increase the total fixed and percentage rent due hereunder; and provided, further, that **CITY** shall provide **TENANT** with no less than thirty (30) days prior written notice prior to imposing any new fee or charge which directly or indirectly affects **TENANT** or any subtenant of **TENANT.**

5.7 NONDISCRIMINATION; AFFIRMATIVE ACTION

5.7.1 The **TENANT**, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with this Lease of the Premises that, to the extent applicable to **TENANT**'s operations hereunder:

(a) no person on the grounds of race, color, sex, disability, religion, national origin or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subject to, discrimination in the use of said facilities;

(b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services thereon, no person on the grounds of race, color, sex, disability, religion, national origin, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) that the **TENANT** shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

5.8 OBSERVANCE OF LAWS, STATUTES, ORDINANCES, RULES AND REGULATIONS

5.8.1 During the Term hereof and any renewal term, **TENANT** shall, at its own cost and expense, promptly observe and comply with all existing and future applicable laws, ordinances, rules, regulations, licenses, permits, decisions and decrees of the Federal, State, County and CITY Governments (including but not limited to Airport Minimum Standards and Procedures for the Lease and/or Use of Property and Facilities for Aeronautical Activities (Exhibit A), Airport Rules and Regulations (Exhibit B), Airport Hangar Construction and Minimum Specifications (Exhibit C), Airport Storm Water Pollution Prevention Practices (Exhibit D), copies of which **TENANT** acknowledges having received and which are incorporated herein, as well as those of any other government authority having jurisdiction over the Premises or any part thereof, including without limitation all applicable Federal Aviation Administration rules and regulations, whether the same are in force at the commencement of the term of this Agreement or should be enacted in the future.

5.8.2 **TENANT** shall pay all fines, penalties, damages, expenses or costs, including reasonable counsel fees, and shall indemnify and hold the **CITY** harmless therefrom, which may in any manner arise out of or are imposed on **TENANT, CITY** or Airport because of the failure of the **TENANT** to comply with the requirements of this Section 5.8. Without limiting any other right of **CITY** hereunder, **TENANT**'s non-compliance with any provision of this Section 5.8 shall be grounds for termination of this Lease Agreement.

5.9 ENVIRONMENTAL STATUTES

5.9.1 **TENANT** covenants and agrees to comply with all applicable environmental laws, including without limitation all laws governing hazardous substances and all requirements related to storm water discharges and permits, and to provide to **CITY**, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of **TENANT** under environmental laws, or which seek civil, criminal or punitive penalties from **TENANT** for an alleged violation of environmental laws. **TENANT** further agrees to advise the **CITY** in writing as soon as **TENANT** becomes aware of any condition or circumstances that may result in a potential violation of any environmental laws. **TENANT** shall comply with any Storm Water Pollution Prevention Plan and any amendments thereto and shall grant access to the **CITY** for any inspections required by the plan. **TENANT** agrees, at its expense, and at the request of **CITY** when it has a reasonable belief that there is a problem or when required by another governmental entity**,** to permit an environmental audit solely for the benefit of **CITY**, to be conducted by **CITY**. This provision shall not relieve **CITY** from conducting its own environmental audits or taking any other steps necessary to comply with environmental laws.

5.9.2 Without limiting the foregoing, **TENANT** shall not dump, flush, or in any way introduce any hazardous materials or hazardous waste or any other toxic materials upon the Leased Premises nor shall it improperly store, or dispose of any hazardous materials or hazardous waste from any such property, except in full compliance with all applicable laws and regulations. For purposes of this paragraph, the term hazardous materials shall mean inflammable, explosives, radioactive materials and hazardous substances

defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, the Hazardous Conservation and Recovery Act, and the Resources Conservation and Recovery Act, or any similar federal, state or local law, or in any regulations promulgated pursuant thereto, or in any other applicable law. The term "hazardous materials" shall also include any other chemical, material or substance which is or may be regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal, state or other government authority or agency or which, even if not so regulated, may or could pose a hazard to human health and safety.

5.9.3 If in the opinion of **CITY**, there exists any uncorrected violation by **TENANT** of an environmental law which requires, or may require, a cleanup, removal or any condition or other remedial action by **TENANT** under any environmental law, regulation, permit, license, judgment or decree, and such cleanup, removal or other remedial action is not completed, or commenced and diligently pursued, within thirty (30) days from the date of written notice from **CITY** to **TENANT**, the same shall, at the option of **CITY**, constitute an event of default hereunder.

5.9.4 For the purposes of this Section 5.9, the term "environmental law or laws" shall mean all Federal, State and Local laws including statutes, regulations, ordinances, codes, rules, permits, licenses, judgments, decrees, or other governmental restrictions and requirements relating to the environment or any hazardous substance, including but not limited to, the State of Maine environmental protection statutes, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Research Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility, Cleanup and Liability Act of 1980 as amended by the Super Fund Amendments and Reauthorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any State Department of Environmental Protection or successor agency now or anytime hereafter in effect.

5.9.5 **TENANT** shall defend, indemnify and hold the **CITY** harmless from and against any and all damages, costs and expenses, including without limitation, fines, penalties, reasonable attorney's fees, consequential damages and remedial costs and other liabilities arising from claims based upon the environmental condition of the Premises and the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), resulting from (a) **TENANT**'s use of the Premises or operations thereon by or on behalf of **TENAN**T; (b) claims arising out of, related to, or in connection with (i) the release by **TENANT** of any hazardous material into, onto or from the Premises; or (ii) any arrangement by **TENANT** for the treatment, recycling, storage or disposal at any facility owned or operated by any person or entity of a hazardous material which is present on the Premises or has been or may be deposited at, disposed on or released onto the Premises; and (c) claims related to demolition, cleanup or other remedial measure with regard to environmental conditions on or around the Premises by **TENANT;** or (d) claims resulting from any act or omission of **TENANT** in violation of any Federal, State or Local environmental laws or regulations with respect to **TENANT**'s use of the Leased Premises.

5.9.6 **CITY** shall give to **TENANT** prompt and reasonable notice of any such claim or action, and **TENANT** shall have the right to investigate, compromise, and defend the same.

5.9.7 **TENANT,** as used in this Section 5.9, shall mean and include the named **TENANT,** or anyone for whose act **TENANT** may be legally liable.

5.9.8 The Terms of this Section 5.9 shall expressly survive the expiration or earlier termination of this Lease Agreement, including without limitation the terms of Subsection 5.9.5.

5.10 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Lease and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 6 - OBLIGATIONS OF CITY

6.1 OPERATION AS A MUNICIPAL AIRPORT

CITY agrees that at all times during the term of this Lease it will operate and maintain the Airport as a municipal airport. If **CITY** permanently ceases operations of the Airport during the term of this Lease, **CITY** will pay **TENANT** the appraised value of any building constructed on the Premises in accordance with the terms of this Lease as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

6.2 INGRESS AND EGRESS

Upon paying the rent hereunder and performing the covenants of this Lease, **TENANT** shall have the right of ingress to and egress from the Premises for the **TENANT**, over the roadway provided by **CITY** serving the Premises. **TENANT's** access shall be in common with other users and shall be subject to applicable security requirements and to possible episodic interruptions due to security or safety concerns. **CITY**'s roadway shall be used jointly with other tenants at the Airport, and **TENANT** shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as **CITY** deems necessary. **TENANT** shall have the right to bring utilities to the Premises at its own cost and expense and in accord with all applicable laws, rules and regulations for the extension and hookup of such utilities. **TENANT** shall be responsible for paying for all hookup and periodic usage charges for such utilities and **CITY** shall have no responsibility therefor.

ARTICLE 7 - CITY'S RESERVATIONS

7.1 IMPROVEMENT, RELOCATION OR REMOVAL OF STRUCTURES

7.1.1 **CITY**, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport, including the right to remove or relocate any structure on the Airport, as it sees fit, and to take any action it considers necessary to protect the approaches of the Airport against obstructions, together with the right to prevent **TENANT** from erecting or permitting to be erected, any buildings or other structure on the Airport which, in the opinion of **CITY,** would limit the usefulness of the Airport or constitute a hazard to aircraft.

7.1.2 In the event **CITY** requires the use of the Premises for expansion, improvement, or development of the Airport, **CITY** reserves the right, on six (6) months' notice, to relocate or replace **TENANT**'s improvements in substantially similar form at another generally comparable location on the Airport. The reasonable costs of such relocation or replacement shall be paid or reimbursed, as appropriate, by **CITY**. Alternatively, **CITY** reserves the right to terminate this Lease. In that event, **CITY** will pay **TENANT** the appraised value of any building constructed on the premises as determined by the City Tax Assessor.

Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

7.2 WAR OR NATIONAL EMERGENCY

During any time of war or national emergency, **CITY** shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease or agreement is executed, the provisions of this Lease Agreement insofar as they are inconsistent with the lease or agreement with the Government shall be suspended or terminated, and in that event, a just and proportionate part of the rent hereunder shall be abated. **CITY** shall have no further obligations financial or otherwise to the **TENANT**.

ARTICLE 8 - INDEMNITY AND INSURANCE

8.1 INDEMNIFICATION

8.1.1 To the fullest extent permitted by law, **TENANT** agrees to defend, indemnify, and save forever harmless the **CITY**, its officers, agents and employees, from and against all claims and actions and all reasonable expenses incidental to the investigation and defense thereof, based on or arising out of claims for damages or injuries to any person or property, including wrongful death and loss of use of property, and arising, in whole or in part, out of **TENANT**'s use or occupancy of the Leased Premises; **CITY** shall give to **TENANT** prompt and reasonable notice of any such claims or actions, and **TENANT** shall have the right to investigate, compromise and defend the same; and provided further, that **TENANT** shall not be liable for any claims, actions, injury, damages or losses to the extent they are occasioned by the negligent or intentional act of **CITY**, its officers, agents or employees. **TENANT** as used in this Subsection 8.1.1 and in Section 8.2 shall mean and include the named **TENANT**, and anyone for whose act **TENANT** may be legally liable.

8.1.2 **TENANT** shall, at its own cost and expense defend any and all suits or actions, just or unjust, which may be brought against **CITY** or in which **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. **CITY** shall have the right to participate in such suits, and no action shall be settled without prior consent of the **CITY**. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to the **CITY** that would otherwise exist. The extent of this indemnity provision shall not be limited by any requirement of insurance contained herein.

8.1.3 If **TENANT** is required to obtain workers compensation coverage under Maine law, **TENANT** agrees to procure and maintain throughout the term of this Lease Agreement, an endorsement to its Workers Compensation coverage waiving any and all rights of subrogation against CITY**.**

8.1.4 The indemnity and hold harmless provision of Section 8.1 includes indemnity against all reasonable expenses, fees, costs and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the **CITY.** The provisions of this Article 8 and the obligations of **TENANT** hereunder shall survive the termination or expiration of this Lease.

8.1.5 In no case shall **CITY** be liable to **TENANT** or to any third party for any incidental, indirect, consequential, special or punitive damages arising out of or relating to this Lease.

8.2 LIEN INDEMNIFICATION

Throughout the term of this Lease, **TENANT** shall not cause nor permit any lien against the Leased Premises, any portion thereof or any City property wherever located, or any improvements thereto, to arise out of or accrue from any action, omission or use thereof by **TENANT**. **TENANT** may in good faith, however, contest the validity of any alleged lien. **TENANT** shall defend and indemnify and hold the **CITY** harmless from any cost, expense, attorney's fees or other liability arising out of or resulting from any such lien or liens, and shall promptly discharge such lien or stay or prevent its foreclosure by bond or other appropriate legal procedure that is acceptable to the **CITY**. So long as **TENANT** defends **CITY** in any action concerning any such lien, **TENANT** shall not be required to post a bond with respect to such lien prior to the commencement of a foreclosure action against the **CITY.** This provision shall survive termination or expiration of this Lease Agreement. **CITY** may, at its sole discretion, pay any amounts secured by any such lien and in such case, **TENANT** shall repay all such payments to **CITY** immediately upon **CITY**'s demand therefor.

8.3 INSURANCE

8.3.1 Without expense to the **CITY**, and with no lapse in coverage, **TENANT** shall obtain and cause to be kept in force at all times during the term of this Agreement, insurance required by the Minimum Standards for a category 1X FBO – Aircraft Tie Down and Storage.

8.3.2 **TENANT** and the **CITY** understand and agree that the minimum limits of the insurance herein required may become inadequate during the term of this Agreement and **CITY** reserves the right to amend the minimums as needed throughout the term of this Lease. **TENANT** agrees that it will increase such minimum limits upon receipt of notice in writing from the CITY.

8.3.4 In the event any construction or renovation on the Premises is approved by the **CITY**, **TENANT** shall procure and maintain, or cause to be procured and maintained, comprehensive general liability insurance covering bodily injury and property damage, including special hazards insurance, in such amount as the **CIT**Y may reasonably require, covering such construction. Said insurance shall protect **TENANT** and **CITY** from any claims or damages arising out of or resulting from such construction or renovations, and shall name the **CITY** as an additional insured thereon. In addition to the foregoing, **TENANT** shall cause to be procured and maintained automobile liability in such amounts as the CITY may reasonably require.

8.3.5 All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy affecting the Premises shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Airport Manager. Each liability policy required to be obtained hereunder shall name the **CITY** as an additional insured thereunder and shall be on an occurrence basis. All policies required hereunder shall be primary to any insurance or self-insurance that **CITY** may maintain for its own benefit.

8.3.6 Certificates or other evidence of insurance coverage required of **TENANT** in this Article, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the **CITY** prior to the execution of this Lease Agreement and annually thereafter. **TENANT** shall at all times during the term of this Lease Agreement provide **CITY** with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier affecting the Leased Premises. Insurer shall provide no less than thirty (30) days written notice prior to cancellation, reduction in coverage or expiration of each policy required hereunder, said notice to be sent to the Airport Manager. It shall be **TENANT**'s responsibility throughout the term of this Lease to provide or have provided to the

Airport Manager renewal insurance certificates with no lapse in coverage prior to such renewal.

8.3.7 If at any time **TENANT** should fail either to obtain or to maintain in force the insurance required herein, the **CITY** shall notify **TENANT** of its intention to purchase such insurance for **TENANT**'s account; and, if **TENANT** has not delivered evidence of insurance to the Airport Manager prior to the date on which the current insurance expires, the **CITY** may effect such insurance by taking out policies in companies satisfactory to the **CITY**. Such insurance shall be in amounts no greater than those stipulated herein or as may be in effect from time-to-time. The amount of the premiums for such insurance obtained by the **CITY** shall be payable by **TENANT** as additional rental immediately upon demand therefor by CITY.

ARTICLE 9 - DESTRUCTION OF PREMISES

9.1 In the event the buildings and improvements on the Premises, or any substantial part thereof, should be damaged or destroyed by an insured casualty, such buildings or improvements shall be repaired or rebuilt by **TENANT** and paid for with **TENANT**'s insurance proceeds; and, if such proceeds are insufficient for such purposes **TENANT** shall pay the deficiency, unless otherwise agreed as provided herein. Repair or restoration of the buildings and improvements shall be in accordance with the original Plans and Specifications, together with alterations or modifications made or agreed upon prior to the casualty, unless the Parties otherwise mutually agree to new or modified plans.

9.2 Notwithstanding the foregoing, during the term of this Agreement or any renewal thereof, in the event the buildings and improvements on the Premises, or a substantial part thereof, should be destroyed, then **TENANT** may terminate this Agreement by written notice to **CITY** within ninety (90) days of the casualty and all obligations of each party hereunder shall terminate. In the event of such termination, **TENANT** shall return the Premises to **CITY** restored to a clean and usable condition, with removal of all personal and real property as provided in Article 12 below. If **TENANT** does not provide notice of such termination, **TENANT** shall proceed diligently to rebuild and restore the Premises and the buildings and improvements thereon in accord with the original plans and specifications or such other plans and specifications as may be approved by the Planning Office and, if required, the Planning Board.

ARTICLE 10 - CONDEMNATION

10.1 **CITY** agrees to give prompt written notice to **TENANT** of any eminent domain, condemnation, compulsory acquisition or like proceedings by any competent authority which might result in a partial or full taking of the Leased Premises and of which **CITY** has actual notice. Each party may file and prosecute their respective claims for an award, but all awards and payments on account of a taking shall be held in trust by the recipient to be distributed according to the respective interests of the parties, i.e., payments allocable to the value of the Leased Premises and the residual interest in the Leased Premises shall be paid to **CITY** and payments allocable to **TENANT**'s leasehold interest and improvements shall be paid to **TENANT.**

10.2 In the case of a taking (other than for temporary use) of the fee of the entire Leased Premises, or so substantial a part of the Leased Premises that such taking materially impairs **TENANT**'s conduct of its operations at or from the Premises, this Agreement shall terminate as of the effective date of such taking. In the case of a temporary taking (including without limitation a temporary taking as a result of relocation under 7.1.2 above), this Agreement shall be suspended during such time as **TENANT** is unable to use the Leasehold Premises for the uses provided herein. In the case of a temporary taking which does not permit **TENANT** to use the Premises as provided herein for a period of ninety (90) days or more, at the conclusion of said ninety (90) day period, **TENANT** may, in its discretion, give **CITY** a thirty (30) day notice of its intent to terminate the Lease Agreement. This Lease shall terminate at the end of the thirty (30) day notice

period, with no further obligation by either party. **TENANT**'s obligation to pay rent hereunder shall be suspended during any temporary taking during which **TENANT** is unable to conduct its operations at or from the Leased Premises; provided, however, to the extent **TENANT** is able to continue its operations hereunder from the Premises or from an alternative site, the **TENANT** shall continue to pay the fixed rent based upon the square footage then available to **TENANT**.

ARTICLE 11 - TERMINATION OF LEASE

11.1 **CITY**'s Right to Terminate. The **CITY**, in addition to any other rights to which it may be entitled by law, acting by and through its **CITY MANAGER**, may declare this Lease Agreement terminated in its entirety, subject to and in the manner provided herein, upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the Premises:

(a) To the extent permitted by law, the filing by **TENANT** of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of **TENANT**'s assets;

(b) To the extent permitted by law, the entry of an order for relief against the **TENANT,** by a court of applicable jurisdiction, pursuant to any involuntary bankruptcy petition filed against the **TENANT**;

(c) To the extent permitted by law, the taking of jurisdiction by a court of competent jurisdiction of **TENANT** or its assets, pursuant to proceedings brought under the provisions of any Federal reorganization act;

(d) To the extent permitted by law, the appointment of a receiver or trustee of **TENANT**'s assets by a court of competent jurisdiction or a voluntary agreement with TENANT's creditors;

(e) The voluntary abandonment by **TENANT** of the Leased Premises (and the failure to pay rent thereon) for a period in excess of sixty (60) days; or

(f) The material breach by **TENANT** of any of the covenants or agreements herein contained and not cured as provided below. A material breach shall include, but not be limited to, the failure of the **TENANT** to comply with the Minimum Standards, **TENANT**'s use of the premises in a manner prohibited under this Lease, or the failure of **TENANT** to pay any rental, fee, or charge required to be paid by the terms of this Lease Agreement when the same is due and payable.

11.2 **TENANT**'s Right to Terminate. **TENANT**, in addition to any other right given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the happening of any one of the following events:

(a) The issuance by any court of competent jurisdiction of an injunction which materially prevents or restrains the use of the Airport or the Leased Premises for the purposes permitted under this Lease Agreement and such injunction remaining in force for a period of at least ninety (90) days after the date of receipt of written notice of such injunction by CITY**;**

(b) Subject to **TENANT**'s obligation to restore or repair the Premises under Article 9 above, the inability of **TENANT** to use said Leased Premises and Airport facilities due to war, earthquake or other casualty for a longer period than ninety (90) days after the date of receipt of written notice of such inability from **TENANT;**

(c) Any action of any governmental authority, board, agency or officer having jurisdiction thereof preventing **TENANT** from conducting the activities permitted hereunder at or on the Leased Premises by a taking, directly or indirectly, in whole or a substantial part, of the Leased Premises for a period of at least ninety (90) days after receipt of written notice of such action by **CITY**, subject to Article 10 above**;**

(d) The taking, through the process of eminent domain, of all or a substantial part of the Premises leased by **TENANT**, subject to Article 10 above**;** or

(e) The material breach by **CITY** of any of the covenants or agreements herein contained and not cured as provided below.

11.3 Default by **CITY.** In the event of any default by **CITY** of any of its obligations under this Lease Agreement, **TENANT** may declare the **CITY** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to the **CITY MANAGER** addressed and copied as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. No termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **TENANT** to **CITY,** and the City shall not have cured such default during such thirty (30) day period**.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **CITY** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable.

11.4 Default by **TENANT.** In the event of any default by **TENANT** of any of its obligations under this Lease Agreement, **CITY** may declare the **TENANT** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to **TENANT** addressed as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. Except as provided otherwise in this Lease Agreement whereby no opportunity to cure is required, no termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **CITY** to **TENANT,** and such default shall not have been cured during such thirty (30) day period by the **TENANT.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **TENANT** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable. In the event **TENANT** knew or should have known of the default prior to receipt of **CITY** notice, said thirty (30) day period to cure shall be deemed to begin as of the date **TENANT** knew or should have known of said default. Notwithstanding the foregoing, if **TENANT** should fail to pay any sum, including without limitation any rental, tax, assessment or use fee or charge, as required hereunder, **TENANT** shall have ten (10) days from receipt of **CITY** notice of default to cure said default, and if not so cured, termination of this Lease Agreement shall be effective as of the eleventh day following said receipt of notice.

ARTICLE 12 - RIGHTS UPON TERMINATION

12.1 **TENANT** agrees that upon the expiration of the Initial Term of this Lease or sooner termination thereof, the Leased Premises will be promptly delivered to **CITY. TENANT** shall remove all buildings, fixtures and personal property located on the Leased Premises within thirty (30) days of the date of expiration or termination and repair any damage resulting from such removal and restore the Premises, all at **TENANT**'s cost and expense. In lieu of removal, **TENANT** may, at its option, offer to transfer title,

through execution of appropriate documents, to some or all of the buildings and improvements on the Premises to **CITY** at no cost to **CITY** and in such case, **TENANT** shall provide **CITY** of notice of such offer at least ninety (90) days prior to termination of this Agreement. **CITY** shall notify **TENANT** in writing within the ninety (90) day period whether it accepts or rejects said offer. In the event CITY rejects the offer, **TENANT** shall be obligated to remove the buildings and improvement from the Premises within thirty (30) days of expiration or termination as provided herein. Upon the termination or expiration of the Initial Term of this Lease Agreement, all rights of **TENANT** hereunder to possession of the Premises under this Agreement shall immediately terminate.

12.2 If the **TENANT** elects, and **CITY** agrees, to enter into a Renewal of this Agreement, at expiration or termination of any Renewal term, at **CITY**'s option, the **CITY** may take title or require removal of improvements, alterations and additions made by **TENANT** in the same manner and on the same terms as provided in Section 12.1 at termination or expiration of the Initial Term.

12.3 Unless **CITY** has agreed in writing to accept title to buildings and improvements under Section 12.1 above, in the event **TENANT** fails to remove the buildings, fixtures or personal property from the Premises within thirty (30) days of termination or expiration of this Lease, title to said buildings, fixtures and personal property shall vest in **CITY** on the thirty-first (31st) day after the date of such termination or expiration, and **CITY** may dispose of such buildings, fixtures and personal property as it sees fit, in **CITY** discretion, and retain any proceeds from such disposal. In the event **CITY** incurs a net loss for such disposal, **TENANT** shall be liable to **CITY** for reimbursement of such loss.

ARTICLE 13 - ASSIGNMENT AND SUBLETTING

13.1 The **TENANT** shall not assign, rent, sublease, sell, convey, mortgage, encumber or otherwise transfer in any manner all or any part of the Leased Premises or the improvements located thereon or any of the privileges granted to **TENANT** hereunder, without the prior written consent of the **CITY**, which approval shall be at the **CITY**'s sole discretion. **CITY** reserves the right to review the form of all such proposed transfers. **TENANT** shall notify **CITY** annually of the identity of all subleases of any portion of the Premises or shall provide such information upon **CITY**'s request. **CITY** further reserves the right to place such reasonable conditions upon any such transfer as it deems to be in the best interest of the CITY.

In the event of any approved transfer, sublease or assignment, **TENANT** shall continue to be liable to **CITY** for all rent, fees, taxes, assessments and all other obligations under this Lease for which it is liable hereunder. All approved transferees, subleases or assignees shall be required to conform to all of the terms and conditions of this Lease Agreement, including without limitation, all insurance requirements hereunder. Additionally, all approved transferees, subleases or assignees shall be required to register their aircraft as "based" at the Biddeford Municipal Airport (B19) if such aircraft will be located at the Biddeford Municipal Airport for a cumulative period of One Hundred and Eighty (180) days or more, within any twelve month period.

13.2 Any violation of the terms of this Article by any person at or on the Premises, or conducting any activities from, at or on the Premises, shall be deemed a breach of this Lease Agreement and, at **CITY's** option, may result in termination of this Lease Agreement pursuant to Article 11.

13.3 Any sale or transfer, whether to one or more persons or entities and whether at one or more different times, of a total of fifty percent (50%) or more of the ownership interest in any corporation, partnership, limited liability company or other entity which is then the legal tenant under this Lease Agreement shall be deemed an assignment of this Lease Agreement within the meaning of this Article 13, for the first 30 days or until a new lease is signed, whichever occurs first. The new owner(s), will be required to enter into a

new Lease Agreement with the City for the leased premises within the first 30 days of taking ownership.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 NON-INTERFERENCE WITH OPERATION OF AIRPORT

14.1.1 **TENANT,** by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard or interfere with or endanger general operations at the Airport. In the event the aforesaid covenant is breached, the **CITY** reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the **TENANT**, and reimbursement for such **CITY** expense shall be paid by **TENANT** immediately upon **CITY**'s demand therefor.

14.1.2 **CITY** hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport. In addition, **TENANT** acknowledges that because of the close location of the Premises to the "airfield operations area", that noise, vibration, fumes, debris and other interference with the Premises will be caused by Airport operations. **TENANT** hereby waives any and all rights and remedies against **CITY** arising out of any noise, vibration, fumes, debris and/or interference that is caused by the operation of the Airport.

14.2 QUIET ENJOYMENT

The **CITY** agrees that on payment of the rentals and fees hereunder, and subject to performance and compliance by **TENANT** of the covenants, conditions and agreement on its part to be performed and complied with herein, **TENANT** shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities, and of the Leased Premises, to the extent granted herein.

14.3 AGREEMENTS WITH FEDERAL GOVERNMENT

This Lease Agreement is subject and subordinate to the provisions of any agreements that have been or shall be made between the **CITY** and the United States of America relative to the operation or maintenance of the Airport, the execution of which have been or shall be required as a condition to the expenditure of Federal funds for the extension, expansion, improvement, maintenance or development of the Airport. **TENANT** agrees to comply with all applicable laws and regulations and to modify or amend this Agreement as required to comply with such applicable laws and regulations.

14.4 LICENSE FEES AND PERMITS

TENANT shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or Local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

14.5 SECURITY AGREEMENT

TENANT, at its own cost and expense, shall be responsible for ensuring that all building entrances, exits, and any access to the Leased Premises are in compliance with all applicable Airport Security Programs. It

shall be **TENANT**'s responsibility, at its own cost and expense, to be in compliance with all existing and future security requirements of the Department of Transportation, Transportation Security Administration, and/or the Airport Security Program, and **TENANT** shall hold the **CITY** harmless and shall pay any fines, penalties, cost or expenses incurred by **CITY** or by **TENANT** and arising out of any breach of said security requirements by **TENANT,** its invitees, subtenants, or anyone for whose act **TENANT** may be liable.

14.6 PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of the Lease.

14.7 INTERPRETATIONS

The laws of the State of Maine shall govern the validity, interpretation, performance and enforcement of this Agreement. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires. Unless the context specifically provides otherwise, "person" wherever used in this Lease shall include, without limitation, an individual, a sole proprietor, a corporation, a partnership or any legal entity authorized by law.

14.8 DISPUTE RESOLUTION

All disputes hereunder which are not mutually resolved shall be resolved by trial without a jury in the Courts of York County, State of Maine. TENANT hereby agrees to waive any rights which **TENANT** may have to a trial by jury. Notwithstanding the foregoing, **TENANT** and **CITY** may mutually agree to submit any dispute hereunder to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

14.9 NOTICES

Except as otherwise provided in Article 11 for certified mail or hand delivery of notice of default, whenever any notice or payment is required by this Lease Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to, or hand-delivered to:

CITY:

City Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

Airport Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

TENANT:

Name
Xxxx, xxxxx Street
City, State

or such place as either party shall designate in writing.

14.10 ENTIRE AGREEMENT

This Lease Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties and all other representations or statements heretofore made, verbal or written, are merged herein, and this Lease Agreement may be amended only in a writing executed by duly authorized representatives of the parties hereto.

14.11 NON-WAIVER

No waiver by either Party of any of the terms, covenants, and conditions hereof to be performed kept and observed by the other Party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept, and observed by the other party. The receipt by **CITY** of any rent with knowledge of any breach of this Lease Agreement by **TENANT** or of any default by **TENANT** in the observance or performance of any of the terms, covenants or conditions of this Lease Agreement shall not be deemed to be a waiver of any provision of this Lease Agreement. If any action by **TENANT** shall require the consent or approval of **CITY, CITY**'s consent to, or approval of, such action on any one occasion shall not be deemed a consent to, or approval of, said action on any subsequent occasion, or consent to, or approval of, any other action on the same or any subsequent occasion.

14.12 REMEDIES CUMULATIVE

All rights and remedies of the parties herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by either party of any remedy provided herein or allowed by law shall not be to the exclusion of any other remedy.

14.13 TIME OF ESSENCE

Time is and shall be of the essence in respect to the performance of each and every provision of this Lease Agreement.

14.14 FORCE MAJEURE

Neither the **CITY** nor **TENANT** shall be deemed in violation of this Lease Agreement if either should be prevented from performing any of the obligations hereunder (other than any obligations to make payments) by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control. The party claiming force majeure shall give prompt written notice to the other party of such event or events, and shall resume performance promptly upon the conclusion of the event or events preventing its performance.

14.15 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be

affected thereby, and each term, covenant, condition, and provision of this Lease Agreement shall be valid and be enforced to the fullest extent permitted by law.

14.16 MEMORANDUM OF LEASE

Either party at the request of the other, shall execute, acknowledge and deliver for recording, a memorandum or short form lease prepared by the requesting party; provided, however, that the relations between **CITY** and **TENANT** shall be governed solely by the provisions of this Lease Agreement and not by any such memorandum or short form lease which may be executed, delivered and recorded.

14.17 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations in this Lease Agreement shall extend to and bind the legal representatives, heirs, successors, and any permitted assigns of the respective parties hereto. Nothing herein shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of **TENANT** in violation of any other provisions contained in this Lease Agreement.

14.18 ASSIGNMENT TO CITY SUCCESSOR IN INTEREST

The **CITY** may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed by their duly authorized representatives as of the date first above mentioned at Biddeford, Maine.

WITNESS	**CITY OF BIDDEFORD, MAINE**
_____	_____
By: Airport Manager	By: City Manager
	TENANT
_____	_____
By:	By:

Memorandum

TO:	Council President Liam LaFontain
From:	Woodman Edmands, P.A.
Date:	April 30, 2025
RE:	Biddeford Airport Leases

This memo is in relation to your formal request to review the airport leases that the City of Biddeford maintains with the various rental tenants at the Biddeford Municipal Airport. In addition, it analyses the questions proposed by Council President Liam LaFountain regarding the leases.

Attached to this Memo as Exhibit A is a breakdown of the current leases, their end dates, and their renewal timelines. Each of the leases is based on one of three forms that existed during the adoption, and the Exhibit breaks down which form is used. For the most part, each of the three forms are quite similar, with some minor differences in the provisions throughout.

As an executive summary, our opinion is that the leases remain valid and in effect against the City. Our best course of action will be to abide strictly by the terms of the leases moving forward, in order to bring the terms into more favorable ones for the City, such as through the CPI rent adjustments, and begin the process of preparing a new form lease to have ready to enter into once the current leases expire.

Where the leases properly authorized under City Ordinance?

The City Ordinance contained in Section 62-6 states that "The committee on Capital Projects shall, subject to the approval of the Mayor and Council, have the authority to recommend the leasing of any lot or part thereof owned by the City not already under lease… Such lease shall be recommended to the full Council upon such terms and conditions as the committee deems expedient and shall be for a period not to exceed 15 years, with on option to renew for a ten-year period."

A review of the Capital Projects minutes and agendas, and a review of the City Council minutes and Agendas around the times the leases were entered and did not reveal any approvals granted by those bodies. Although there may be occurrences where some leases were properly authorized and others were not, we would argue that it is a safe assumption that many, if not all, of the leases were not authorized pursuant to the City Ordinance requiring approval of the Mayor and Council, nor any input from the Capital Projects Committee.

Has the City's Conduct (accepting rent) legally ratified these leases?

Whether the City's conduct has ratified the leases is not necessarily a straightforward answer and rather is a question of fact[1]. At the very least, the collection of rents by the City from the Tenants of the various hangars has created a landlord-tenant relationship between the parties and ratified the tenancy. The City will face difficulties in challenging a ratification of the leases due to an estoppel claim[2], and may not only have ratified the leases, but may be estopped from claiming any invalidity of the leases due to their actions. Equitable estoppel occurs to prevent a party from asserting a right or claim, if their actions or words have led another party to reasonably believe that right or claim would not be asserted, and the other party has detrimentally relied on such a belief.

In particular, when referring to the City's actions, we note the collection of rent, the entering of new Ground Lease Agreements, the subsequent collection of rent on those Leases, and the entering of the Leases into the various Budget Books for the City. These actions likely amount to ratification of not only the tenancy, but of the lease itself, and it is our opinion that the City would be bound by the terms of the leases and estopped from any denial thereof.

Are any of the leases voidable or otherwise subject to challenge?

It would be our legal opinion that none of the leases are voidable or otherwise subject to any challenges. As noted above, since the City would be estopped from challenging or voiding the leases, as the City has been acting like the leases are valid and have been collecting rent from the tenants[3].

I believe the best course of action the City may have for voiding the leases would be on the renewal of them. Under the terms of the leases, one renewal term of 10 years is allowed, if notice is provided to the City in the proper timeframe (180 days prior to the expiration of the lease). As the Council President notes, this is a unilateral extension of the lease, but it is only for one renewal term. With that being said, if any tenants fail to provide the proper 180 days notice, or have failed to provide the 180 day notice, I would argue that the City may have grounds to deny the extension of the lease[4]. Many of the leases initial terms end on June 30, 2028, and many of the leases were supposed to end on June 30, 2024 or otherwise are currently in their 10 year renewal timeframe. There may be some room to challenge that the failure of the tenant to

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[1] *Matrix Fin. Servs. Corp. v. Albert,* 2015 Me. Super. LEXIS 118, which quotes the Restatement (Third) of Agency, § 4.02 cmt.c. "Whether a principal's actions are sufficient to constitute ratification is an issue of fact."
[2] Under *Auburn v. Desgrosseilliers*, 578 A.2d 712, "...equitable estoppel may be applied to the activities of a government official or agency in the discharge of government functions."
[3] We note in your email that rents may not have even been collected last year. If there is any tenant who has signed a lease and never paid any rent, there may be some more room for argument here on that particular lease.
[4] *Medomak Canning Co. v. York*, 143 Me. 190, "Where the lessee has the right of renewal "Provided he gives notice at or before a specified time to the lessor of his intention to exercise the privilege of renewal, it is ordinarily held that the giving of notice is a condition precedent which must be complied with within the stipulated time, and that, in the absence of special circumstances...the right to renewal is lost if the notice is not given..."

properly provide notice to renew their lease, especially for the leases which ended in June 30, 2024 that may not have paid rent for the year yet, were never renewed, but this could be a difficult argument that would certainly be contested by the Tenants.

What options does the City have to renegotiate, restructure, or terminate these leases?

The previous section summarizes responses to these questions, however we will expand on some other options below.

The City and the Tenant could renegotiate the leases, sign a document dismissing the old lease, and entering into a new lease on different terms. However, this would have to be by mutual agreement between the City and the Tenant, and there is nothing that would explicitly require the tenant to negotiate a new lease.

In terms of restricting the leases, since all of the hangars are currently rented and will be up for renewal/new tenants at around the same times, it may be worthwhile to begin the process of adopting a new lease form for future tenancies to ensure the best possible terms for the City. This may allow the time to get the proper inputs from the City Council and the public to ensure that the new form lease is in the best interest of the City, and conforms to the terms that the City wishes to implement.

The City does possess some situations in which it can terminate the leases, one of which would be the non-payment of any rental amounts owed. However, this provision is conditioned on providing notice to the Tenant of their failure to pay and providing the opportunity for them to cure the rent defect. It may be worthwhile to ensure that all tenants are properly provided notice of any rent not paid and the CPI Adjusted inflations of the rent as to where they will be, as this may provide either some room to renegotiate the leases[5]. Any tenants which fail to cure the rent defect may be subject to having their leases terminated subject to the provisions of Article 11 of each lease.

In addition, the City does have some leeway in modifying the rental amounts at the time of renewal of the leases. Under Article 3.2 of the leases, it states that a Renewal Term is subject to the renegotiation of the rent under Article 4, or any applicable rent increase provided in Article 4[6]. Under Article 4, the Renewal Rent for each of the contracts is equal to the then current general aviation ground rent in effect as of the commencement of the renewal term, with any then current inflation adjustment applicable to general aviation ground leases. As a result, many of the leases which are up for renewal in the coming years can be brought to a more updated rental amount when renewed. For any previously renewed units which have not paid rent, there may be some negotiation in their renewed rent being increased, but I would argue that it is better

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[5] This is to say that if the Tenants have been enjoying the privilege of the leases not being properly enforced per the exact language of the leases, beginning to do so and providing the proper notices may open more options for the city.

[6] The exact language differs between the various lease agreement forms.

to look at these leases on a case-by-case basis to determine the specific facts that may determine a proper outcome.

At the very least, the City should begin ensuring that all CPI adjustments are being made going forward. We did not find any relevant case law which supports a claim that missed CPI adjustments can be demanded moving forward. The Leases note that these increases had to be performed annually based on the prior 12 months CPI adjustment, and also notes that the failure of the City to exercise a right under the Lease does not waive the ability to exercise that right in the future. We may have the proper backing in the contract language to impose some additional rental increases for missed ones, but it would almost certainly be opposed by most, if not all, of the affected Tenants.

Would pursuing back bill for missed CPI adjustments or rent weaken any potential argument that the leases were improperly authorized or voidable?

As a short answer, it is possible for the City to make an argument for the enforcement of the lease and an argument for the invalidity of the lease or voidability of it. Assuming that an argument about the lease being void was brought, there would be nothing against or weakening of the City's argument that, as a back up in the instance the lease is found to not be void, that there are rent adjustments that were missed.

In addition, as noted above, pursuing back billing for missed CPI adjustments, especially the notion of back-billing for amounts that should have been paid under an increase and never were, would be a very difficult action to bring. We did not find any relevant case law where a non-residential tenant was back-charged for missed rent increases, and our concern would be that this argument may not hold up in a Court compared to the arguments that the Tenants may have available to them, such as estoppel or ratification.

EXHIBIT A

Hangar	Tenant	Lease End	Lease Renewal	Lease Version
1	Marcel Bertrand	June 30, 2028	June 30, 2038	March 1, 2018
2	Joel Keller[1]	October 15, 2024	October 15, 2035	February 3, 2009
3	Marcel Bertrand	June 30, 2024	June 30, 2034	February 3, 2009
4	Paul B. Lariviere	June 30, 2024	June 30, 2034	February 3, 2009
5A	Eldon L. Morrison and Ward Hand, DEW LLC	June 12, 2022	June 12, 2032	February 1, 2007
5B	Eldon L. Morrison and Ward Hand, DEW LLC	June 12, 2022	June 12, 2032	February 1, 2007
5C	Eldon Morrison and Ward Hand	June 30, 2028	June 30, 2038	March 1, 2018
5D	Steven & Louise Morris	June 30, 2024	June 20, 2038	February 3, 2009
5E	Roger A. Cross	June 30, 2028	June 30, 2038	March 1, 2018
5F	Lannie McGahey	June 30, 2024	June 30, 2034	February 3, 2009
5G	GAL-AIR, LLC	June 30, 2024	June 30, 2034	February 3, 2009
5H	Alan E. Godburn	June 30, 2024	June 30, 2034	February 3, 2009
5I	Richard H. Pate	June 30, 2028	June 30, 2038	March 1, 2018
6A	43 North LLC	June 30, 2033	June 30, 2043	March 1, 2018
6B	Donald P. Saucier	November 22, 2025	November 22, 2035	February 3, 2009
6C	Great Moose Aviation, LLC (Records indicate a sale of some sort, see footnote [2])	May 30, 2023	May 30, 2033	February 1, 2007
6D	Richard J. Rousseau	June 30, 2028	June 30, 2038	March 1, 2018

[1] This lease was scanned with only every other page. All even pages are missing from the document.
[2] The file indicates there was a lease with RJ Aviation, Inc. prior to the Great Moose Aviation lease. Record also indicates a bill of sale between RJ Aviation, Inc. and Great Moose Aviation for an Aircraft Hangar, per a Hangar Purchase Agreement, which was not attached to the record.

6E	John Apte	November 8, 2025	November 8, 2035	February 3, 2009
6F	Michael Glaude and Jeanne Glaude[3]	N/A	N/A	N/A
7A	Henry & Roberta Morin	June 30, 2024	June 30, 2034	February 3, 2009
7B	Thomas Bryand	June 30, 2024	June 30, 2034	February 3, 2009
7C	Theodore N. Poirier	June 30, 2028	June 30, 2038	March 1, 2018
7D	Frederick Celce	June 30, 2028	June 30, 2038	March 1, 2018
7E	Leonard Clow	June 30, 2028	June 30, 2038	March 1, 2018
7F	Roland Belair	June 30, 2028	June 30, 2038	March 1, 2018
7G	Gerald Polakewich	June 30, 2028	June 30, 2038	March 1, 2018
7H	Thomas Sinclair (Assigned by Corey Jacques)	November 21, 2019	November 21, 2029	February 3, 2009
7I	John M. O'Donnell	August 25, 2025	August 25, 2035	February 3, 2009

Note:

The February 1, 2007 leases contain a "start date" of the date of the execution of the agreement, continuing for 10 years, with a 10 year renewal option.

The February 3, 2009 leases contain a "start date" of July 1st, or the date of the agreement, whichever is later, continuing for 10 years with a 10 year renewal option. Exceptions: Lot 6A notes July 5, 2015;

The March 1, 2018 leases contain a start date of the execution of the lease agreement, with a term ending on June 30th of varying years (some are 10 years, some are 15 years), with a renewal option of 10 years.

[3] No lease was contained in the file for this hangar, but there is another Bill of Sale for an aircraft hangar from RJ Aviation, Inc. to Michael and Jeanne Glaude.

CITY OF BIDDEFORD

Biddeford Municipal Airport

Ground Lease Agreement

Lease Expires on
November 22, 2025

Adopted: February 3, 2009

GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this 23rd day of November 2015, by and between the **CITY OF BIDDEFORD,** a Maine municipal corporation, (the "**CITY**"), and Donald P. Saucier, with a mailing address of 1 Saucier Lane, Old Orchard Beach, Maine 04064, (the "**TENANT**").

W I T N E S S E T H:

WHEREAS, CITY owns, controls and operates for the use and benefit of the public, Biddeford Municipal Airport, located in Biddeford, Maine, (the "Airport").

WHEREAS, TENANT wishes to enter into a Ground Lease Agreement with **CITY** in order to construct and/or maintain a hangar for **TENANT**'s aircraft related equipment and materials and conduct certain permitted uses at the Airport;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, **CITY** and **TENANT** hereby agree as follows:

ARTICLE 1 - LEASED PREMISES

1.1. DESCRIPTION OF LEASED PREMISES

The term "Leased Premises" or "Premises" as used in this Lease Agreement, shall mean and include real estate located at Biddeford Municipal Airport, Biddeford, York County, State of Maine, consisting of approximately 4,800 square feet, as shown on Exhibit A attached hereto and incorporated herein, and including the rights of ingress thereto and egress therefrom and the right to install, use and maintain utilities, subject to any utility or other easements of record.

1.2 "AS IS" CONDITION.

TENANT takes the Premises in "as is" condition. Other than **CITY** ownership thereof, **CITY** makes no representation or warranty as to the physical condition of the Premises nor as to any other matter concerning the Premises, including but not limited to the presence of any environmental hazards thereon. Without limiting the foregoing, the **CITY** represents that, as of the execution date of this Lease, it has not received notice of any such hazards. All **TENANT** improvements, additions and alterations at or to the Premises will be at **TENANT**'s sole cost and expense and **CITY** shall have no responsibility therefor.

ARTICLE 2 - OBJECTIVES AND PURPOSES OF LEASE

2.1 PERMITTED AND PROHIBITED USES OF LEASED PREMISES

2.1.1 Permitted Uses: **TENANT** shall use the Premises solely for the construction and/or maintenance of an aircraft storage hangar ("Hangar") and associated ramp and apron, which may be used for storage of **TENANT**'s owned or leased aircraft and aircraft related materials and equipment, provided, however,

that any such uses shall be subject to all applicable Federal, State and Local law including, without limitations, the Biddeford Zoning Ordinance, the Minimum Standards and Procedures for the Lease and/or Use of the Property and Facilities for Aeronautical Activities (the "Minimum Standards") and all regulations of the Biddeford Municipal Airport currently in effect or enacted during the term of this Lease (See Section 5.8.1). Nothing in this section is intended, nor shall it be deemed, to permit **TENANT** to establish or carry out any commercial activity from the **PREMISES** (See Section 2.1.4).

2.1.2 **TENANT** shall have the right to install or improve therein and thereon such fixtures, equipment and facilities as **TENANT** may deem necessary or desirable; provided, however, that no such structure, improvement, fixture, equipment or facility shall be constructed, improved or installed by **TENANT** without the prior written consent of the **CITY**; provided, further, that any such construction shall be subject to all Federal, State and Local Law including, without limitation, the Biddeford Building Codes and the regulations of the Biddeford Municipal Airport on hangar construction. **TENANT** covenants and agrees that prior to the construction or installation of any such structure, improvement, fixture, equipment, or facility, **TENANT** will submit detailed plans or other appropriate information showing the location, design and character to the Airport Manager and Biddeford Planning Office. Any such construction shall be subject to the approval of the Biddeford City Council or its designee.

2.1.3 **TENANT** shall have the right unless prohibited by any Fixed Base Operator Agreement to purchase or otherwise obtain personal property or services of any nature required by or incident to the operation and maintenance of the **TENANT**'s aircraft from any person, partnership, firm, association or corporation it may choose, provided such person, partnership, firm, association or corporation shall have first obtained written approval from the **CITY** to operate within the airport and shall be in compliance with the Minimum Standards.

2.1.4 Prohibited Uses: **TENANT** shall not use the Premises for the conduct of any nonaeronautical business, for residential or nonaeronautical commercial use, or for nonaeronautical storage or nonaeronautical activities. TENANT shall obtain the written consent of the **CITY** prior to undertaking any commercial activities on the Premises

2.1.5 **TENANT** shall park his or her vehicle only in those areas designated for parking and only when using the Airport, **TENANT**'s hangar or **TENANT**'s aircraft.

2.1.6 All activities hereunder must be conducted pursuant to the Minimum Standards and Rules and Regulations and policies in effect on the date of execution of this Agreement and as may be later amended or revised, and all applicable Federal, State and Local laws and regulations. Prior to undertaking any activities hereunder, **TENANT** shall obtain, at **TENANT**'s own cost and expense, all approvals and permits required under the Minimum Standards, as well as any other required Federal, State or Local approvals and permits.

2.1.7 **TENANT** agrees that it shall not provide any Fixed Base Operator (FBO) services as defined by the **CITY**.

ARTICLE 3 - TERM

3.1 INITIAL TERM; RENT COMMENCEMENT DATE

3.1.1 This Lease shall commence as of the date of execution of this Lease Agreement or July 5, 2015, whichever is later (the "Lease Commencement Date") for a term of ten (10) years.

3.1.2 **TENANT** shall pay rent to the **CITY** during the Initial Term as provided in Article 4 below beginning on the Lease Commencement Date.

3.2 RENEWAL TERM

TENANT shall have the option to renew this Lease for an additional ten (10) years so long as **TENANT** has been and is continuing in full compliance with all of the terms and conditions herein, and subject to renegotiation of the rent as provided in Article 4 below. **TENANT** shall provide **CITY** with no less than One Hundred and Eighty (180) days notice of its intent to renew prior to expiration of the initial term of this Lease. **CITY** shall renew the Lease pursuant to Section 4.3 below and subject to the continuing compliance by **TENANT** with all the terms and conditions herein. Such renewal shall be in writing signed by both parties.

3.3 HOLDING OVER

3.3.1 In the event **TENANT** shall continue to occupy the Leased Premises beyond the Lease term or any extension thereof without **CITY**'s written renewal thereof, such holding over shall not constitute a renewal or extension of this Lease, but shall create a tenancy at sufferance which may be terminated at any time by **CITY** or **TENANT** by giving thirty (30) days' written notice to the other party. Any such tenancy at sufferance shall otherwise be on all of the terms and conditions of this Lease Agreement.

ARTICLE 4 - RENTALS, FEES AND RECORDS

4.1 FIXED RENT

4.1.1. Fixed annual rent. **TENANT** agrees to pay **CITY**, a fixed rent of $643.20 for the period from the July 1, 2015 through the following June 30. For the first year, payment credit will be given for any amount previously paid for the period from July 1 to December 31, 2015.

4.1.2 Rent increases. Beginning on the first day of July 2015, and annually thereafter during the Initial Term, the fixed rent in Section 4.1.1 will be adjusted, based on the increase in the prior 12 months' Consumer Price Index of the U.S. Department of Labor, All Urban Consumers, all items (1982-84 = 100) for the U.S. City Average (Table 10), March to March, or comparable successor index for the immediately prior twelve months. In no event shall such adjustment result in a reduction of the prior year's fixed annual rent. Rent shall be invoiced by the City Finance Department in June of each year.

4.2 RENEWAL RENT

In the event **TENANT** wishes to renew this Lease as provided in Section 3.2 above, **TENANT** shall provide the **CITY** with a notice of intent to renew the lease no less than 180 days prior to renewal of the Lease. Rent for the Renewal Term shall be equal to the then current general aviation ground rent in effect as of the commencement of the renewal term, with any then current inflation adjustment applicable to general aviation ground leases. Upon request, **CITY** shall provide **TENANT** with documentation as to those current rents and adjustments.

4.3 TIME AND PLACE OF PAYMENTS

4.3.1 The foregoing rent shall be payable, on or before August 1 of each year, at the Finance Department, Biddeford City Hall, or such other place as the **CITY** may direct in writing from time to

time.

4.3.2 **TENANT** shall make prompt and timely payment, without deduction or setoff, of all rentals, fees, assessments, taxes and other charges due hereunder as the same may from time to time come due.

4.4 DELINQUENT RENTALS

There shall be added to all sums which the **TENANT** is required to pay hereunder (whether as rental or otherwise) to **CITY** and which are unpaid after their due date, a late charge of one and one-half percent (1-1/2%) of the unpaid sum for each full calendar month of delinquency computed as simple interest on a monthly basis which corresponds to eighteen (18%) per annum. Any late charge assessed shall be computed from the original due date of the unpaid sum. The rate of the late charge may be changed from time to time pursuant to generally applicable Airport rules and regulations. Any late charge hereunder shall be additional to any interest or other charge imposed by the **CITY** generally, including without limitation, interest on unpaid real or personal property taxes.

ARTICLE 5 - OBLIGATIONS OF TENANT

5.1 NET LEASE

The use and occupancy of the Leased Premises by **TENANT** will be without cost or expense to **CITY** and all rent payable hereunder shall be net to the **CITY.** It shall be the sole responsibility of **TENANT** to maintain, repair and operate the entirety of the Leased Premises and any improvements and facilities constructed thereon at **TENANT**'s sole cost and expense, except as otherwise explicitly stated herein.

5.2 CITY'S CONSENT TO IMPROVEMENTS REQUIRED.

5.2.1 If a hangar has not been previously constructed on the Premises, **TENANT** shall design and construct, at **TENANT**'s own cost and expense, a hangar and associated ramp and apron in accordance with the Minimum Standards. Prior to Planning Board review, the proposed design and materials to be used for such construction shall be subject to the review and approval of the Biddeford Planning Office, which approval shall not be unreasonably withheld or delayed. The Planning Office's review shall include review for compatibility with existing airport design and materials and for compliance with the Airport Master Plan then in effect. **TENANT**'s proposed landscaping plan shall be part of the Planning Office's review, and if required subject to final approval by the Planning Board. **TENANT** shall pay for and obtain all required Federal, State, County and **CITY** permits or approvals prior to such construction, including but not limited to any required Planning Board approval, and Federal Aviation Agency (hereinafter the "FAA") approvals, including filing FAA Form 7460, Notice of Proposed Construction or Alteration. In addition to complying with any applicable **CITY** ordinance, all exterior signage to be placed or erected on the Premises shall be subject to the prior written approval of the Planning Office. In the event any substantive change is made in the proposed design and materials to be used after all other applicable review, such changes shall be submitted to the Planning Office for review and approval, which approval shall not be unreasonably withheld or delayed.

5.2.2 **TENANT** shall apply for any necessary permits and approvals within 60 days of the execution of this Lease. In the event **TENANT** is unable to obtain any required Federal, State or Local approvals and permits necessary for construction of its project and to begin construction no later than One (1) year from the date of execution of this Lease, each Party reserves the right to terminate this Lease upon no less than thirty (30) days prior written notice, with no further obligations of either Party hereunder. Upon obtaining

all approvals and permits required for construction of the project, **TENANT** shall promptly commence and diligently complete such construction. All buildings and associated landscaping shall be completed within one (1) year of permit approvals.

5.2.3 Except as provided above, **TENANT** shall not erect any structures, make any improvements, nor do any construction work on the Premises, without the prior written approval of the Planning Office, whose approval shall not be unreasonably withheld or delayed. Alterations, modifications, additions to or replacements of any structure constructed on the Premises are subject to the prior written approval of the Planning Office, which approval shall not be unreasonably withheld or delayed. **TENANT** also shall obtain any necessary Planning Board approval. The requirement for the Planning Office's prior approval shall not apply to any improvements, repairs or replacements which are immediately necessary because of an emergency caused by no fault of **TENANT**, but **TENANT** shall inform the Airport Manager and Planning Office of such emergency work as soon as reasonable practicable.

5.3 MAINTENANCE AND OPERATIONS

5.3.1 All repair, and maintenance of the leased Premises, including, but not limited to, landscaping, paving and snow and ice removal, shall be the responsibility of the **TENANT**. **TENANT** shall maintain the Premises and all of the fixtures, equipment and personal property which may be located in or upon any part thereof in a reasonably neat, clean and sanitary condition. **TENANT** shall not store snow off the Premises without written approval from the Airport Manager. Snow removal shall not block any aircraft movement areas at any time. **CITY** agrees that it shall maintain, repair and remove snow and ice from the common areas of the Airport.

5.3.2 **CITY** shall have the right to take any action it considers necessary to protect general operation of the Airport and the aerial approaches to the Airport against obstruction. **TENANT**, in the use of the roadways, approaches, taxiways and runways of the aircraft landing field and in the use of the adjacent areas for storage of aircraft, or in the use of their buildings shall abide by and conform to any and all reasonable rules and regulations now existing or as may be hereafter promulgated by the **CITY** and will comply with the requirements of any Federal, State of Local act or regulation which relates to the operation of the Airport, including, but not limited to, abiding, at **TENANT**'s sole cost and expense, with any Federal, State or Local security or certification requirements which relate to its operations at the Airport.

5.3.3 **TENANT** shall take good care of the Premises; shall reasonably maintain the Premises and the improvements, buildings and fixtures thereon in good condition at all times; shall make all repairs and replacements inside and outside, ordinary and extraordinary, structural or otherwise. Such repairs and replacements by **TENANT** shall be in quality and class not inferior to the original material and workmanship. **TENANT** shall pay promptly the costs and expenses of such repairs, replacements and maintenance, and maintain and repair all utility service lines located upon the Leased Premises to the extent they are used by **TENANT**, except to the extent such maintenance or repair is the obligation of the utility company providing such utility service.

5.3.4 All exterior repairs, replacements and maintenance shall be subject to the prior written approval of the Planning Office, which shall not be unreasonably withheld or delayed, and shall comply with all applicable Federal, State and Local permit requirements as well as any applicable rules and regulations enacted by the **CITY** relating to the Airport.

5.3.5 **TENANT** shall paint, repair, replace or rebuild all or any part of the Premises, interior or

exterior, structural or non-structural, as provided above, which may be damaged or destroyed (subject to the provisions of Article 9 below). In such case, **TENANT** shall have the right to apply any available insurance proceeds to such purposes.

5.3.6 **TENANT** shall provide, at its sole cost and expense, the necessary receptacles and arrangements for adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse that results from use of, or activities on, the Premises. **CITY** reserves the right to require **TENANT** to participate in any recycling program which may be imposed by Airport rules or by Local, State or Federal law or regulation. **TENANT** shall defend, indemnify and hold the **CITY** harmless from any cost, expense, claim, fine or liability, including without limitation attorney's fees and court costs, arising out of or resulting from **TENANT's** storage, collection, transportation or disposal of any trash, garbage or other refuse hereunder. This obligation of defense and indemnification shall remain in full force and effect after termination or expiration of this Lease.

5.3.7 **TENANT** shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse and said receptacles must be stored inside the hangar. Piling of boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Lease Premises, shall not be permitted.

5.3.8 To the extent that **TENANT** does not undertake or pay for any of its obligations under this Subsection 5.3 or Subsection 9, **CITY** reserves the right to undertake such obligations or to pay such costs, in its sole discretion, and to charge all costs thereof to **TENANT**. In the event **CITY** undertakes any such obligation or pays such cost hereunder, **TENANT** shall repay the **CITY** all such amounts immediately upon **CITY's** demand therefor. Nothing herein shall prevent or prohibit the **CITY** from declaring a default hereunder and terminating the Lease as provided in Article 11 below.

5.4 CITY RIGHT TO INSPECT AND REPAIR

5.4.1 **CITY**, through its agents, may come on the Premises and enter the Hangar to inspect for compliance with the requirements of this Lease, Airport rules and regulations, environmental laws, or other applicable legal and regulatory requirements. Such inspection will generally take place during normal business hours and following forty eight (48) hours advance notice to the **TENANT**, but the **CITY** reserves the right to enter the Premises unannounced at any time that the Airport Manager or City determines such entry is necessary for public safety or security reasons or if necessary for Federal or State required compliance inspections. In the event of such unannounced entry, **CITY** shall notify the **TENANT** that such inspection occurred within a reasonable time thereafter. **TENANT** shall provide **CITY** with the ability to access the Premises and the Hangar for such public safety and security purposes.

5.4.2 **CITY** or its designee, at its discretion, shall be the sole judge of the quality of the exterior repair and maintenance; and **TENANT**, upon notice by **CITY** to **TENANT** shall be required to perform whatever repair and maintenance **CITY** deems reasonably necessary. If said repair and maintenance is not undertaken by **TENANT** within thirty (30) days after receipt of written notice, **CITY** shall have the right to enter upon the Leased Premises and perform the necessary repair and maintenance, the cost of which shall be borne by **TENANT** as additional rent to be paid to **CITY** immediately upon demand therefor. Notwithstanding the foregoing, in the case of a threat to public health or safety, **CITY** may undertake such repairs as it deems reasonably necessary and charge the cost thereto to **TENANT** as additional rent to be paid to **CITY**, without regard to any notice requirement herein. No waste shall be committed or damage done to the Premises, the buildings and equipment located thereon, nor to property of CITY.

5.5 UTILITIES

TENANT shall assume and pay for all construction, installation and periodic costs or charges for utility services furnished to **TENANT** during the term hereof; provided, however, that, consistent with applicable laws, regulations or permit requirements, **TENANT** shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and **TENANT** shall pay for any and all service charges incurred there from. The **TENANT** must also meet the requirements of any Airport Storm Water Pollution Prevention Plan and any amendments thereto. **TENANT** agrees to relocate at its expense any utility service if **CITY** determines in its sole discretion that said utility service interferes with present or future airport operations or expansions.

5.6 PAYMENT OF TAXES AND OTHER ASSESSMENTS

5.6.1 **TENANT** agrees to pay promptly when due, and not to permit to become delinquent, levies, taxes, assessments, improvement fees, excises, permit fees, license fees, charges, impositions or burdens of whatsoever kind and nature, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or for any public improvements or utility services (hereinafter "impositions") which, at any time during the term of this Lease Agreement, may be created, levied, assessed, imposed or charged upon or with respect to the Leased Premises or any part thereof, by any Federal, State, County, Municipal or other authority, which imposition would be valid and applicable to **TENANT** irrespective of this section.

5.6.2 **TENANT** acknowledges that **CITY** has the right from time to time to establish and impose reasonable charges and fees for users of the Airport or its facilities, provided that such charges and fees are charged in a uniform and non-discriminatory manner and do not significantly increase the total fixed and percentage rent due hereunder; and provided, further, that **CITY** shall provide **TENANT** with no less than thirty (30) days prior written notice prior to imposing any new fee or charge which directly or indirectly affects **TENANT** or any subtenant of **TENANT.**

5.7 NONDISCRIMINATION; AFFIRMATIVE ACTION

5.7.1 The **TENANT**, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with this Lease of the Premises that, to the extent applicable to **TENANT**'s operations hereunder:

(a) no person on the grounds of race, color, sex, disability, religion, national origin or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subject to, discrimination in the use of said facilities;

(b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services thereon, no person on the grounds of race, color, sex, disability, religion, national origin, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) that the **TENANT** shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

5.8 OBSERVANCE OF LAWS, STATUTES, ORDINANCES, RULES AND REGULATIONS

5.8.1 During the Term hereof and any renewal term, **TENANT** shall, at its own cost and expense, promptly observe and comply with all existing and future applicable laws, ordinances, rules, regulations, licenses, permits, decisions and decrees of the Federal, State, County and CITY Governments (including but not limited to Airport Minimum Standards and Procedures for the Lease and/or Use of Property and Facilities for Aeronautical Activities (Exhibit A), Airport Rules and Regulations (Exhibit B), Airport Hangar Construction and Minimum Specifications (Exhibit C), Airport Storm Water Pollution Prevention Practices (Exhibit D), copies of which **TENANT** acknowledges having received and which are incorporated herein, as well as those of any other government authority having jurisdiction over the Premises or any part thereof, including without limitation all applicable Federal Aviation Administration rules and regulations, whether the same are in force at the commencement of the term of this Agreement or should be enacted in the future.

5.8.2 **TENANT** shall pay all fines, penalties, damages, expenses or costs, including reasonable counsel fees, and shall indemnify and hold the **CITY** harmless therefrom, which may in any manner arise out of or are imposed on **TENANT, CITY** or Airport because of the failure of the **TENANT** to comply with the requirements of this Section 5.8. Without limiting any other right of **CITY** hereunder, **TENANT**'s non-compliance with any provision of this Section 5.8 shall be grounds for termination of this Lease Agreement.

5.9 ENVIRONMENTAL STATUTES

5.9.1 **TENANT** covenants and agrees to comply with all applicable environmental laws, including without limitation all laws governing hazardous substances and all requirements related to storm water discharges and permits, and to provide to **CITY**, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of **TENANT** under environmental laws, or which seek civil, criminal or punitive penalties from **TENANT** for an alleged violation of environmental laws. **TENANT** further agrees to advise the **CITY** in writing as soon as **TENANT** becomes aware of any condition or circumstances that may result in a potential violation of any environmental laws. **TENANT** shall comply with any Storm Water Pollution Prevention Plan and any amendments thereto, and shall grant access to the **CITY** for any inspections required by the plan. **TENANT** agrees, at its expense, and at the request of **CITY** when it has a reasonable belief that there is a problem or when required by another governmental entity, to permit an environmental audit solely for the benefit of **CITY**, to be conducted by **CITY**. This provision shall not relieve **CITY** from conducting its own environmental audits or taking any other steps necessary to comply with environmental laws.

5.9.2 Without limiting the foregoing, **TENANT** shall not dump, flush, or in any way introduce any hazardous materials or hazardous waste or any other toxic materials upon the Leased Premises nor shall it improperly store, or dispose of any hazardous materials or hazardous waste from any such property, except in full compliance with all applicable laws and regulations. For purposes of this paragraph, the term hazardous materials shall mean inflammable, explosives, radioactive materials and hazardous substances defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, the Hazardous Conservation and Recovery Act, and the Resources Conservation and Recovery Act, or any similar federal, state or local law, or in any regulations promulgated pursuant thereto, or in any other applicable law. The term "hazardous materials" shall also include any other chemical, material or

substance which is or may be regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal, state or other governmental authority or agency or which, even if not so regulated, may or could pose a hazard to human health and safety.

5.9.3 If in the opinion of **CITY**, there exists any uncorrected violation by **TENANT** of an environmental law which requires, or may require, a cleanup, removal or any condition or other remedial action by **TENANT** under any environmental law, regulation, permit, license, judgment or decree, and such cleanup, removal or other remedial action is not completed, or commenced and diligently pursued, within thirty (30) days from the date of written notice from **CITY** to **TENANT**, the same shall, at the option of **CITY**, constitute an event of default hereunder.

5.9.4 For the purposes of this Section 5.9, the term "environmental law or laws" shall mean all Federal, State and Local laws including statutes, regulations, ordinances, codes, rules, permits, licenses, judgments, decrees, or other governmental restrictions and requirements relating to the environment or any hazardous substance, including but not limited to, the State of Maine environmental protection statutes, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Research Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility, Cleanup and Liability Act of 1980 as amended by the Super Fund Amendments and Reauthorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any State Department of Environmental Protection or successor agency now or anytime hereafter in effect.

5.9.5 **TENANT** shall defend, indemnify and hold the **CITY** harmless from and against any and all damages, costs and expenses, including without limitation, fines, penalties, reasonable attorney's fees, consequential damages and remedial costs and other liabilities arising from claims based upon the environmental condition of the Premises and the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), resulting from (a) **TENANT**'s use of the Premises or operations thereon by or on behalf of **TENANT**; (b) claims arising out of, related to, or in connection with (i) the release by **TENANT** of any hazardous material into, onto or from the Premises; or (ii) any arrangement by **TENANT** for the treatment, recycling, storage or disposal at any facility owned or operated by any person or entity of a hazardous material which is present on the Premises or has been or may be deposited at, disposed on or released onto the Premises; and (c) claims related to demolition, cleanup or other remedial measure with regard to environmental conditions on or around the Premises by **TENANT;** or (d) claims resulting from any act or omission of **TENANT** in violation of any Federal, State or Local environmental laws or regulations with respect to **TENANT**'s use of the Leased Premises.

5.9.6 **CITY** shall give to **TENANT** prompt and reasonable notice of any such claim or action, and **TENANT** shall have the right to investigate, compromise, and defend the same.

5.9.7 **TENANT,** as used in this Section 5.9, shall mean and include the named **TENANT,** or anyone for whose act **TENANT** may be legally liable.

5.9.8 The Terms of this Section 5.9 shall expressly survive the expiration or earlier termination of this Lease Agreement, including without limitation the terms of Subsection 5.9.5.

5.10 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Lease and

any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 6 - OBLIGATIONS OF CITY

6.1 OPERATION AS A MUNICIPAL AIRPORT

CITY agrees that at all times during the term of this Lease it will operate and maintain the Airport as a municipal airport. If **CITY** permanently ceases operations of the Airport during the term of this Lease, **CITY** will pay **TENANT** the appraised value of any building constructed on the Premises in accordance with the terms of this Lease as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

6.2 INGRESS AND EGRESS

Upon paying the rental hereunder and performing the covenants of this Lease, **TENANT** shall have the right of ingress to and egress from the Premises for the **TENANT**, over the roadway provided by **CITY** serving the Premises. **TENANT's** access shall be in common with other users and shall be subject to applicable security requirements and to possible episodic interruptions due to security or safety concerns. **CITY**'s roadway shall be used jointly with other tenants on the Airport, and **TENANT** shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as **CITY** deems necessary. **TENANT** shall have the right to bring utilities to the Premises at its own cost and expense and in accord with all applicable laws, rules and regulations for the extension and hookup of such utilities. **TENANT** shall be responsible for paying for all hookup and periodic usage charges for such utilities and **CITY** shall have no responsibility therefor.

ARTICLE 7 - CITY'S RESERVATIONS

7.1 IMPROVEMENT, RELOCATION OR REMOVAL OF STRUCTURES

7.1.1 **CITY**, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport, including the right to remove or relocate any structure on the Airport, as it sees fit, and to take any action it considers necessary to protect the approaches of the Airport against obstructions, together with the right to prevent **TENANT** from erecting or permitting to be erected, any buildings or other structure on the Airport which, in the opinion of **CITY**, would limit the usefulness of the Airport or constitute a hazard to aircraft.

7.1.2 In the event **CITY** requires the use of the Premises for expansion, improvement, or development of the Airport, **CITY** reserves the right, on six (6) months notice, to relocate or replace **TENANT**'s improvements in substantially similar form at another generally comparable location on the Airport. The reasonable costs of such relocation or replacement shall be paid or reimbursed, as appropriate, by **CITY**. Alternatively, **CITY** reserves the right to terminate this Lease. In that event, **CITY** will pay **TENANT** the appraised value of any building constructed on the premises as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

7.2 WAR OR NATIONAL EMERGENCY

During any time of war or national emergency, **CITY** shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease or agreement is executed, the provisions of this Lease Agreement insofar as they are inconsistent with the lease or agreement with the Government shall be suspended or terminated, and in that event, a just and proportionate part of the rent hereunder shall be abated. **CITY** shall have no further obligations financial or otherwise to the **TENANT**.

ARTICLE 8 - INDEMNITY AND INSURANCE

8.1 INDEMNIFICATION

8.1.1 To the fullest extent permitted by law, **TENANT** agrees to defend, indemnify, and save forever harmless the **CITY**, its officers, agents and employees, from and against all claims and actions and all reasonable expenses incidental to the investigation and defense thereof, based on or arising out of claims for damages or injuries to any person or property, including wrongful death and loss of use of property, and arising, in whole or in part, out of **TENANT**'s use or occupancy of the Leased Premises; **CITY** shall give to **TENANT** prompt and reasonable notice of any such claims or actions, and **TENANT** shall have the right to investigate, compromise and defend the same; and provided further, that **TENANT** shall not be liable for any claims, actions, injury, damages or losses to the extent they are occasioned by the negligent or intentional act of **CITY**, its officers, agents or employees. **TENANT** as used in this Subsection 8.1.1 and in Section 8.2 shall mean and include the named **TENANT**, and anyone for whose act **TENANT** may be legally liable.

8.1.2 **TENANT** shall, at its own cost and expense defend any and all suits or actions, just or unjust, which may be brought against **CITY** or in which **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. **CITY** shall have the right to participate in such suits and no action shall be settled without prior consent of the **CITY**. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to the **CITY** that would otherwise exist. The extent of this indemnity provision shall not be limited by any requirement of insurance contained herein.

8.1.3 If **TENANT** is required to obtain workers compensation coverage under Maine law, **TENANT** agrees to procure and maintain throughout the term of this Lease Agreement, an endorsement to its Workers Compensation coverage waiving any and all rights of subrogation against CITY.

8.1.4 The indemnity and hold harmless provision of Section 8.1 includes indemnity against all reasonable expenses, fees, costs and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the **CITY**. The provisions of this Article 8 and the obligations of **TENANT** hereunder shall survive the termination or expiration of this Lease.

8.1.5 In no case shall **CITY** be liable to **TENANT** or to any third party for any incidental, indirect, consequential, special or punitive damages arising out of or relating to this Lease.

8.2 LIEN INDEMNIFICATION

Throughout the term of this Lease, **TENANT** shall not cause nor permit any lien against the Leased Premises, any portion thereof or any City property wherever located, or any improvements thereto, to

arise out of or accrue from any action, omission or use thereof by **TENANT**. **TENANT** may in good faith, however, contest the validity of any alleged lien. **TENANT** shall defend and indemnify and hold the **CITY** harmless from any cost, expense, attorney's fees or other liability arising out of or resulting from any such lien or liens, and shall promptly discharge such lien or stay or prevent its foreclosure by bond or other appropriate legal procedure that is acceptable to the **CITY**. So long as **TENANT** defends **CITY** in any action concerning any such lien, **TENANT** shall not be required to post a bond with respect to such lien prior to the commencement of a foreclosure action against the **CITY**. This provision shall survive termination or expiration of this Lease Agreement. **CITY** may, at its sole discretion, pay any amounts secured by any such lien and in such case, **TENANT** shall repay all such payments to **CITY** immediately upon **CITY**'s demand therefor.

8.3 INSURANCE

8.3.1 Without expense to the **CITY**, and with no lapse in coverage, **TENANT** shall obtain and cause to be kept in force at all times during the term of this Agreement, insurance required by the Minimum Standards for a category 1X FBO – Aircraft Tie Down and Storage.

8.3.2 **TENANT** and the **CITY** understand and agree that the minimum limits of the insurance herein required may become inadequate during the term of this Agreement and **CITY** reserves the right to amend the minimums as needed throughout the term of this Lease. **TENANT** agrees that it will increase such minimum limits upon receipt of notice in writing from the CITY.

8.3.4 In the event any construction or renovation on the Premises is approved by the **CITY**, **TENANT** shall procure and maintain, or cause to be procured and maintained, comprehensive general liability insurance covering bodily injury and property damage, including special hazards insurance, in such amount as the CITY may reasonably require, covering such construction. Said insurance shall protect **TENANT** and **CITY** from any claims or damages arising out of or resulting from such construction or renovations, and shall name the **CITY** as an additional insured thereon. In addition to the foregoing, **TENANT** shall cause to be procured and maintained automobile liability in such amounts as the CITY may reasonably require.

8.3.5 All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy affecting the Premises shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Airport Manager. Each liability policy required to be obtained hereunder shall name the **CITY** as an additional insured thereunder and shall be on an occurrence basis. All policies required hereunder shall be primary to any insurance or self-insurance that **CITY** may maintain for its own benefit.

8.3.6 Certificates or other evidence of insurance coverage required of **TENANT** in this Article, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the CITY prior to the execution of this Lease Agreement and annually thereafter. **TENANT** shall at all times during the term of this Lease Agreement provide **CITY** with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier affecting the Leased Premises. Insurer shall provide no less than thirty (30) days written notice prior to cancellation, reduction in coverage or expiration of each policy required hereunder, said notice to be sent to the Airport Manager. It shall be **TENANT**'s responsibility throughout the term of this Lease to provide or have provided to the Airport Manager renewal insurance certificates with no lapse in coverage prior to such renewal.

8.3.7 If at any time **TENANT** should fail either to obtain or to maintain in force the insurance required herein, the **CITY** shall notify **TENANT** of its intention to purchase such insurance for **TENANT**'s account; and, if **TENANT** has not delivered evidence of insurance to the Airport Manager prior to the date on which the current insurance expires, the **CITY** may effect such insurance by taking out policies in companies satisfactory to the **CITY**. Such insurance shall be in amounts no greater than those stipulated herein or as may be in effect from time-to-time. The amount of the premiums for such insurance obtained by the **CITY** shall be payable by **TENANT** as additional rental immediately upon demand therefor by CITY.

ARTICLE 9 - DESTRUCTION OF PREMISES

9.1 In the event the buildings and improvements on the Premises, or any substantial part thereof, should be damaged or destroyed by an insured casualty, such buildings or improvements shall be repaired or rebuilt by **TENANT** and paid for with **TENANT**'s insurance proceeds; and, if such proceeds are insufficient for such purposes **TENANT** shall pay the deficiency, unless otherwise agreed as provided herein. Repair or restoration of the buildings and improvements shall be in accordance with the original Plans and Specifications, together with alterations or modifications made or agreed upon prior to the casualty, unless the Parties otherwise mutually agree to new or modified plans.

9.2 Notwithstanding the foregoing, during the term of this Agreement or any renewal thereof, in the event the buildings and improvements on the Premises, or a substantial part thereof, should be destroyed, then **TENANT** may terminate this Agreement by written notice to **CITY** within ninety (90) days of the casualty and all obligations of each party hereunder shall terminate. In the event of such termination, **TENANT** shall return the Premises to **CITY** restored to a clean and usable condition, with removal of all personal and real property as provided in Article 12 below. If **TENANT** does not provide notice of such termination, **TENANT** shall proceed diligently to rebuild and restore the Premises and the buildings and improvements thereon in accord with the original plans and specifications or such other plans and specifications as may be approved by the Planning Office and, if required, the Planning Board.

ARTICLE 10 - CONDEMNATION

10.1 **CITY** agrees to give prompt written notice to **TENANT** of any eminent domain, condemnation, compulsory acquisition or like proceedings by any competent authority which might result in a partial or full taking of the Leased Premises and of which **CITY** has actual notice. Each party may file and prosecute their respective claims for an award, but all awards and payments on account of a taking shall be held in trust by the recipient to be distributed according to the respective interests of the parties, i.e., payments allocable to the value of the Leased Premises and the residual interest in the Leased Premises shall be paid to **CITY** and payments allocable to **TENANT**'s leasehold interest and improvements shall be paid to **TENANT.**

10.2 In the case of a taking (other than for temporary use) of the fee of the entire Leased Premises, or so substantial a part of the Leased Premises that such taking materially impairs **TENANT**'s conduct of its operations at or from the Premises, this Agreement shall terminate as of the effective date of such taking. In the case of a temporary taking (including without limitation a temporary taking as a result of relocation under 7.1.2 above), this Agreement shall be suspended during such time as **TENANT** is unable to use the Leasehold Premises for the uses provided herein. In the case of a temporary taking which does not permit **TENANT** to use the Premises as provided herein for a period of ninety (90) days or more, at the conclusion of said ninety (90) day period, **TENANT** may, in its discretion, give **CITY** a thirty (30) day notice of its intent to terminate the Lease Agreement. This Lease shall terminate at the end of the thirty (30) day notice period, with no further obligation by either party. **TENANT**'s obligation to pay rent

hereunder shall be suspended during any temporary taking during which **TENANT** is unable to conduct its operations at or from the Leased Premises; provided, however, to the extent **TENANT** is able to continue its operations hereunder from the Premises or from an alternative site, the **TENANT** shall continue to pay the fixed rent based upon the square footage then available to **TENANT**.

ARTICLE 11 - TERMINATION OF LEASE

11.1 CITY's Right to Terminate. The **CITY**, in addition to any other rights to which it may be entitled by law, acting by and through its **CITY MANAGER**, may declare this Lease Agreement terminated in its entirety, subject to and in the manner provided herein, upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the Premises:

(a) To the extent permitted by law, the filing by **TENANT** of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of **TENANT**'s assets;

(b) To the extent permitted by law, the entry of an order for relief against the **TENANT**, by a court of applicable jurisdiction, pursuant to any involuntary bankruptcy petition filed against the **TENANT**;

(c) To the extent permitted by law, the taking of jurisdiction by a court of competent jurisdiction of **TENANT** or its assets, pursuant to proceedings brought under the provisions of any Federal reorganization act;

(d) To the extent permitted by law, the appointment of a receiver or trustee of **TENANT**'s assets by a court of competent jurisdiction or a voluntary agreement with TENANT's creditors;

(e) The voluntary abandonment by **TENANT** of the Leased Premises (and the failure to pay rent thereon) for a period in excess of sixty (60) days; or

(f) The material breach by **TENANT** of any of the covenants or agreements herein contained and not cured as provided below. A material breach shall include, but not be limited to, the failure of the **TENANT** to comply with the Minimum Standards, **TENANT**'s use of the premises in a manner prohibited under this Lease, or the failure of **TENANT** to pay any rental, fee, or charge required to be paid by the terms of this Lease Agreement when the same is due and payable.

11.2 TENANT's Right to Terminate. **TENANT**, in addition to any other right given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the happening of any one of the following events:

(a) The issuance by any court of competent jurisdiction of an injunction which materially prevents or restrains the use of the Airport or the Leased Premises for the purposes permitted under this Lease Agreement and such injunction remaining in force for a period of at least ninety (90) days after the date of receipt of written notice of such injunction by CITY;

(b) Subject to **TENANT**'s obligation to restore or repair the Premises under Article 9 above, the inability of **TENANT** to use said Leased Premises and Airport facilities due to war, earthquake or other casualty for a longer period than ninety (90) days after the date of receipt of written notice of such inability from **TENANT**;

(c) Any action of any governmental authority, board, agency or officer having jurisdiction thereof preventing **TENANT** from conducting the activities permitted hereunder at or on the Leased Premises by a taking, directly or indirectly, in whole or a substantial part, of the Leased Premises for a period of at least ninety (90) days after receipt of written notice of such action by **CITY**, subject to Article 10 above;

(d) The taking, through the process of eminent domain, of all or a substantial part of the Premises leased by **TENANT**, subject to Article 10 above; or

(e) The material breach by **CITY** of any of the covenants or agreements herein contained and not cured as provided below.

11.3 Default by **CITY**. In the event of any default by **CITY** of any of its obligations under this Lease Agreement, **TENANT** may declare the **CITY** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to the **CITY MANAGER** addressed and copied as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. No termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **TENANT** to **CITY,** and the City shall not have cured such default during such thirty (30) day period. If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **CITY** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable.

11.4 Default by **TENANT**. In the event of any default by **TENANT** of any of its obligations under this Lease Agreement, **CITY** may declare the **TENANT** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to **TENANT** addressed as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. Except as provided otherwise in this Lease Agreement whereby no opportunity to cure is required, no termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **CITY** to **TENANT,** and such default shall not have been cured during such thirty (30) day period by the **TENANT.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **TENANT** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable. In the event **TENANT** knew or should have known of the default prior to receipt of **CITY** notice, said thirty (30) day period to cure shall be deemed to begin as of the date **TENANT** knew or should have known of said default. Notwithstanding the foregoing, if **TENANT** should fail to pay any sum, including without limitation any rental, tax, assessment or use fee or charge, as required hereunder, **TENANT** shall have ten (10) days from receipt of **CITY** notice of default to cure said default, and if not so cured, termination of this Lease Agreement shall be effective as of the eleventh day following said receipt of notice.

ARTICLE 12 - RIGHTS UPON TERMINATION

12.1 **TENANT** agrees that upon the expiration of the Initial Term of this Lease or sooner termination thereof, the Leased Premises will be promptly delivered to **CITY. TENANT** shall remove all buildings, fixtures and personal property located on the Leased Premises within thirty (30) days of the date of expiration or termination, and repair any damage resulting from such removal and restore the Premises, all at **TENANT**'s cost and expense. In lieu of removal, **TENANT** may, at its option, offer to transfer

title, through execution of appropriate documents, to some or all of the buildings and improvements on the Premises to **CITY** at no cost to **CITY** and in such case, **TENANT** shall provide **CITY** of notice of such offer at least ninety (90) days prior to termination of this Agreement. **CITY** shall notify **TENANT** in writing within the ninety (90) day period as whether it accepts or rejects said offer. In the event CITY rejects the offer, **TENANT** shall be obligated to remove the buildings and improvement from the Premises within thirty (30) days of expiration or termination as provided herein. Upon the termination or expiration of the Initial Term of this Lease Agreement, all rights of **TENANT** hereunder to possession of the Premises under this Agreement shall immediately terminate.

12.2 If the **TENANT** elects, and **CITY** agrees, to enter into a Renewal of this Agreement, at expiration or termination of any Renewal term, at **CITY**'s option, the **CITY** may take title or require removal of improvements, alterations and additions made by **TENANT** in the same manner and on the same terms as provided in Section 12.1 at termination or expiration of the Initial Term.

12.3 Unless **CITY** has agreed in writing to accept title to buildings and improvements under Section 12.1 above, in the event **TENANT** fails to remove the buildings, fixtures or personal property from the Premises within thirty (30) days of termination or expiration of this Lease, title to said buildings, fixtures and personal property shall vest in **CITY** on the thirty-first (31st) day after the date of such termination or expiration, and **CITY** may dispose of such buildings, fixtures and personal property as it sees fit, in **CITY** discretion, and retain any proceeds from such disposal. In the event **CITY** incurs a net loss for such disposal, **TENANT** shall be liable to **CITY** for reimbursement of such loss.

ARTICLE 13 - NO ASSIGNMENT AND SUBLETTING

13.1 The **TENANT** shall not assign, rent, sublease, sell, convey, mortgage, encumber or otherwise transfer in any manner all or any part of the Leased Premises or the improvements located thereon or any of the privileges granted to **TENANT** hereunder, without the prior written consent of the **CITY**, which approval shall be at the **CITY**'s sole discretion. **CITY** reserves the right to review the form of all such proposed transfers. **TENANT** shall notify **CITY** annually of the identity of all sublessees of any portion of the Premises, or shall provide such information upon **CITY**'s request. **CITY** further reserves the right to place such reasonable conditions upon any such transfer as it deems to be in the best interest of the CITY.

In the event of any approved transfer, sublease or assignment, **TENANT** shall continue to be liable to **CITY** for all rent, fees, taxes, assessments and all other obligations under this Lease for which it is liable hereunder. All approved transferees, subleases or assignees shall be required to conform to all of the terms and conditions of this Lease Agreement, including without limitation, all insurance requirements hereunder.

13.2 Any violation of the terms of this Article by any person at or on the Premises, or conducting any activities from, at or on the Premises, shall be deemed a breach of this Lease Agreement and, at **CITY's** option, may result in termination of this Lease Agreement pursuant to Article 11.

13.3 Any sale or transfer, whether to one or more persons or entities and whether at one or more different times, of a total of fifty percent (50%) or more of the ownership interest in any corporation, partnership, limited liability company or other entity which is then the legal tenant under this Lease Agreement shall be deemed an assignment of this Lease Agreement within the meaning of this Article 13.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 NON-INTERFERENCE WITH OPERATION OF AIRPORT

14.1.1 **TENANT,** by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard or interfere with or endanger general operations at the Airport. In the event the aforesaid covenant is breached, the **CITY** reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the **TENANT**, and reimbursement for such **CITY** expense shall be paid by **TENANT** immediately upon **CITY**'s demand therefor.

14.1.2 **CITY** hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport. In addition, **TENANT** acknowledges that because of the close location of the Premises to the "airfield operations area", that noise, vibration, fumes, debris and other interference with the Premises will be caused by Airport operations. **TENANT** hereby waives any and all rights and remedies against **CITY** arising out of any noise, vibration, fumes, debris and/or interference that is caused by the operation of the Airport.

14.2 QUIET ENJOYMENT

The **CITY** agrees that on payment of the rentals and fees hereunder, and subject to performance and compliance by **TENANT** of the covenants, conditions and agreement on its part to be performed and complied with herein, **TENANT** shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities, and of the Leased Premises, to the extent granted herein.

14.3 AGREEMENTS WITH FEDERAL GOVERNMENT

This Lease Agreement is subject and subordinate to the provisions of any agreements that have been or shall be made between the **CITY** and the United States of America relative to the operation or maintenance of the Airport, the execution of which have been or shall be required as a condition to the expenditure of Federal funds for the extension, expansion, improvement, maintenance or development of the Airport. **TENANT** agrees to comply with all applicable laws and regulations and to modify or amend this Agreement as required to comply with such applicable laws and regulations.

14.4 LICENSE FEES AND PERMITS

TENANT shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or Local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

14.5 SECURITY AGREEMENT

TENANT, at its own cost and expense, shall be responsible for ensuring that all building entrances, exits, and any access to the Leased Premises are in compliance with all applicable Airport Security Programs. It shall be **TENANT**'s responsibility, at its own cost and expense, to be in compliance with all existing and future security requirements of the Department of Transportation, Transportation Security Administration, and/or the Airport Security Program, and **TENANT** shall hold the **CITY** harmless and shall pay any fines, penalties, cost or expenses incurred by **CITY** or by **TENANT** and arising out of any

breach of said security requirements by **TENANT,** its invitees, subtenants, or anyone for whose act **TENANT** may be liable.

14.6 PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of the Lease.

14.7 INTERPRETATIONS

The laws of the State of Maine shall govern the validity, interpretation, performance and enforcement of this Agreement. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires. Unless the context specifically provides otherwise, "person" wherever used in this Lease shall include, without limitation, an individual, a sole proprietor, a corporation, a partnership or any legal entity authorized by law.

14.8 DISPUTE RESOLUTION

All disputes hereunder which are not mutually resolved shall be resolved by trial without a jury in the Courts of York County, State of Maine. TENANT hereby agrees to waive any rights which **TENANT** may have to a trial by jury. Notwithstanding the foregoing, **TENANT** and **CITY** may mutually agree to submit any dispute hereunder to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

14.9 NOTICES

Except as otherwise provided in Article 11 for certified mail or hand delivery of notice of default, whenever any notice or payment is required by this Lease Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to, or hand-delivered to:

CITY:

City Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

Airport Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

TENANT:
Donald P. Saucier
1 Saucier Lane
Old Orchard Beach, ME 04064

or such place as either party shall designate in writing.

14.10 ENTIRE AGREEMENT

This Lease Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties and all other representations or statements heretofore made, verbal or written, are merged herein, and this Lease Agreement may be amended only in a writing executed by duly authorized representatives of the parties hereto.

14.11 NON-WAIVER

No waiver by either Party of any of the terms, covenants, and conditions hereof to be performed kept and observed by the other Party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept, and observed by the other party. The receipt by **CITY** of any rent with knowledge of any breach of this Lease Agreement by **TENANT** or of any default by **TENANT** in the observance or performance of any of the terms, covenants or conditions of this Lease Agreement shall not be deemed to be a waiver of any provision of this Lease Agreement. If any action by **TENANT** shall require the consent or approval of **CITY, CITY**'s consent to, or approval of, such action on any one occasion shall not be deemed a consent to, or approval of, said action on any subsequent occasion, or consent to, or approval of, any other action on the same or any subsequent occasion.

14.12 REMEDIES CUMULATIVE

All rights and remedies of the parties herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by either party of any remedy provided herein or allowed by law shall not be to the exclusion of any other remedy.

14.13 TIME OF ESSENCE

Time is and shall be of the essence in respect to the performance of each and every provision of this Lease Agreement.

14.14 FORCE MAJEURE

Neither the **CITY** nor **TENANT** shall be deemed in violation of this Lease Agreement if either should be prevented from performing any of the obligations hereunder (other than any obligations to make payments) by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control. The party claiming force majeure shall give prompt written notice to the other party of such event or events, and shall resume performance promptly upon the conclusion of the event or events preventing its performance.

14.15 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Lease Agreement shall be valid and be enforced to the fullest extent permitted by law.

14.16 MEMORANDUM OF LEASE

Either party at the request of the other, shall execute, acknowledge and deliver for recording, a memorandum or short form lease prepared by the requesting party; provided, however, that the relations between **CITY** and **TENANT** shall be governed solely by the provisions of this Lease Agreement and not by any such memorandum or short form lease which may be executed, delivered and recorded.

14.17 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations in this Lease Agreement shall extend to and bind the legal representatives, heirs, successors, and any permitted assigns of the respective parties hereto. Nothing herein shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of **TENANT** in violation of any other provisions contained in this Lease Agreement.

14.18 ASSIGNMENT TO CITY SUCCESSOR IN INTEREST

The **CITY** may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed by their duly authorized representatives as of the date first above mentioned at Biddeford, Maine.

WITNESS

A. Curtis Kohler, Jr.

CITY OF BIDDEFORD, MAINE

By:
Its City Manager

TENANT

A. Curtis Kohler Jr.

By:

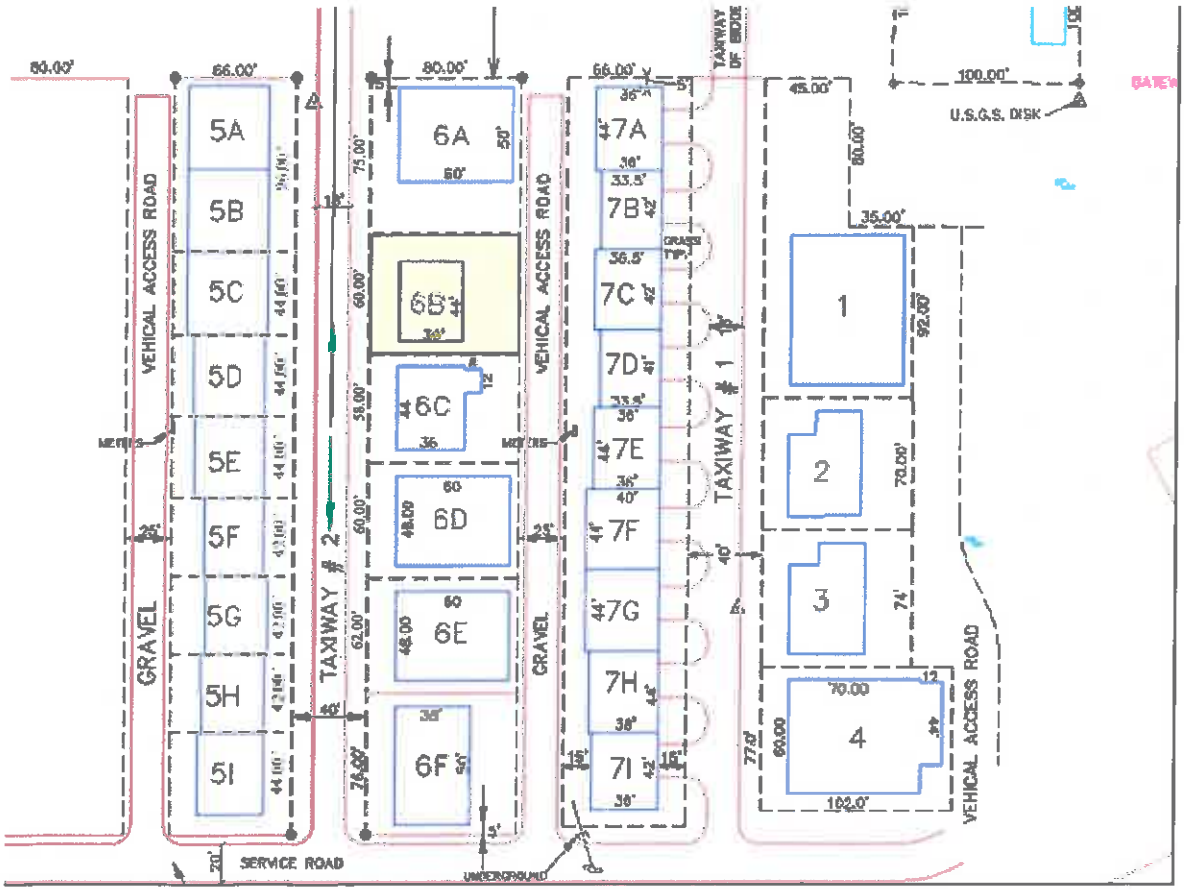
City of Biddeford, Maine

205 Main St. P.O. Box 586 Biddeford, Maine 04005

Exhibit A

Hanger 6B

75' x 80' = 4,800 sq. ft.



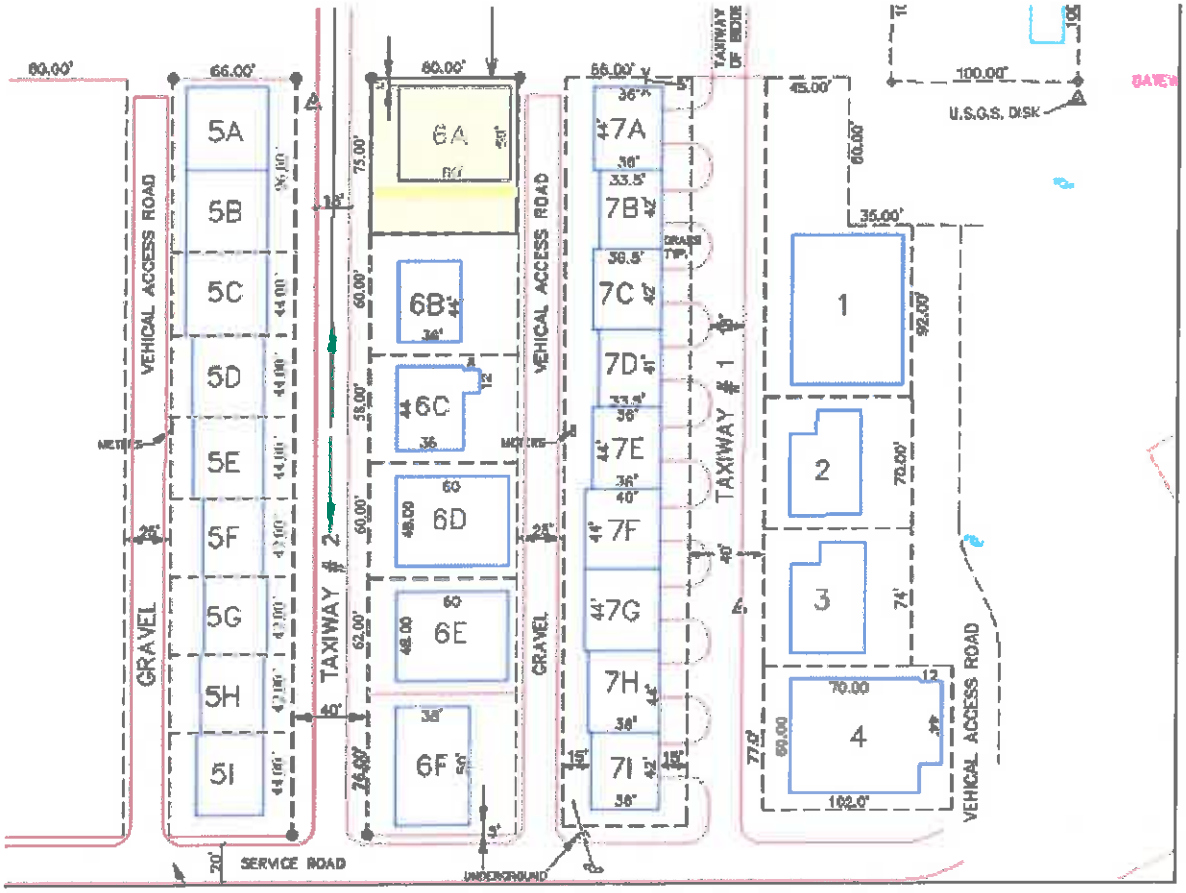
City of Biddeford, Maine

205 Main St. P.O. Box 586 Biddeford, Maine 04005

Exhibit A

Hanger 6A

75' x 80' = 6,000 sq. ft.



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CITY OF BIDDEFORD

Biddeford Municipal Airport

Ground Lease Agreement

Lease Expires on November 8, 2025

Adopted: February 3, 2009

GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this 9th day of November 2015, by and between the **CITY OF BIDDEFORD,** a Maine municipal corporation, (the "**CITY**"), and John Apte, with a mailing address of 110Main St. #304, Saco, Maine 04072, (the "**TENANT**").

W I T N E S S E T H:

WHEREAS, CITY owns, controls and operates for the use and benefit of the public, Biddeford Municipal Airport, located in Biddeford, Maine, (the "Airport").

WHEREAS, TENANT wishes to enter into a Ground Lease Agreement with **CITY** in order to construct and/or maintain a hangar for **TENANT**'s aircraft related equipment and materials and conduct certain permitted uses at the Airport;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, **CITY** and **TENANT** hereby agree as follows:

ARTICLE 1 - LEASED PREMISES

1.1. DESCRIPTION OF LEASED PREMISES

The term "Leased Premises" or "Premises" as used in this Lease Agreement, shall mean and include real estate located at Biddeford Municipal Airport, Biddeford, York County, State of Maine, consisting of approximately four thousand nine hundred sixty (4,960) square feet, as shown on Exhibit A attached hereto and incorporated herein, and including the rights of ingress thereto and egress therefrom and the right to install, use and maintain utilities, subject to any utility or other easements of record.

1.2 "AS IS" CONDITION.

TENANT takes the Premises in "as is" condition. Other than **CITY** ownership thereof, **CITY** makes no representation or warranty as to the physical condition of the Premises nor as to any other matter concerning the Premises, including but not limited to the presence of any environmental hazards thereon. Without limiting the foregoing, the **CITY** represents that, as of the execution date of this Lease, it has not received notice of any such hazards. All **TENANT** improvements, additions and alterations at or to the Premises will be at **TENANT**'s sole cost and expense and **CITY** shall have no responsibility therefor.

ARTICLE 2 - OBJECTIVES AND PURPOSES OF LEASE

2.1 PERMITTED AND PROHIBITED USES OF LEASED PREMISES

2.1.1 Permitted Uses: **TENANT** shall use the Premises solely for the construction and/or maintenance of an aircraft storage hangar ("Hangar") and associated ramp and apron, which may be used for storage of **TENANT**'s owned or leased aircraft and aircraft related materials and equipment, provided, however,

that any such uses shall be subject to all applicable Federal, State and Local law including, without limitations, the Biddeford Zoning Ordinance, the Minimum Standards and Procedures for the Lease and/or Use of the Property and Facilities for Aeronautical Activities (the "Minimum Standards") and all regulations of the Biddeford Municipal Airport currently in effect or enacted during the term of this Lease (See Section 5.8.1). Nothing in this section is intended, nor shall it be deemed, to permit **TENANT** to establish or carry out any commercial activity from the **PREMISES** (See Section 2.1.4).

2.1.2 **TENANT** shall have the right to install or improve therein and thereon such fixtures, equipment and facilities as **TENANT** may deem necessary or desirable; provided, however, that no such structure, improvement, fixture, equipment or facility shall be constructed, improved or installed by **TENANT** without the prior written consent of the **CITY**; provided, further, that any such construction shall be subject to all Federal, State and Local Law including, without limitation, the Biddeford Building Codes and the regulations of the Biddeford Municipal Airport on hangar construction. **TENANT** covenants and agrees that prior to the construction or installation of any such structure, improvement, fixture, equipment, or facility, **TENANT** will submit detailed plans or other appropriate information showing the location, design and character to the Airport Manager and Biddeford Planning Office. Any such construction shall be subject to the approval of the Biddeford City Council or its designee.

2.1.3 **TENANT** shall have the right unless prohibited by any Fixed Base Operator Agreement to purchase or otherwise obtain personal property or services of any nature required by or incident to the operation and maintenance of the **TENANT**'s aircraft from any person, partnership, firm, association or corporation it may choose, provided such person, partnership, firm, association or corporation shall have first obtained written approval from the **CITY** to operate within the airport and shall be in compliance with the Minimum Standards.

2.1.4 Prohibited Uses: **TENANT** shall not use the Premises for the conduct of any nonaeronautical business, for residential or nonaeronautical commercial use, or for nonaeronautical storage or nonaeronautical activities. TENANT shall obtain the written consent of the **CITY** prior to undertaking any commercial activities on the Premises

2.1.5 **TENANT** shall park his or her vehicle only in those areas designated for parking and only when using the Airport, **TENANT**'s hangar or **TENANT**'s aircraft.

2.1.6 All activities hereunder must be conducted pursuant to the Minimum Standards and Rules and Regulations and policies in effect on the date of execution of this Agreement and as may be later amended or revised, and all applicable Federal, State and Local laws and regulations. Prior to undertaking any activities hereunder, **TENANT** shall obtain, at **TENANT**'s own cost and expense, all approvals and permits required under the Minimum Standards, as well as any other required Federal, State or Local approvals and permits.

2.1.7 **TENANT** agrees that it shall not provide any Fixed Base Operator (FBO) services as defined by the **CITY**.

ARTICLE 3 - TERM

3.1 INITIAL TERM; RENT COMMENCEMENT DATE

3.1.1 This Lease shall commence as of the date of execution of this Lease Agreement or July 1, 2015, whichever is later (the "Lease Commencement Date") for a term of ten (10) years.

3.1.2 **TENANT** shall pay rent to the **CITY** during the Initial Term as provided in Article 4 below beginning on the Lease Commencement Date.

3.2 RENEWAL TERM

TENANT shall have the option to renew this Lease for an additional ten (10) years so long as **TENANT** has been and is continuing in full compliance with all of the terms and conditions herein, and subject to renegotiation of the rent as provided in Article 4 below. **TENANT** shall provide **CITY** with no less than One Hundred and Eighty (180) days notice of its intent to renew prior to expiration of the initial term of this Lease. **CITY** shall renew the Lease pursuant to Section 4.3 below and subject to the continuing compliance by **TENANT** with all the terms and conditions herein. Such renewal shall be in writing signed by both parties.

3.3 HOLDING OVER

3.3.1 In the event **TENANT** shall continue to occupy the Leased Premises beyond the Lease term or any extension thereof without **CITY**'s written renewal thereof, such holding over shall not constitute a renewal or extension of this Lease, but shall create a tenancy at sufferance which may be terminated at any time by **CITY** or **TENANT** by giving thirty (30) days' written notice to the other party. Any such tenancy at sufferance shall otherwise be on all of the terms and conditions of this Lease Agreement.

ARTICLE 4 - RENTALS, FEES AND RECORDS

4.1 FIXED RENT

4.1.1. Fixed annual rent. **TENANT** agrees to pay **CITY**, a fixed rent of $664.64 for the period from the July 1, 2015 through the following June 30. For the first year, payment credit will be given for any amount previously paid for the period from July 1 to December 31, 2015.

4.1.2 Rent increases. Beginning on the first day of July 2016, and annually thereafter during the Initial Term, the fixed rent in Section 4.1.1 will be adjusted, based on the increase in the prior 12 months' Consumer Price Index of the U.S. Department of Labor, All Urban Consumers, all items (1982-84 = 100) for the U.S. City Average (Table 10), March to March, or comparable successor index for the immediately prior twelve months. In no event shall such adjustment result in a reduction of the prior year's fixed annual rent. Rent shall be invoiced by the City Finance Department in June of each year.

4.2 RENEWAL RENT

In the event **TENANT** wishes to_renew this Lease as provided in Section 3.2 above, **TENANT** shall provide the **CITY** with a notice of intent to renew the lease no less than 180 days prior to renewal of the Lease. Rent for the Renewal Term shall be equal to the then current general aviation ground rent in effect as of the commencement of the renewal term, with any then current inflation adjustment applicable to general aviation ground leases. Upon request, **CITY** shall provide **TENANT** with documentation as to those current rents and adjustments.

4.3 TIME AND PLACE OF PAYMENTS

4.3.1 The foregoing rent shall be payable, on or before August 1 of each year, at the Finance Department, Biddeford City Hall, or such other place as the **CITY** may direct in writing from time to

time.

4.3.2 **TENANT** shall make prompt and timely payment, without deduction or setoff, of all rentals, fees, assessments, taxes and other charges due hereunder as the same may from time to time come due.

4.4 DELINQUENT RENTALS

There shall be added to all sums which the **TENANT** is required to pay hereunder (whether as rental or otherwise) to **CITY** and which are unpaid after their due date, a late charge of one and one-half percent (1-1/2%) of the unpaid sum for each full calendar month of delinquency computed as simple interest on a monthly basis which corresponds to eighteen (18%) per annum. Any late charge assessed shall be computed from the original due date of the unpaid sum. The rate of the late charge may be changed from time to time pursuant to generally applicable Airport rules and regulations. Any late charge hereunder shall be additional to any interest or other charge imposed by the **CITY** generally, including without limitation, interest on unpaid real or personal property taxes.

ARTICLE 5 - OBLIGATIONS OF TENANT

5.1 NET LEASE

The use and occupancy of the Leased Premises by **TENANT** will be without cost or expense to **CITY** and all rent payable hereunder shall be net to the **CITY.** It shall be the sole responsibility of **TENANT** to maintain, repair and operate the entirety of the Leased Premises and any improvements and facilities constructed thereon at **TENANT**'s sole cost and expense, except as otherwise explicitly stated herein.

5.2 CITY'S CONSENT TO IMPROVEMENTS REQUIRED.

5.2.1 If a hangar has not been previously constructed on the Premises, **TENANT** shall design and construct, at **TENANT**'s own cost and expense, a hangar and associated ramp and apron in accordance with the Minimum Standards. Prior to Planning Board review, the proposed design and materials to be used for such construction shall be subject to the review and approval of the Biddeford Planning Office, which approval shall not be unreasonably withheld or delayed. The Planning Office's review shall include review for compatibility with existing airport design and materials and for compliance with the Airport Master Plan then in effect. **TENANT**'s proposed landscaping plan shall be part of the Planning Office's review, and if required subject to final approval by the Planning Board. **TENANT** shall pay for and obtain all required Federal, State, County and **CITY** permits or approvals prior to such construction, including but not limited to any required Planning Board approval, and Federal Aviation Agency (hereinafter the "FAA") approvals, including filing FAA Form 7460, Notice of Proposed Construction or Alteration. In addition to complying with any applicable **CITY** ordinance, all exterior signage to be placed or erected on the Premises shall be subject to the prior written approval of the Planning Office. In the event any substantive change is made in the proposed design and materials to be used after all other applicable review, such changes shall be submitted to the Planning Office for review and approval, which approval shall not be unreasonably withheld or delayed.

5.2.2 **TENANT** shall apply for any necessary permits and approvals within 60 days of the execution of this Lease. In the event **TENANT** is unable to obtain any required Federal, State or Local approvals and permits necessary for construction of its project and to begin construction no later than One (1) year from the date of execution of this Lease, each Party reserves the right to terminate this Lease upon no less than thirty (30) days prior written notice, with no further obligations of either Party hereunder. Upon obtaining

all approvals and permits required for construction of the project, **TENANT** shall promptly commence and diligently complete such construction. All buildings and associated landscaping shall be completed within one (1) year of permit approvals.

5.2.3 Except as provided above, **TENANT** shall not erect any structures, make any improvements, nor do any construction work on the Premises, without the prior written approval of the Planning Office, whose approval shall not be unreasonably withheld or delayed. Alterations, modifications, additions to or replacements of any structure constructed on the Premises are subject to the prior written approval of the Planning Office, which approval shall not be unreasonably withheld or delayed. **TENANT** also shall obtain any necessary Planning Board approval. The requirement for the Planning Office's prior approval shall not apply to any improvements, repairs or replacements which are immediately necessary because of an emergency caused by no fault of **TENANT**, but **TENANT** shall inform the Airport Manager and Planning Office of such emergency work as soon as reasonable practicable.

5.3 MAINTENANCE AND OPERATIONS

5.3.1 All repair, and maintenance of the leased Premises, including, but not limited to, landscaping, paving and snow and ice removal, shall be the responsibility of the **TENANT. TENANT** shall maintain the Premises and all of the fixtures, equipment and personal property which may be located in or upon any part thereof in a reasonably neat, clean and sanitary condition. **TENANT** shall not store snow off the Premises without written approval from the Airport Manager. Snow removal shall not block any aircraft movement areas at any time. **CITY** agrees that it shall maintain, repair and remove snow and ice from the common areas of the Airport.

5.3.2 **CITY** shall have the right to take any action it considers necessary to protect general operation of the Airport and the aerial approaches to the Airport against obstruction. **TENANT**, in the use of the roadways, approaches, taxiways and runways of the aircraft landing field and in the use of the adjacent areas for storage of aircraft, or in the use of their buildings shall abide by and conform to any and all reasonable rules and regulations now existing or as may be hereafter promulgated by the **CITY** and will comply with the requirements of any Federal, State of Local act or regulation which relates to the operation of the Airport, including, but not limited to, abiding, at **TENANT**'s sole cost and expense, with any Federal, State or Local security or certification requirements which relate to its operations at the Airport.

5.3.3 **TENANT** shall take good care of the Premises; shall reasonably maintain the Premises and the improvements, buildings and fixtures thereon in good condition at all times; shall make all repairs and replacements inside and outside, ordinary and extraordinary, structural or otherwise. Such repairs and replacements by **TENANT** shall be in quality and class not inferior to the original material and workmanship. **TENANT** shall pay promptly the costs and expenses of such repairs, replacements and maintenance, and maintain and repair all utility service lines located upon the Leased Premises to the extent they are used by **TENANT**, except to the extent such maintenance or repair is the obligation of the utility company providing such utility service.

5.3.4 All exterior repairs, replacements and maintenance shall be subject to the prior written approval of the Planning Office, which shall not be unreasonably withheld or delayed, and shall comply with all applicable Federal, State and Local permit requirements as well as any applicable rules and regulations enacted by the **CITY** relating to the Airport.

5.3.5 **TENANT** shall paint, repair, replace or rebuild all or any part of the Premises, interior or

exterior, structural or non-structural, as provided above, which may be damaged or destroyed (subject to the provisions of Article 9 below). In such case, **TENANT** shall have the right to apply any available insurance proceeds to such purposes.

5.3.6 **TENANT** shall provide, at its sole cost and expense, the necessary receptacles and arrangements for adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse that results from use of, or activities on, the Premises. **CITY** reserves the right to require **TENANT** to participate in any recycling program which may be imposed by Airport rules or by Local, State or Federal law or regulation. **TENANT** shall defend, indemnify and hold the **CITY** harmless from any cost, expense, claim, fine or liability, including without limitation attorney's fees and court costs, arising out of or resulting from **TENANT**'s storage, collection, transportation or disposal of any trash, garbage or other refuse hereunder. This obligation of defense and indemnification shall remain in full force and effect after termination or expiration of this Lease.

5.3.7 **TENANT** shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse and said receptacles must be stored inside the hangar. Piling of boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Lease Premises, shall not be permitted.

5.3.8 To the extent that **TENANT** does not undertake or pay for any of its obligations under this Subsection 5.3 or Subsection 9, **CITY** reserves the right to undertake such obligations or to pay such costs, in its sole discretion, and to charge all costs thereof to **TENANT**. In the event **CITY** undertakes any such obligation or pays such cost hereunder, **TENANT** shall repay the **CITY** all such amounts immediately upon **CITY**'s demand therefor. Nothing herein shall prevent or prohibit the **CITY** from declaring a default hereunder and terminating the Lease as provided in Article 11 below.

5.4 CITY RIGHT TO INSPECT AND REPAIR

5.4.1 **CITY**, through its agents, may come on the Premises and enter the Hangar to inspect for compliance with the requirements of this Lease, Airport rules and regulations, environmental laws, or other applicable legal and regulatory requirements. Such inspection will generally take place during normal business hours and following forty eight (48) hours advance notice to the **TENANT**, but the **CITY** reserves the right to enter the Premises unannounced at any time that the Airport Manager or City determines such entry is necessary for public safety or security reasons or if necessary for Federal or State required compliance inspections. In the event of such unannounced entry, **CITY** shall notify the **TENANT** that such inspection occurred within a reasonable time thereafter. **TENANT** shall provide **CITY** with the ability to access the Premises and the Hangar for such public safety and security purposes.

5.4.2 **CITY** or its designee, at its discretion, shall be the sole judge of the quality of the exterior repair and maintenance; and **TENANT**, upon notice by **CITY** to **TENANT** shall be required to perform whatever repair and maintenance **CITY** deems reasonably necessary. If said repair and maintenance is not undertaken by **TENANT** within thirty (30) days after receipt of written notice, **CITY** shall have the right to enter upon the Leased Premises and perform the necessary repair and maintenance, the cost of which shall be borne by **TENANT** as additional rent to be paid to **CITY** immediately upon demand therefor. Notwithstanding the foregoing, in the case of a threat to public health or safety, **CITY** may undertake such repairs as it deems reasonably necessary and charge the cost thereto to **TENANT** as additional rent to be paid to **CITY**, without regard to any notice requirement herein. No waste shall be committed or damage done to the Premises, the buildings and equipment located thereon, nor to property of CITY.

5.5 UTILITIES

TENANT shall assume and pay for all construction, installation and periodic costs or charges for utility services furnished to **TENANT** during the term hereof; provided, however, that, consistent with applicable laws, regulations or permit requirements, **TENANT** shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and **TENANT** shall pay for any and all service charges incurred there from. The **TENANT** must also meet the requirements of any Airport Storm Water Pollution Prevention Plan and any amendments thereto. **TENANT** agrees to relocate at its expense any utility service if **CITY** determines in its sole discretion that said utility service interferes with present or future airport operations or expansions.

5.6 PAYMENT OF TAXES AND OTHER ASSESSMENTS

5.6.1 **TENANT** agrees to pay promptly when due, and not to permit to become delinquent, levies, taxes, assessments, improvement fees, excises, permit fees, license fees, charges, impositions or burdens of whatsoever kind and nature, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or for any public improvements or utility services (hereinafter "impositions") which, at any time during the term of this Lease Agreement, may be created, levied, assessed, imposed or charged upon or with respect to the Leased Premises or any part thereof, by any Federal, State, County, Municipal or other authority, which imposition would be valid and applicable to **TENANT** irrespective of this section.

5.6.2 **TENANT** acknowledges that **CITY** has the right from time to time to establish and impose reasonable charges and fees for users of the Airport or its facilities, provided that such charges and fees are charged in a uniform and non-discriminatory manner and do not significantly increase the total fixed and percentage rent due hereunder; and provided, further, that **CITY** shall provide **TENANT** with no less than thirty (30) days prior written notice prior to imposing any new fee or charge which directly or indirectly affects **TENANT** or any subtenant of **TENANT.**

5.7 NONDISCRIMINATION; AFFIRMATIVE ACTION

5.7.1 The **TENANT**, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with this Lease of the Premises that, to the extent applicable to **TENANT**'s operations hereunder:

(a) no person on the grounds of race, color, sex, disability, religion, national origin or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subject to, discrimination in the use of said facilities;

(b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services thereon, no person on the grounds of race, color, sex, disability, religion, national origin, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) that the **TENANT** shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

5.8 OBSERVANCE OF LAWS, STATUTES, ORDINANCES, RULES AND REGULATIONS

5.8.1 During the Term hereof and any renewal term, **TENANT** shall, at its own cost and expense, promptly observe and comply with all existing and future applicable laws, ordinances, rules, regulations, licenses, permits, decisions and decrees of the Federal, State, County and CITY Governments (including but not limited to Airport Minimum Standards and Procedures for the Lease and/or Use of Property and Facilities for Aeronautical Activities (Exhibit A), Airport Rules and Regulations (Exhibit B), Airport Hangar Construction and Minimum Specifications (Exhibit C), Airport Storm Water Pollution Prevention Practices (Exhibit D), copies of which **TENANT** acknowledges having received and which are incorporated herein, as well as those of any other government authority having jurisdiction over the Premises or any part thereof, including without limitation all applicable Federal Aviation Administration rules and regulations, whether the same are in force at the commencement of the term of this Agreement or should be enacted in the future.

5.8.2 **TENANT** shall pay all fines, penalties, damages, expenses or costs, including reasonable counsel fees, and shall indemnify and hold the **CITY** harmless therefrom, which may in any manner arise out of or are imposed on **TENANT, CITY** or Airport because of the failure of the **TENANT** to comply with the requirements of this Section 5.8. Without limiting any other right of **CITY** hereunder, **TENANT**'s non-compliance with any provision of this Section 5.8 shall be grounds for termination of this Lease Agreement.

5.9 ENVIRONMENTAL STATUTES

5.9.1 **TENANT** covenants and agrees to comply with all applicable environmental laws, including without limitation all laws governing hazardous substances and all requirements related to storm water discharges and permits, and to provide to **CITY**, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of **TENANT** under environmental laws, or which seek civil, criminal or punitive penalties from **TENANT** for an alleged violation of environmental laws. **TENANT** further agrees to advise the **CITY** in writing as soon as **TENANT** becomes aware of any condition or circumstances that may result in a potential violation of any environmental laws. **TENANT** shall comply with any Storm Water Pollution Prevention Plan and any amendments thereto, and shall grant access to the **CITY** for any inspections required by the plan. **TENANT** agrees, at its expense, and at the request of **CITY** when it has a reasonable belief that there is a problem or when required by another governmental entity, to permit an environmental audit solely for the benefit of **CITY**, to be conducted by **CITY**. This provision shall not relieve **CITY** from conducting its own environmental audits or taking any other steps necessary to comply with environmental laws.

5.9.2 Without limiting the foregoing, **TENANT** shall not dump, flush, or in any way introduce any hazardous materials or hazardous waste or any other toxic materials upon the Leased Premises nor shall it improperly store, or dispose of any hazardous materials or hazardous waste from any such property, except in full compliance with all applicable laws and regulations. For purposes of this paragraph, the term hazardous materials shall mean inflammable, explosives, radioactive materials and hazardous substances defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, the Hazardous Conservation and Recovery Act, and the Resources Conservation and Recovery Act, or any similar federal, state or local law, or in any regulations promulgated pursuant thereto, or in any other applicable law. The term "hazardous materials" shall also include any other chemical, material or

substance which is or may be regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal, state or other governmental authority or agency or which, even if not so regulated, may or could pose a hazard to human health and safety.

5.9.3 If in the opinion of **CITY**, there exists any uncorrected violation by **TENANT** of an environmental law which requires, or may require, a cleanup, removal or any condition or other remedial action by **TENANT** under any environmental law, regulation, permit, license, judgment or decree, and such cleanup, removal or other remedial action is not completed, or commenced and diligently pursued, within thirty (30) days from the date of written notice from **CITY** to **TENANT**, the same shall, at the option of **CITY**, constitute an event of default hereunder.

5.9.4 For the purposes of this Section 5.9, the term "environmental law or laws" shall mean all Federal, State and Local laws including statutes, regulations, ordinances, codes, rules, permits, licenses, judgments, decrees, or other governmental restrictions and requirements relating to the environment or any hazardous substance, including but not limited to, the State of Maine environmental protection statutes, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Research Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility, Cleanup and Liability Act of 1980 as amended by the Super Fund Amendments and Reauthorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any State Department of Environmental Protection or successor agency now or anytime hereafter in effect.

5.9.5 **TENANT** shall defend, indemnify and hold the **CITY** harmless from and against any and all damages, costs and expenses, including without limitation, fines, penalties, reasonable attorney's fees, consequential damages and remedial costs and other liabilities arising from claims based upon the environmental condition of the Premises and the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), resulting from (a) **TENANT**'s use of the Premises or operations thereon by or on behalf of **TENANT**; (b) claims arising out of, related to, or in connection with (i) the release by **TENANT** of any hazardous material into, onto or from the Premises; or (ii) any arrangement by **TENANT** for the treatment, recycling, storage or disposal at any facility owned or operated by any person or entity of a hazardous material which is present on the Premises or has been or may be deposited at, disposed on or released onto the Premises; and (c) claims related to demolition, cleanup or other remedial measure with regard to environmental conditions on or around the Premises by **TENANT;** or (d) claims resulting from any act or omission of **TENANT** in violation of any Federal, State or Local environmental laws or regulations with respect to **TENANT**'s use of the Leased Premises.

5.9.6 **CITY** shall give to **TENANT** prompt and reasonable notice of any such claim or action, and **TENANT** shall have the right to investigate, compromise, and defend the same.

5.9.7 **TENANT,** as used in this Section 5.9, shall mean and include the named **TENANT,** or anyone for whose act **TENANT** may be legally liable.

5.9.8 The Terms of this Section 5.9 shall expressly survive the expiration or earlier termination of this Lease Agreement, including without limitation the terms of Subsection 5.9.5.

5.10 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Lease and

any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 6 - OBLIGATIONS OF CITY

6.1 OPERATION AS A MUNICIPAL AIRPORT

CITY agrees that at all times during the term of this Lease it will operate and maintain the Airport as a municipal airport. If **CITY** permanently ceases operations of the Airport during the term of this Lease, **CITY** will pay **TENANT** the appraised value of any building constructed on the Premises in accordance with the terms of this Lease as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

6.2 INGRESS AND EGRESS

Upon paying the rental hereunder and performing the covenants of this Lease, **TENANT** shall have the right of ingress to and egress from the Premises for the **TENANT**, over the roadway provided by **CITY** serving the Premises. **TENANT's** access shall be in common with other users and shall be subject to applicable security requirements and to possible episodic interruptions due to security or safety concerns. **CITY**'s roadway shall be used jointly with other tenants on the Airport, and **TENANT** shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as **CITY** deems necessary. **TENANT** shall have the right to bring utilities to the Premises at its own cost and expense and in accord with all applicable laws, rules and regulations for the extension and hookup of such utilities. **TENANT** shall be responsible for paying for all hookup and periodic usage charges for such utilities and **CITY** shall have no responsibility therefor.

ARTICLE 7 - CITY'S RESERVATIONS

7.1 IMPROVEMENT, RELOCATION OR REMOVAL OF STRUCTURES

7.1.1 **CITY**, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport, including the right to remove or relocate any structure on the Airport, as it sees fit, and to take any action it considers necessary to protect the approaches of the Airport against obstructions, together with the right to prevent **TENANT** from erecting or permitting to be erected, any buildings or other structure on the Airport which, in the opinion of **CITY**, would limit the usefulness of the Airport or constitute a hazard to aircraft.

7.1.2 In the event **CITY** requires the use of the Premises for expansion, improvement, or development of the Airport, **CITY** reserves the right, on six (6) months notice, to relocate or replace **TENANT**'s improvements in substantially similar form at another generally comparable location on the Airport. The reasonable costs of such relocation or replacement shall be paid or reimbursed, as appropriate, by **CITY**. Alternatively, **CITY** reserves the right to terminate this Lease. In that event, **CITY** will pay **TENANT** the appraised value of any building constructed on the premises as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

7.2 WAR OR NATIONAL EMERGENCY

During any time of war or national emergency, **CITY** shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease or agreement is executed, the provisions of this Lease Agreement insofar as they are inconsistent with the lease or agreement with the Government shall be suspended or terminated, and in that event, a just and proportionate part of the rent hereunder shall be abated. **CITY** shall have no further obligations financial or otherwise to the **TENANT**.

ARTICLE 8 - INDEMNITY AND INSURANCE

8.1 INDEMNIFICATION

8.1.1 To the fullest extent permitted by law, **TENANT** agrees to defend, indemnify, and save forever harmless the **CITY**, its officers, agents and employees, from and against all claims and actions and all reasonable expenses incidental to the investigation and defense thereof, based on or arising out of claims for damages or injuries to any person or property, including wrongful death and loss of use of property, and arising, in whole or in part, out of **TENANT**'s use or occupancy of the Leased Premises; **CITY** shall give to **TENANT** prompt and reasonable notice of any such claims or actions, and **TENANT** shall have the right to investigate, compromise and defend the same; and provided further, that **TENANT** shall not be liable for any claims, actions, injury, damages or losses to the extent they are occasioned by the negligent or intentional act of **CITY**, its officers, agents or employees. **TENANT** as used in this Subsection 8.1.1 and in Section 8.2 shall mean and include the named **TENANT**, and anyone for whose act **TENANT** may be legally liable.

8.1.2 **TENANT** shall, at its own cost and expense defend any and all suits or actions, just or unjust, which may be brought against **CITY** or in which **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. **CITY** shall have the right to participate in such suits and no action shall be settled without prior consent of the **CITY**. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to the **CITY** that would otherwise exist. The extent of this indemnity provision shall not be limited by any requirement of insurance contained herein.

8.1.3 If **TENANT** is required to obtain workers compensation coverage under Maine law, **TENANT** agrees to procure and maintain throughout the term of this Lease Agreement, an endorsement to its Workers Compensation coverage waiving any and all rights of subrogation against CITY.

8.1.4 The indemnity and hold harmless provision of Section 8.1 includes indemnity against all reasonable expenses, fees, costs and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the **CITY**. The provisions of this Article 8 and the obligations of **TENANT** hereunder shall survive the termination or expiration of this Lease.

8.1.5 In no case shall **CITY** be liable to **TENANT** or to any third party for any incidental, indirect, consequential, special or punitive damages arising out of or relating to this Lease.

8.2 LIEN INDEMNIFICATION

Throughout the term of this Lease, **TENANT** shall not cause nor permit any lien against the Leased Premises, any portion thereof or any City property wherever located, or any improvements thereto, to

arise out of or accrue from any action, omission or use thereof by **TENANT**. **TENANT** may in good faith, however, contest the validity of any alleged lien. **TENANT** shall defend and indemnify and hold the **CITY** harmless from any cost, expense, attorney's fees or other liability arising out of or resulting from any such lien or liens, and shall promptly discharge such lien or stay or prevent its foreclosure by bond or other appropriate legal procedure that is acceptable to the **CITY**. So long as **TENANT** defends **CITY** in any action concerning any such lien, **TENANT** shall not be required to post a bond with respect to such lien prior to the commencement of a foreclosure action against the **CITY.** This provision shall survive termination or expiration of this Lease Agreement. **CITY** may, at its sole discretion, pay any amounts secured by any such lien and in such case, **TENANT** shall repay all such payments to **CITY** immediately upon **CITY**'s demand therefor.

8.3 INSURANCE

8.3.1 Without expense to the **CITY**, and with no lapse in coverage, **TENANT** shall obtain and cause to be kept in force at all times during the term of this Agreement, insurance required by the Minimum Standards for a category 1X FBO – Aircraft Tie Down and Storage.

8.3.2 **TENANT** and the **CITY** understand and agree that the minimum limits of the insurance herein required may become inadequate during the term of this Agreement and **CITY** reserves the right to amend the minimums as needed throughout the term of this Lease. **TENANT** agrees that it will increase such minimum limits upon receipt of notice in writing from the CITY.

8.3.4 In the event any construction or renovation on the Premises is approved by the **CITY, TENANT** shall procure and maintain, or cause to be procured and maintained, comprehensive general liability insurance covering bodily injury and property damage, including special hazards insurance, in such amount as the **CITY** may reasonably require, covering such construction. Said insurance shall protect **TENANT** and **CITY** from any claims or damages arising out of or resulting from such construction or renovations, and shall name the **CITY** as an additional insured thereon. In addition to the foregoing, **TENANT** shall cause to be procured and maintained automobile liability in such amounts as the CITY may reasonably require.

8.3.5 All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy affecting the Premises shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Airport Manager. Each liability policy required to be obtained hereunder shall name the **CITY** as an additional insured thereunder and shall be on an occurrence basis. All policies required hereunder shall be primary to any insurance or self-insurance that **CITY** may maintain for its own benefit.

8.3.6 Certificates or other evidence of insurance coverage required of **TENANT** in this Article, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the **CITY** prior to the execution of this Lease Agreement and annually thereafter. **TENANT** shall at all times during the term of this Lease Agreement provide **CITY** with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier affecting the Leased Premises. Insurer shall provide no less than thirty (30) days written notice prior to cancellation, reduction in coverage or expiration of each policy required hereunder, said notice to be sent to the Airport Manager. It shall be **TENANT**'s responsibility throughout the term of this Lease to provide or have provided to the Airport Manager renewal insurance certificates with no lapse in coverage prior to such renewal.

8.3.7 If at any time **TENANT** should fail either to obtain or to maintain in force the insurance required herein, the **CITY** shall notify **TENANT** of its intention to purchase such insurance for **TENANT**'s account; and, if **TENANT** has not delivered evidence of insurance to the Airport Manager prior to the date on which the current insurance expires, the **CITY** may effect such insurance by taking out policies in companies satisfactory to the **CITY**. Such insurance shall be in amounts no greater than those stipulated herein or as may be in effect from time-to-time. The amount of the premiums for such insurance obtained by the **CITY** shall be payable by **TENANT** as additional rental immediately upon demand therefor by CITY.

ARTICLE 9 - DESTRUCTION OF PREMISES

9.1 In the event the buildings and improvements on the Premises, or any substantial part thereof, should be damaged or destroyed by an insured casualty, such buildings or improvements shall be repaired or rebuilt by **TENANT** and paid for with **TENANT**'s insurance proceeds; and, if such proceeds are insufficient for such purposes **TENANT** shall pay the deficiency, unless otherwise agreed as provided herein. Repair or restoration of the buildings and improvements shall be in accordance with the original Plans and Specifications, together with alterations or modifications made or agreed upon prior to the casualty, unless the Parties otherwise mutually agree to new or modified plans.

9.2 Notwithstanding the foregoing, during the term of this Agreement or any renewal thereof, in the event the buildings and improvements on the Premises, or a substantial part thereof, should be destroyed, then **TENANT** may terminate this Agreement by written notice to **CITY** within ninety (90) days of the casualty and all obligations of each party hereunder shall terminate. In the event of such termination, **TENANT** shall return the Premises to **CITY** restored to a clean and usable condition, with removal of all personal and real property as provided in Article 12 below. If **TENANT** does not provide notice of such termination, **TENANT** shall proceed diligently to rebuild and restore the Premises and the buildings and improvements thereon in accord with the original plans and specifications or such other plans and specifications as may be approved by the Planning Office and, if required, the Planning Board.

ARTICLE 10 - CONDEMNATION

10.1 **CITY** agrees to give prompt written notice to **TENANT** of any eminent domain, condemnation, compulsory acquisition or like proceedings by any competent authority which might result in a partial or full taking of the Leased Premises and of which **CITY** has actual notice. Each party may file and prosecute their respective claims for an award, but all awards and payments on account of a taking shall be held in trust by the recipient to be distributed according to the respective interests of the parties, i.e., payments allocable to the value of the Leased Premises and the residual interest in the Leased Premises shall be paid to **CITY** and payments allocable to **TENANT**'s leasehold interest and improvements shall be paid to **TENANT.**

10.2 In the case of a taking (other than for temporary use) of the fee of the entire Leased Premises, or so substantial a part of the Leased Premises that such taking materially impairs **TENANT**'s conduct of its operations at or from the Premises, this Agreement shall terminate as of the effective date of such taking. In the case of a temporary taking (including without limitation a temporary taking as a result of relocation under 7.1.2 above), this Agreement shall be suspended during such time as **TENANT** is unable to use the Leasehold Premises for the uses provided herein. In the case of a temporary taking which does not permit **TENANT** to use the Premises as provided herein for a period of ninety (90) days or more, at the conclusion of said ninety (90) day period, **TENANT** may, in its discretion, give **CITY** a thirty (30) day notice of its intent to terminate the Lease Agreement. This Lease shall terminate at the end of the thirty (30) day notice period, with no further obligation by either party. **TENANT**'s obligation to pay rent

hereunder shall be suspended during any temporary taking during which **TENANT** is unable to conduct its operations at or from the Leased Premises; provided, however, to the extent **TENANT** is able to continue its operations hereunder from the Premises or from an alternative site, the **TENANT** shall continue to pay the fixed rent based upon the square footage then available to **TENANT**.

ARTICLE 11 - TERMINATION OF LEASE

11.1 CITY's Right to Terminate. The **CITY**, in addition to any other rights to which it may be entitled by law, acting by and through its **CITY MANAGER**, may declare this Lease Agreement terminated in its entirety, subject to and in the manner provided herein, upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the Premises:

(a) To the extent permitted by law, the filing by **TENANT** of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of **TENANT**'s assets;

(b) To the extent permitted by law, the entry of an order for relief against the **TENANT**, by a court of applicable jurisdiction, pursuant to any involuntary bankruptcy petition filed against the **TENANT**;

(c) To the extent permitted by law, the taking of jurisdiction by a court of competent jurisdiction of **TENANT** or its assets, pursuant to proceedings brought under the provisions of any Federal reorganization act;

(d) To the extent permitted by law, the appointment of a receiver or trustee of **TENANT**'s assets by a court of competent jurisdiction or a voluntary agreement with TENANT's creditors;

(e) The voluntary abandonment by **TENANT** of the Leased Premises (and the failure to pay rent thereon) for a period in excess of sixty (60) days; or

(f) The material breach by **TENANT** of any of the covenants or agreements herein contained and not cured as provided below. A material breach shall include, but not be limited to, the failure of the **TENANT** to comply with the Minimum Standards, **TENANT**'s use of the premises in a manner prohibited under this Lease, or the failure of **TENANT** to pay any rental, fee, or charge required to be paid by the terms of this Lease Agreement when the same is due and payable.

11.2 TENANT's Right to Terminate. **TENANT**, in addition to any other right given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the happening of any one of the following events:

(a) The issuance by any court of competent jurisdiction of an injunction which materially prevents or restrains the use of the Airport or the Leased Premises for the purposes permitted under this Lease Agreement and such injunction remaining in force for a period of at least ninety (90) days after the date of receipt of written notice of such injunction by CITY;

(b) Subject to **TENANT**'s obligation to restore or repair the Premises under Article 9 above, the inability of **TENANT** to use said Leased Premises and Airport facilities due to war, earthquake or other casualty for a longer period than ninety (90) days after the date of receipt of written notice of such inability from **TENANT**;

(c) Any action of any governmental authority, board, agency or officer having jurisdiction thereof preventing **TENANT** from conducting the activities permitted hereunder at or on the Leased Premises by a taking, directly or indirectly, in whole or a substantial part, of the Leased Premises for a period of at least ninety (90) days after receipt of written notice of such action by **CITY**, subject to Article 10 above;

(d) The taking, through the process of eminent domain, of all or a substantial part of the Premises leased by **TENANT**, subject to Article 10 above; or

(e) The material breach by **CITY** of any of the covenants or agreements herein contained and not cured as provided below.

11.3 Default by **CITY**. In the event of any default by **CITY** of any of its obligations under this Lease Agreement, **TENANT** may declare the **CITY** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to the **CITY MANAGER** addressed and copied as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. No termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **TENANT** to **CITY,** and the City shall not have cured such default during such thirty (30) day period. If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **CITY** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable.

11.4 Default by **TENANT**. In the event of any default by **TENANT** of any of its obligations under this Lease Agreement, **CITY** may declare the **TENANT** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to **TENANT** addressed as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. Except as provided otherwise in this Lease Agreement whereby no opportunity to cure is required, no termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **CITY** to **TENANT**, and such default shall not have been cured during such thirty (30) day period by the **TENANT.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **TENANT** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable. In the event **TENANT** knew or should have known of the default prior to receipt of **CITY** notice, said thirty (30) day period to cure shall be deemed to begin as of the date **TENANT** knew or should have known of said default. Notwithstanding the foregoing, if **TENANT** should fail to pay any sum, including without limitation any rental, tax, assessment or use fee or charge, as required hereunder, **TENANT** shall have ten (10) days from receipt of **CITY** notice of default to cure said default, and if not so cured, termination of this Lease Agreement shall be effective as of the eleventh day following said receipt of notice.

ARTICLE 12 - RIGHTS UPON TERMINATION

12.1 **TENANT** agrees that upon the expiration of the Initial Term of this Lease or sooner termination thereof, the Leased Premises will be promptly delivered to **CITY. TENANT** shall remove all buildings, fixtures and personal property located on the Leased Premises within thirty (30) days of the date of expiration or termination, and repair any damage resulting from such removal and restore the Premises, all at **TENANT**'s cost and expense. In lieu of removal, **TENANT** may, at its option, offer to transfer

title, through execution of appropriate documents, to some or all of the buildings and improvements on the Premises to **CITY** at no cost to **CITY** and in such case, **TENANT** shall provide **CITY** of notice of such offer at least ninety (90) days prior to termination of this Agreement. **CITY** shall notify **TENANT** in writing within the ninety (90) day period as whether it accepts or rejects said offer. In the event CITY rejects the offer, **TENANT** shall be obligated to remove the buildings and improvement from the Premises within thirty (30) days of expiration or termination as provided herein. Upon the termination or expiration of the Initial Term of this Lease Agreement, all rights of **TENANT** hereunder to possession of the Premises under this Agreement shall immediately terminate.

12.2 If the **TENANT** elects, and **CITY** agrees, to enter into a Renewal of this Agreement, at expiration or termination of any Renewal term, at **CITY**'s option, the **CITY** may take title or require removal of improvements, alterations and additions made by **TENANT** in the same manner and on the same terms as provided in Section 12.1 at termination or expiration of the Initial Term.

12.3 Unless **CITY** has agreed in writing to accept title to buildings and improvements under Section 12.1 above, in the event **TENANT** fails to remove the buildings, fixtures or personal property from the Premises within thirty (30) days of termination or expiration of this Lease, title to said buildings, fixtures and personal property shall vest in **CITY** on the thirty-first (31st) day after the date of such termination or expiration, and **CITY** may dispose of such buildings, fixtures and personal property as it sees fit, in **CITY** discretion, and retain any proceeds from such disposal. In the event **CITY** incurs a net loss for such disposal, **TENANT** shall be liable to **CITY** for reimbursement of such loss.

ARTICLE 13 - NO ASSIGNMENT AND SUBLETTING

13.1 The **TENANT** shall not assign, rent, sublease, sell, convey, mortgage, encumber or otherwise transfer in any manner all or any part of the Leased Premises or the improvements located thereon or any of the privileges granted to **TENANT** hereunder, without the prior written consent of the **CITY**, which approval shall be at the **CITY**'s sole discretion. **CITY** reserves the right to review the form of all such proposed transfers. **TENANT** shall notify **CITY** annually of the identity of all sublessees of any portion of the Premises, or shall provide such information upon **CITY**'s request. **CITY** further reserves the right to place such reasonable conditions upon any such transfer as it deems to be in the best interest of the CITY.

In the event of any approved transfer, sublease or assignment, **TENANT** shall continue to be liable to **CITY** for all rent, fees, taxes, assessments and all other obligations under this Lease for which it is liable hereunder. All approved transferees, subleases or assignees shall be required to conform to all of the terms and conditions of this Lease Agreement, including without limitation, all insurance requirements hereunder.

13.2 Any violation of the terms of this Article by any person at or on the Premises, or conducting any activities from, at or on the Premises, shall be deemed a breach of this Lease Agreement and, at **CITY's** option, may result in termination of this Lease Agreement pursuant to Article 11.

13.3 Any sale or transfer, whether to one or more persons or entities and whether at one or more different times, of a total of fifty percent (50%) or more of the ownership interest in any corporation, partnership, limited liability company or other entity which is then the legal tenant under this Lease Agreement shall be deemed an assignment of this Lease Agreement within the meaning of this Article 13.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 NON-INTERFERENCE WITH OPERATION OF AIRPORT

14.1.1 **TENANT,** by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard or interfere with or endanger general operations at the Airport. In the event the aforesaid covenant is breached, the **CITY** reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the **TENANT**, and reimbursement for such **CITY** expense shall be paid by **TENANT** immediately upon **CITY**'s demand therefor.

14.1.2 **CITY** hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport. In addition, **TENANT** acknowledges that because of the close location of the Premises to the "airfield operations area", that noise, vibration, fumes, debris and other interference with the Premises will be caused by Airport operations. **TENANT** hereby waives any and all rights and remedies against **CITY** arising out of any noise, vibration, fumes, debris and/or interference that is caused by the operation of the Airport.

14.2 QUIET ENJOYMENT

The **CITY** agrees that on payment of the rentals and fees hereunder, and subject to performance and compliance by **TENANT** of the covenants, conditions and agreement on its part to be performed and complied with herein, **TENANT** shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities, and of the Leased Premises, to the extent granted herein.

14.3 AGREEMENTS WITH FEDERAL GOVERNMENT

This Lease Agreement is subject and subordinate to the provisions of any agreements that have been or shall be made between the **CITY** and the United States of America relative to the operation or maintenance of the Airport, the execution of which have been or shall be required as a condition to the expenditure of Federal funds for the extension, expansion, improvement, maintenance or development of the Airport. **TENANT** agrees to comply with all applicable laws and regulations and to modify or amend this Agreement as required to comply with such applicable laws and regulations.

14.4 LICENSE FEES AND PERMITS

TENANT shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or Local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

14.5 SECURITY AGREEMENT

TENANT, at its own cost and expense, shall be responsible for ensuring that all building entrances, exits, and any access to the Leased Premises are in compliance with all applicable Airport Security Programs. It shall be **TENANT**'s responsibility, at its own cost and expense, to be in compliance with all existing and future security requirements of the Department of Transportation, Transportation Security Administration, and/or the Airport Security Program, and **TENANT** shall hold the **CITY** harmless and shall pay any fines, penalties, cost or expenses incurred by **CITY** or by **TENANT** and arising out of any

breach of said security requirements by **TENANT**, its invitees, subtenants, or anyone for whose act **TENANT** may be liable.

14.6 PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of the Lease.

14.7 INTERPRETATIONS

The laws of the State of Maine shall govern the validity, interpretation, performance and enforcement of this Agreement. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires. Unless the context specifically provides otherwise, "person" wherever used in this Lease shall include, without limitation, an individual, a sole proprietor, a corporation, a partnership or any legal entity authorized by law.

14.8 DISPUTE RESOLUTION

All disputes hereunder which are not mutually resolved shall be resolved by trial without a jury in the Courts of York County, State of Maine. TENANT hereby agrees to waive any rights which **TENANT** may have to a trial by jury. Notwithstanding the foregoing, **TENANT** and **CITY** may mutually agree to submit any dispute hereunder to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

14.9 NOTICES

Except as otherwise provided in Article 11 for certified mail or hand delivery of notice of default, whenever any notice or payment is required by this Lease Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to, or hand-delivered to:

CITY:

City Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

Airport Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

TENANT:
John Apte
110 Main St. #304
Saco, ME 04072

or such place as either party shall designate in writing.

14.10 ENTIRE AGREEMENT

This Lease Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties and all other representations or statements heretofore made, verbal or written, are merged herein, and this Lease Agreement may be amended only in a writing executed by duly authorized representatives of the parties hereto.

14.11 NON-WAIVER

No waiver by either Party of any of the terms, covenants, and conditions hereof to be performed kept and observed by the other Party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept, and observed by the other party. The receipt by **CITY** of any rent with knowledge of any breach of this Lease Agreement by **TENANT** or of any default by **TENANT** in the observance or performance of any of the terms, covenants or conditions of this Lease Agreement shall not be deemed to be a waiver of any provision of this Lease Agreement. If any action by **TENANT** shall require the consent or approval of **CITY, CITY**'s consent to, or approval of, such action on any one occasion shall not be deemed a consent to, or approval of, said action on any subsequent occasion, or consent to, or approval of, any other action on the same or any subsequent occasion.

14.12 REMEDIES CUMULATIVE

All rights and remedies of the parties herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by either party of any remedy provided herein or allowed by law shall not be to the exclusion of any other remedy.

14.13 TIME OF ESSENCE

Time is and shall be of the essence in respect to the performance of each and every provision of this Lease Agreement.

14.14 FORCE MAJEURE

Neither the **CITY** nor **TENANT** shall be deemed in violation of this Lease Agreement if either should be prevented from performing any of the obligations hereunder (other than any obligations to make payments) by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control. The party claiming force majeure shall give prompt written notice to the other party of such event or events, and shall resume performance promptly upon the conclusion of the event or events preventing its performance.

14.15 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Lease Agreement shall be valid and be enforced to the fullest extent permitted by law.

14.16 MEMORANDUM OF LEASE

Either party at the request of the other, shall execute, acknowledge and deliver for recording, a memorandum or short form lease prepared by the requesting party; provided, however, that the relations between **CITY** and **TENANT** shall be governed solely by the provisions of this Lease Agreement and not by any such memorandum or short form lease which may be executed, delivered and recorded.

14.17 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations in this Lease Agreement shall extend to and bind the legal representatives, heirs, successors, and any permitted assigns of the respective parties hereto. Nothing herein shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of **TENANT** in violation of any other provisions contained in this Lease Agreement.

14.18 ASSIGNMENT TO CITY SUCCESSOR IN INTEREST

The **CITY** may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed by their duly authorized representatives as of the date first above mentioned at Biddeford, Maine.

WITNESS

A. Curtis Koehler, Jr.

A. Curtis Koehler, Jr.

CITY OF BIDDEFORD, MAINE

By: James Bennett
Its City Manager

TENANT

By: John Apte

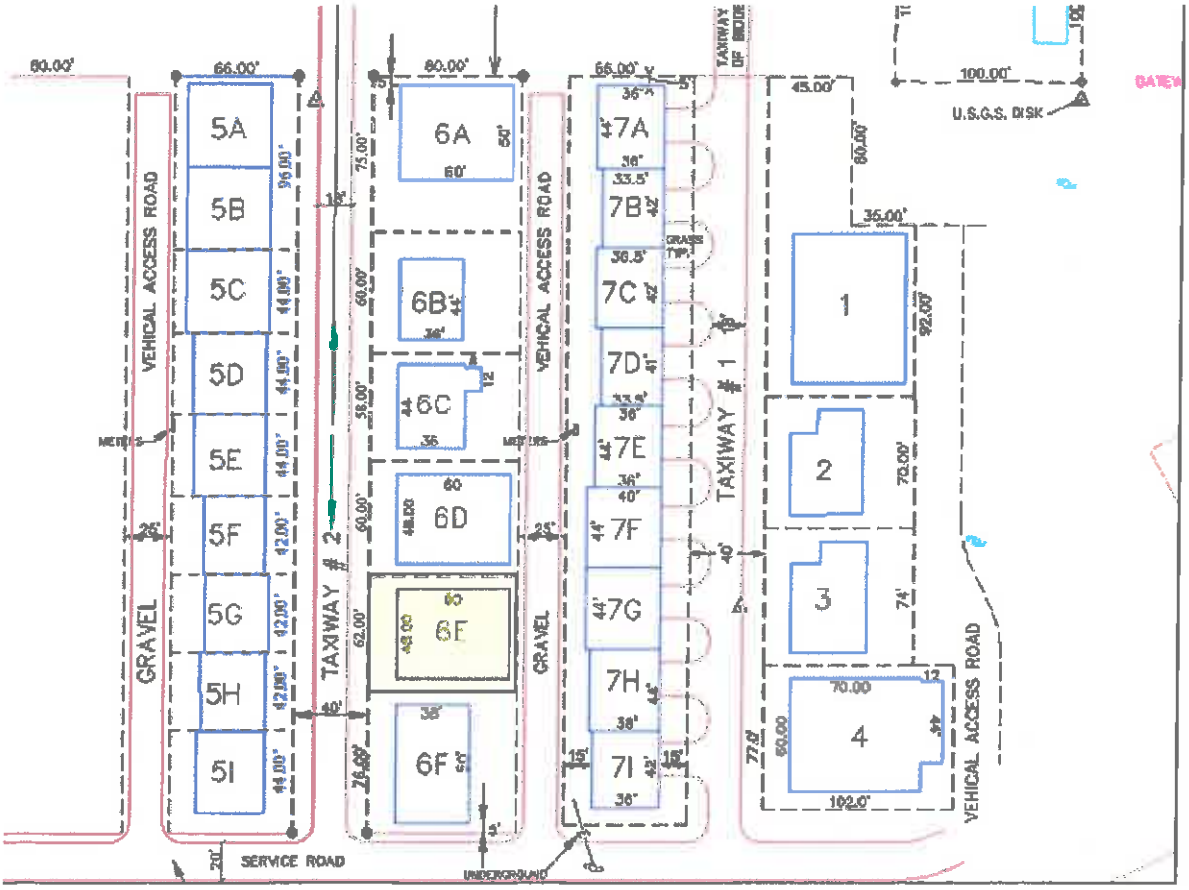
City of Biddeford, Maine

205 Main St. P.O. Box 586 Biddeford, Maine 04005

Exhibit A

Hanger 6E

62' x 80' = 4,960 sq. ft.



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CITY OF BIDDEFORD

Biddeford Municipal Airport

Ground Lease Agreement

Lease Expires on
August 25, 2025

Adopted: February 3, 2009

GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into this 26th day of August 2015, by and between the **CITY OF BIDDEFORD,** a Maine municipal corporation, (the "**CITY**"), and John M. O'Donnell, with a mailing address of 368 Highland St. Weston, Massachusetts 02493, (the "**TENANT**").

W I T N E S S E T H:

WHEREAS, CITY owns, controls and operates for the use and benefit of the public, Biddeford Municipal Airport, located in Biddeford, Maine, (the "Airport").

WHEREAS, TENANT wishes to enter into a Ground Lease Agreement with **CITY** in order to construct and/or maintain a hangar for **TENANT**'s aircraft related equipment and materials and conduct certain permitted uses at the Airport;

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, **CITY** and **TENANT** hereby agree as follows:

ARTICLE 1 - LEASED PREMISES

1.1. DESCRIPTION OF LEASED PREMISES

The term "Leased Premises" or "Premises" as used in this Lease Agreement, shall mean and include real estate located at Biddeford Municipal Airport, Biddeford, York County, State of Maine, consisting of approximately 2772 square feet, as shown on Exhibit A attached hereto and incorporated herein, and including the rights of ingress thereto and egress therefrom and the right to install, use and maintain utilities, subject to any utility or other easements of record.

1.2 "AS IS" CONDITION.

TENANT takes the Premises in "as is" condition. Other than **CITY** ownership thereof, **CITY** makes no representation or warranty as to the physical condition of the Premises nor as to any other matter concerning the Premises, including but not limited to the presence of any environmental hazards thereon. Without limiting the foregoing, the **CITY** represents that, as of the execution date of this Lease, it has not received notice of any such hazards. All **TENANT** improvements, additions and alterations at or to the Premises will be at **TENANT**'s sole cost and expense and **CITY** shall have no responsibility therefor.

ARTICLE 2 - OBJECTIVES AND PURPOSES OF LEASE

2.1 PERMITTED AND PROHIBITED USES OF LEASED PREMISES

2.1.1 Permitted Uses: **TENANT** shall use the Premises solely for the construction and/or maintenance of an aircraft storage hangar ("Hangar") and associated ramp and apron, which may be used for storage of **TENANT**'s owned or leased aircraft and aircraft related materials and equipment, provided, however, that any such uses shall be subject to all applicable Federal, State and Local law including, without limitations, the Biddeford Zoning Ordinance, the Minimum Standards and Procedures for the Lease and/or Use of the Property and Facilities for Aeronautical Activities (the "Minimum Standards") and all regulations of the Biddeford Municipal Airport currently in effect or enacted during the term of this Lease (See Section 5.8.1). Nothing in this section is intended, nor shall it be deemed, to permit **TENANT** to establish or carry out any commercial activity from the **PREMISES** (See Section 2.1.4).

2.1.2 **TENANT** shall have the right to install or improve therein and thereon such fixtures, equipment and facilities as **TENANT** may deem necessary or desirable; provided, however, that no such structure, improvement, fixture, equipment or facility shall be constructed, improved or installed by **TENANT** without the prior written consent of the **CITY**; provided, further, that any such construction shall be subject to all Federal, State and Local Law including, without limitation, the Biddeford Building Codes and the regulations of the Biddeford Municipal Airport on hangar construction. **TENANT** covenants and agrees that prior to the construction or installation of any such structure, improvement, fixture, equipment, or facility, **TENANT** will submit detailed plans or other appropriate information showing the location, design and character to the Airport Manager and Biddeford Planning Office. Any such construction shall be subject to the approval of the Biddeford City Council or its designee.

2.1.3 **TENANT** shall have the right unless prohibited by any Fixed Base Operator Agreement to purchase or otherwise obtain personal property or services of any nature required by or incident to the operation and maintenance of the **TENANT**'s aircraft from any person, partnership, firm, association or corporation it may choose, provided such person, partnership, firm, association or corporation shall have first obtained written approval from the **CITY** to operate within the airport and shall be in compliance with the Minimum Standards.

2.1.4 Prohibited Uses: **TENANT** shall not use the Premises for the conduct of any nonaeronautical business, for residential or nonaeronautical commercial use, or for nonaeronautical storage or nonaeronautical activities. TENANT shall obtain the written consent of the **CITY** prior to undertaking any commercial activities on the Premises

2.1.5 **TENANT** shall park his or her vehicle only in those areas designated for parking and only when using the Airport, **TENANT**'s hangar or **TENANT**'s aircraft.

2.1.6 All activities hereunder must be conducted pursuant to the Minimum Standards and Rules and Regulations and policies in effect on the date of execution of this Agreement and as may be later amended or revised, and all applicable Federal, State and Local laws and regulations. Prior to undertaking any activities hereunder, **TENANT** shall obtain, at **TENANT**'s own cost and expense, all approvals and permits required under the Minimum Standards, as well as any other required Federal, State or Local approvals and permits.

2.1.7 **TENANT** agrees that it shall not provide any Fixed Base Operator (FBO) services as defined by the **CITY**.

ARTICLE 3 - TERM

3.1 INITIAL TERM; RENT COMMENCEMENT DATE

3.1.1 This Lease shall commence as of the date of execution of this Lease Agreement or July 1, 2014, whichever is later (the "Lease Commencement Date") for a term of ten (10) years.

3.1.2 **TENANT** shall pay rent to the **CITY** during the Initial Term as provided in Article 4 below beginning on the Lease Commencement Date.

3.2 RENEWAL TERM

TENANT shall have the option to renew this Lease for an additional ten (10) years so long as **TENANT** has been and is continuing in full compliance with all of the terms and conditions herein, and subject to renegotiation of the rent as provided in Article 4 below. **TENANT** shall provide **CITY** with no less than One Hundred and Eighty (180) days notice of its intent to renew prior to expiration of the initial term of this Lease. **CITY** shall renew the Lease pursuant to Section 4.3 below and subject to the continuing compliance by **TENANT** with all the terms and conditions herein. Such renewal shall be in writing signed by both parties.

3.3 HOLDING OVER

3.3.1 In the event **TENANT** shall continue to occupy the Leased Premises beyond the Lease term or any extension thereof without **CITY**'s written renewal thereof, such holding over shall not constitute a renewal or extension of this Lease, but shall create a tenancy at sufferance which may be terminated at any time by **CITY** or **TENANT** by giving thirty (30) days' written notice to the other party. Any such tenancy at sufferance shall otherwise be on all of the terms and conditions of this Lease Agreement.

ARTICLE 4 - RENTALS, FEES AND RECORDS

4.1 FIXED RENT

4.1.1. Fixed annual rent. **TENANT** agrees to pay **CITY**, a fixed rent of __$331.66___ for the period from the July 1, 2014 through the following June 30. For the first year, payment credit will be given for any amount previously paid for the period from July 1 to December 31, 2014.

4.1.2 Rent increases. Beginning on the first day of July 2015, and annually thereafter during the Initial Term, the fixed rent in Section 4.1.1 will be adjusted, based on the increase in the prior 12 months' Consumer Price Index of the U.S. Department of Labor, All Urban Consumers, all items (1982-84 = 100) for the U.S. City Average (Table 10), March to March, or comparable successor index for the immediately prior twelve months. In no event shall such adjustment result in a reduction of the prior year's fixed annual rent. Rent shall be invoiced by the City Finance Department in June of each year.

4.2 RENEWAL RENT

In the event **TENANT** wishes to renew this Lease as provided in Section 3.2 above, **TENANT** shall provide the **CITY** with a notice of intent to renew the lease no less than 180 days prior to renewal of the Lease. Rent for the Renewal Term shall be equal to the then current general aviation ground rent in effect as of the commencement of the renewal term, with any then current inflation adjustment applicable to general aviation ground leases. Upon request, **CITY** shall provide **TENANT** with documentation as to those current rents and adjustments.

4.3 TIME AND PLACE OF PAYMENTS

4.3.1 The foregoing rent shall be payable, on or before August 1 of each year, at the Finance Department, Biddeford City Hall, or such other place as the **CITY** may direct in writing from time to time.

4.3.2 **TENANT** shall make prompt and timely payment, without deduction or setoff, of all rentals, fees, assessments, taxes and other charges due hereunder as the same may from time to time come due.

4.4 DELINQUENT RENTALS

There shall be added to all sums which the **TENANT** is required to pay hereunder (whether as rental or otherwise) to **CITY** and which are unpaid after their due date, a late charge of one and one-half percent (1-1/2%) of the unpaid sum for each full calendar month of delinquency computed as simple interest on a monthly basis which corresponds to eighteen (18%) per annum. Any late charge assessed shall be computed from the original due date of the unpaid sum. The rate of the late charge may be changed from time to time pursuant to generally applicable Airport rules and regulations. Any late charge hereunder shall be additional to any interest or other charge imposed by the **CITY** generally, including without limitation, interest on unpaid real or personal property taxes.

ARTICLE 5 - OBLIGATIONS OF TENANT

5.1 NET LEASE

The use and occupancy of the Leased Premises by **TENANT** will be without cost or expense to **CITY** and all rent payable hereunder shall be net to the **CITY.** It shall be the sole responsibility of **TENANT** to maintain, repair and operate the entirety of the Leased Premises and any improvements and facilities constructed thereon at **TENANT**'s sole cost and expense, except as otherwise explicitly stated herein.

5.2 CITY'S CONSENT TO IMPROVEMENTS REQUIRED.

5.2.1 If a hangar has not been previously constructed on the Premises, **TENANT** shall design and construct, at **TENANT**'s own cost and expense, a hangar and associated ramp and apron in accordance with the Minimum Standards. Prior to Planning Board review, the proposed design and materials to be used for such construction shall be subject to the review and approval of the Biddeford Planning Office, which approval shall not be unreasonably withheld or delayed. The Planning Office's review shall include review for compatibility with existing airport design and materials and for compliance with the Airport Master Plan then in effect. **TENANT**'s proposed landscaping plan shall be part of the Planning Office's review, and if required subject to final approval by the Planning Board. **TENANT** shall pay for and obtain all required Federal, State, County and **CITY** permits or approvals prior to such construction, including but not limited to any required Planning Board approval, and Federal Aviation Agency (hereinafter the "FAA") approvals, including filing FAA Form 7460, Notice of Proposed Construction or Alteration. In addition to complying with any applicable **CITY** ordinance, all exterior signage to be placed or erected on the Premises shall be subject to the prior written approval of the Planning Office. In the event any substantive change is made in the proposed design and materials to be used after all other applicable review, such changes shall be submitted to the Planning Office for review and approval, which approval shall not be unreasonably withheld or delayed.

5.2.2 **TENANT** shall apply for any necessary permits and approvals within 60 days of the execution of this Lease. In the event **TENANT** is unable to obtain any required Federal, State or Local approvals and

permits necessary for construction of its project and to begin construction no later than One (1) year from the date of execution of this Lease, each Party reserves the right to terminate this Lease upon no less than thirty (30) days prior written notice, with no further obligations of either Party hereunder. Upon obtaining all approvals and permits required for construction of the project, **TENANT** shall promptly commence and diligently complete such construction. All buildings and associated landscaping shall be completed within one (1) year of permit approvals.

5.2.3 Except as provided above, **TENANT** shall not erect any structures, make any improvements, nor do any construction work on the Premises, without the prior written approval of the Planning Office, whose approval shall not be unreasonably withheld or delayed. Alterations, modifications, additions to or replacements of any structure constructed on the Premises are subject to the prior written approval of the Planning Office, which approval shall not be unreasonably withheld or delayed. **TENANT** also shall obtain any necessary Planning Board approval. The requirement for the Planning Office's prior approval shall not apply to any improvements, repairs or replacements which are immediately necessary because of an emergency caused by no fault of **TENANT**, but **TENANT** shall inform the Airport Manager and Planning Office of such emergency work as soon as reasonable practicable.

5.3 MAINTENANCE AND OPERATIONS

5.3.1 All repair, and maintenance of the leased Premises, including, but not limited to, landscaping, paving and snow and ice removal, shall be the responsibility of the **TENANT**. **TENANT** shall maintain the Premises and all of the fixtures, equipment and personal property which may be located in or upon any part thereof in a reasonably neat, clean and sanitary condition. **TENANT** shall not store snow off the Premises without written approval from the Airport Manager. Snow removal shall not block any aircraft movement areas at any time. **CITY** agrees that it shall maintain, repair and remove snow and ice from the common areas of the Airport.

5.3.2 **CITY** shall have the right to take any action it considers necessary to protect general operation of the Airport and the aerial approaches to the Airport against obstruction. **TENANT**, in the use of the roadways, approaches, taxiways and runways of the aircraft landing field and in the use of the adjacent areas for storage of aircraft, or in the use of their buildings shall abide by and conform to any and all reasonable rules and regulations now existing or as may be hereafter promulgated by the **CITY** and will comply with the requirements of any Federal, State of Local act or regulation which relates to the operation of the Airport, including, but not limited to, abiding, at **TENANT**'s sole cost and expense, with any Federal, State or Local security or certification requirements which relate to its operations at the Airport.

5.3.3 **TENANT** shall take good care of the Premises; shall reasonably maintain the Premises and the improvements, buildings and fixtures thereon in good condition at all times; shall make all repairs and replacements inside and outside, ordinary and extraordinary, structural or otherwise. Such repairs and replacements by **TENANT** shall be in quality and class not inferior to the original material and workmanship. **TENANT** shall pay promptly the costs and expenses of such repairs, replacements and maintenance, and maintain and repair all utility service lines located upon the Leased Premises to the extent they are used by **TENANT**, except to the extent such maintenance or repair is the obligation of the utility company providing such utility service.

5.3.4 All exterior repairs, replacements and maintenance shall be subject to the prior written approval of the Planning Office, which shall not be unreasonably withheld or delayed, and shall comply with all applicable Federal, State and Local permit requirements as well as any applicable rules and regulations

enacted by the **CITY** relating to the Airport.

5.3.5 **TENANT** shall paint, repair, replace or rebuild all or any part of the Premises, interior or exterior, structural or non-structural, as provided above, which may be damaged or destroyed (subject to the provisions of Article 9 below). In such case, **TENANT** shall have the right to apply any available insurance proceeds to such purposes.

5.3.6 **TENANT** shall provide, at its sole cost and expense, the necessary receptacles and arrangements for adequate sanitary handling and disposal, away from the Airport, of all trash, garbage and other refuse that results from use of, or activities on, the Premises. **CITY** reserves the right to require **TENANT** to participate in any recycling program which may be imposed by Airport rules or by Local, State or Federal law or regulation. **TENANT** shall defend, indemnify and hold the **CITY** harmless from any cost, expense, claim, fine or liability, including without limitation attorney's fees and court costs, arising out of or resulting from **TENANT**'s storage, collection, transportation or disposal of any trash, garbage or other refuse hereunder. This obligation of defense and indemnification shall remain in full force and effect after termination or expiration of this Lease.

5.3.7 **TENANT** shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse and said receptacles must be stored inside the hangar. Piling of boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Lease Premises, shall not be permitted.

5.3.8 To the extent that **TENANT** does not undertake or pay for any of its obligations under this Subsection 5.3 or Subsection 9, **CITY** reserves the right to undertake such obligations or to pay such costs, in its sole discretion, and to charge all costs thereof to **TENANT**. In the event **CITY** undertakes any such obligation or pays such cost hereunder, **TENANT** shall repay the **CITY** all such amounts immediately upon **CITY**'s demand therefor. Nothing herein shall prevent or prohibit the **CITY** from declaring a default hereunder and terminating the Lease as provided in Article 11 below.

5.4 CITY RIGHT TO INSPECT AND REPAIR

5.4.1 **CITY**, through its agents, may come on the Premises and enter the Hangar to inspect for compliance with the requirements of this Lease, Airport rules and regulations, environmental laws, or other applicable legal and regulatory requirements. Such inspection will generally take place during normal business hours and following forty eight (48) hours advance notice to the **TENANT**, but the **CITY** reserves the right to enter the Premises unannounced at any time that the Airport Manager or City determines such entry is necessary for public safety or security reasons or if necessary for Federal or State required compliance inspections. In the event of such unannounced entry, **CITY** shall notify the **TENANT** that such inspection occurred within a reasonable time thereafter. **TENANT** shall provide **CITY** with the ability to access the Premises and the Hangar for such public safety and security purposes.

5.4.2 **CITY** or its designee, at its discretion, shall be the sole judge of the quality of the exterior repair and maintenance; and **TENANT**, upon notice by **CITY** to **TENANT** shall be required to perform whatever repair and maintenance **CITY** deems reasonably necessary. If said repair and maintenance is not undertaken by **TENANT** within thirty (30) days after receipt of written notice, **CITY** shall have the right to enter upon the Leased Premises and perform the necessary repair and maintenance, the cost of which shall be borne by **TENANT** as additional rent to be paid to **CITY** immediately upon demand therefor. Notwithstanding the foregoing, in the case of a threat to public health or safety, **CITY** may undertake such repairs as it deems reasonably necessary and charge the cost thereto to **TENANT** as additional rent to be paid to **CITY**, without regard to any notice requirement herein. No waste shall be

committed or damage done to the Premises, the buildings and equipment located thereon, nor to property of CITY.

5.5 UTILITIES

TENANT shall assume and pay for all construction, installation and periodic costs or charges for utility services furnished to **TENANT** during the term hereof; provided, however, that, consistent with applicable laws, regulations or permit requirements, **TENANT** shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and **TENANT** shall pay for any and all service charges incurred there from. The **TENANT** must also meet the requirements of any Airport Storm Water Pollution Prevention Plan and any amendments thereto. **TENANT** agrees to relocate at its expense any utility service if **CITY** determines in its sole discretion that said utility service interferes with present or future airport operations or expansions.

5.6 PAYMENT OF TAXES AND OTHER ASSESSMENTS

5.6.1 **TENANT** agrees to pay promptly when due, and not to permit to become delinquent, levies, taxes, assessments, improvement fees, excises, permit fees, license fees, charges, impositions or burdens of whatsoever kind and nature, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or for any public improvements or utility services (hereinafter "impositions") which, at any time during the term of this Lease Agreement, may be created, levied, assessed, imposed or charged upon or with respect to the Leased Premises or any part thereof, by any Federal, State, County, Municipal or other authority, which imposition would be valid and applicable to **TENANT** irrespective of this section.

5.6.2 **TENANT** acknowledges that **CITY** has the right from time to time to establish and impose reasonable charges and fees for users of the Airport or its facilities, provided that such charges and fees are charged in a uniform and non-discriminatory manner and do not significantly increase the total fixed and percentage rent due hereunder; and provided, further, that **CITY** shall provide **TENANT** with no less than thirty (30) days prior written notice prior to imposing any new fee or charge which directly or indirectly affects **TENANT** or any subtenant of **TENANT.**

5.7 NONDISCRIMINATION; AFFIRMATIVE ACTION

5.7.1 The **TENANT**, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with this Lease of the Premises that, to the extent applicable to **TENANT**'s operations hereunder:

(a) no person on the grounds of race, color, sex, disability, religion, national origin or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subject to, discrimination in the use of said facilities;

(b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services thereon, no person on the grounds of race, color, sex, disability, religion, national origin, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) that the **TENANT** shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the

Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

5.8 OBSERVANCE OF LAWS, STATUTES, ORDINANCES, RULES AND REGULATIONS

5.8.1 During the Term hereof and any renewal term, **TENANT** shall, at its own cost and expense, promptly observe and comply with all existing and future applicable laws, ordinances, rules, regulations, licenses, permits, decisions and decrees of the Federal, State, County and CITY Governments (including but not limited to Airport Minimum Standards and Procedures for the Lease and/or Use of Property and Facilities for Aeronautical Activities (Exhibit A), Airport Rules and Regulations (Exhibit B), Airport Hangar Construction and Minimum Specifications (Exhibit C), Airport Storm Water Pollution Prevention Practices (Exhibit D), copies of which **TENANT** acknowledges having received and which are incorporated herein, as well as those of any other government authority having jurisdiction over the Premises or any part thereof, including without limitation all applicable Federal Aviation Administration rules and regulations, whether the same are in force at the commencement of the term of this Agreement or should be enacted in the future.

5.8.2 **TENANT** shall pay all fines, penalties, damages, expenses or costs, including reasonable counsel fees, and shall indemnify and hold the **CITY** harmless therefrom, which may in any manner arise out of or are imposed on **TENANT, CITY** or Airport because of the failure of the **TENANT** to comply with the requirements of this Section 5.8. Without limiting any other right of **CITY** hereunder, **TENANT's** non-compliance with any provision of this Section 5.8 shall be grounds for termination of this Lease Agreement.

5.9 ENVIRONMENTAL STATUTES

5.9.1 **TENANT** covenants and agrees to comply with all applicable environmental laws, including without limitation all laws governing hazardous substances and all requirements related to storm water discharges and permits, and to provide to **CITY**, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other document from any source asserting or alleging a circumstance or condition which requires, or may require, a clean-up, removal, remedial action, or other response by or on the part of **TENANT** under environmental laws, or which seek civil, criminal or punitive penalties from **TENANT** for an alleged violation of environmental laws. **TENANT** further agrees to advise the **CITY** in writing as soon as **TENANT** becomes aware of any condition or circumstances that may result in a potential violation of any environmental laws. **TENANT** shall comply with any Storm Water Pollution Prevention Plan and any amendments thereto, and shall grant access to the **CITY** for any inspections required by the plan. **TENANT** agrees, at its expense, and at the request of **CITY** when it has a reasonable belief that there is a problem or when required by another governmental entity, to permit an environmental audit solely for the benefit of **CITY**, to be conducted by **CITY**. This provision shall not relieve **CITY** from conducting its own environmental audits or taking any other steps necessary to comply with environmental laws.

5.9.2 Without limiting the foregoing, **TENANT** shall not dump, flush, or in any way introduce any hazardous materials or hazardous waste or any other toxic materials upon the Leased Premises nor shall it improperly store, or dispose of any hazardous materials or hazardous waste from any such property, except in full compliance with all applicable laws and regulations. For purposes of this paragraph, the term hazardous materials shall mean inflammable, explosives, radioactive materials and hazardous substances defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response Compensation Liability Act of 1980, as amended, the

Hazardous Conservation and Recovery Act, and the Resources Conservation and Recovery Act, or any similar federal, state or local law, or in any regulations promulgated pursuant thereto, or in any other applicable law. The term "hazardous materials" shall also include any other chemical, material or substance which is or may be regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal, state or other governmental authority or agency or which, even if not so regulated, may or could pose a hazard to human health and safety.

5.9.3 If in the opinion of **CITY**, there exists any uncorrected violation by **TENANT** of an environmental law which requires, or may require, a cleanup, removal or any condition or other remedial action by **TENANT** under any environmental law, regulation, permit, license, judgment or decree, and such cleanup, removal or other remedial action is not completed, or commenced and diligently pursued, within thirty (30) days from the date of written notice from **CITY** to **TENANT**, the same shall, at the option of **CITY**, constitute an event of default hereunder.

5.9.4 For the purposes of this Section 5.9, the term "environmental law or laws" shall mean all Federal, State and Local laws including statutes, regulations, ordinances, codes, rules, permits, licenses, judgments, decrees, or other governmental restrictions and requirements relating to the environment or any hazardous substance, including but not limited to, the State of Maine environmental protection statutes, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Research Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility, Cleanup and Liability Act of 1980 as amended by the Super Fund Amendments and Reauthorization Act of 1986, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any State Department of Environmental Protection or successor agency now or anytime hereafter in effect.

5.9.5 **TENANT** shall defend, indemnify and hold the **CITY** harmless from and against any and all damages, costs and expenses, including without limitation, fines, penalties, reasonable attorney's fees, consequential damages and remedial costs and other liabilities arising from claims based upon the environmental condition of the Premises and the surrounding property (including without limitation all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), resulting from (a) **TENANT**'s use of the Premises or operations thereon by or on behalf of **TENANT**; (b) claims arising out of, related to, or in connection with (i) the release by **TENANT** of any hazardous material into, onto or from the Premises; or (ii) any arrangement by **TENANT** for the treatment, recycling, storage or disposal at any facility owned or operated by any person or entity of a hazardous material which is present on the Premises or has been or may be deposited at, disposed on or released onto the Premises; and (c) claims related to demolition, cleanup or other remedial measure with regard to environmental conditions on or around the Premises by **TENANT;** or (d) claims resulting from any act or omission of **TENANT** in violation of any Federal, State or Local environmental laws or regulations with respect to **TENANT**'s use of the Leased Premises.

5.9.6 **CITY** shall give to **TENANT** prompt and reasonable notice of any such claim or action, and **TENANT** shall have the right to investigate, compromise, and defend the same.

5.9.7 **TENANT,** as used in this Section 5.9, shall mean and include the named **TENANT,** or anyone for whose act **TENANT** may be legally liable.

5.9.8 The Terms of this Section 5.9 shall expressly survive the expiration or earlier termination of this Lease Agreement, including without limitation the terms of Subsection 5.9.5.

5.10 CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Lease and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

ARTICLE 6 - OBLIGATIONS OF CITY

6.1 OPERATION AS A MUNICIPAL AIRPORT

CITY agrees that at all times during the term of this Lease it will operate and maintain the Airport as a municipal airport. If **CITY** permanently ceases operations of the Airport during the term of this Lease, **CITY** will pay **TENANT** the appraised value of any building constructed on the Premises in accordance with the terms of this Lease as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no further obligations financial or otherwise to **TENANT**.

6.2 INGRESS AND EGRESS

Upon paying the rental hereunder and performing the covenants of this Lease, **TENANT** shall have the right of ingress to and egress from the Premises for the **TENANT**, over the roadway provided by **CITY** serving the Premises. **TENANT's** access shall be in common with other users and shall be subject to applicable security requirements and to possible episodic interruptions due to security or safety concerns. **CITY**'s roadway shall be used jointly with other tenants on the Airport, and **TENANT** shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as **CITY** deems necessary. **TENANT** shall have the right to bring utilities to the Premises at its own cost and expense and in accord with all applicable laws, rules and regulations for the extension and hookup of such utilities. **TENANT** shall be responsible for paying for all hookup and periodic usage charges for such utilities and **CITY** shall have no responsibility therefor.

ARTICLE 7 - CITY'S RESERVATIONS

7.1 IMPROVEMENT, RELOCATION OR REMOVAL OF STRUCTURES

7.1.1 **CITY**, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport, including the right to remove or relocate any structure on the Airport, as it sees fit, and to take any action it considers necessary to protect the approaches of the Airport against obstructions, together with the right to prevent **TENANT** from erecting or permitting to be erected, any buildings or other structure on the Airport which, in the opinion of **CITY**, would limit the usefulness of the Airport or constitute a hazard to aircraft.

7.1.2 In the event **CITY** requires the use of the Premises for expansion, improvement, or development of the Airport, **CITY** reserves the right, on six (6) months notice, to relocate or replace **TENANT's** improvements in substantially similar form at another generally comparable location on the Airport. The reasonable costs of such relocation or replacement shall be paid or reimbursed, as appropriate, by **CITY**. Alternatively, **CITY** reserves the right to terminate this Lease. In that event, **CITY** will pay **TENANT** the appraised value of any building constructed on the premises as determined by the City Tax Assessor. Payment shall be due 90 days following written demand from **TENANT**. **CITY** shall have no

further obligations financial or otherwise to **TENANT**.

7.2 WAR OR NATIONAL EMERGENCY

During any time of war or national emergency, **CITY** shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease or agreement is executed, the provisions of this Lease Agreement insofar as they are inconsistent with the lease or agreement with the Government shall be suspended or terminated, and in that event, a just and proportionate part of the rent hereunder shall be abated. **CITY** shall have no further obligations financial or otherwise to the **TENANT**.

ARTICLE 8 - INDEMNITY AND INSURANCE

8.1 INDEMNIFICATION

8.1.1 To the fullest extent permitted by law, **TENANT** agrees to defend, indemnify, and save forever harmless the **CITY**, its officers, agents and employees, from and against all claims and actions and all reasonable expenses incidental to the investigation and defense thereof, based on or arising out of claims for damages or injuries to any person or property, including wrongful death and loss of use of property, and arising, in whole or in part, out of **TENANT**'s use or occupancy of the Leased Premises; **CITY** shall give to **TENANT** prompt and reasonable notice of any such claims or actions, and **TENANT** shall have the right to investigate, compromise and defend the same; and provided further, that **TENANT** shall not be liable for any claims, actions, injury, damages or losses to the extent they are occasioned by the negligent or intentional act of **CITY**, its officers, agents or employees. **TENANT** as used in this Subsection 8.1.1 and in Section 8.2 shall mean and include the named **TENANT**, and anyone for whose act **TENANT** may be legally liable.

8.1.2 **TENANT** shall, at its own cost and expense defend any and all suits or actions, just or unjust, which may be brought against **CITY** or in which **CITY** may be impleaded with others upon any such above-mentioned matter, claim or claims, including claims of contractors, employees, laborers, materialmen, and suppliers. **CITY** shall have the right to participate in such suits and no action shall be settled without prior consent of the **CITY**. Such obligation of indemnity and defense shall not be construed to negate nor abridge any other right of indemnification or contribution running to the **CITY** that would otherwise exist. The extent of this indemnity provision shall not be limited by any requirement of insurance contained herein.

8.1.3 If **TENANT** is required to obtain workers compensation coverage under Maine law, **TENANT** agrees to procure and maintain throughout the term of this Lease Agreement, an endorsement to its Workers Compensation coverage waiving any and all rights of subrogation against CITY.

8.1.4 The indemnity and hold harmless provision of Section 8.1 includes indemnity against all reasonable expenses, fees, costs and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the **CITY.** The provisions of this Article 8 and the obligations of **TENANT** hereunder shall survive the termination or expiration of this Lease.

8.1.5 In no case shall **CITY** be liable to **TENANT** or to any third party for any incidental, indirect, consequential, special or punitive damages arising out of or relating to this Lease.

8.2 LIEN INDEMNIFICATION

Throughout the term of this Lease, **TENANT** shall not cause nor permit any lien against the Leased Premises, any portion thereof or any City property wherever located, or any improvements thereto, to arise out of or accrue from any action, omission or use thereof by **TENANT**. **TENANT** may in good faith, however, contest the validity of any alleged lien. **TENANT** shall defend and indemnify and hold the **CITY** harmless from any cost, expense, attorney's fees or other liability arising out of or resulting from any such lien or liens, and shall promptly discharge such lien or stay or prevent its foreclosure by bond or other appropriate legal procedure that is acceptable to the **CITY**. So long as **TENANT** defends **CITY** in any action concerning any such lien, **TENANT** shall not be required to post a bond with respect to such lien prior to the commencement of a foreclosure action against the **CITY.** This provision shall survive termination or expiration of this Lease Agreement. **CITY** may, at its sole discretion, pay any amounts secured by any such lien and in such case, **TENANT** shall repay all such payments to **CITY** immediately upon **CITY**'s demand therefor.

8.3 INSURANCE

8.3.1 Without expense to the **CITY**, and with no lapse in coverage, **TENANT** shall obtain and cause to be kept in force at all times during the term of this Agreement, insurance required by the Minimum Standards for a category 1X FBO – Aircraft Tie Down and Storage.

8.3.2 **TENANT** and the **CITY** understand and agree that the minimum limits of the insurance herein required may become inadequate during the term of this Agreement and **CITY** reserves the right to amend the minimums as needed throughout the term of this Lease. **TENANT** agrees that it will increase such minimum limits upon receipt of notice in writing from the CITY.

8.3.4 In the event any construction or renovation on the Premises is approved by the **CITY, TENANT** shall procure and maintain, or cause to be procured and maintained, comprehensive general liability insurance covering bodily injury and property damage, including special hazards insurance, in such amount as the **CITY** may reasonably require, covering such construction. Said insurance shall protect **TENANT** and **CITY** from any claims or damages arising out of or resulting from such construction or renovations, and shall name the **CITY** as an additional insured thereon. In addition to the foregoing, **TENANT** shall cause to be procured and maintained automobile liability in such amounts as the CITY may reasonably require.

8.3.5 All policies of insurance required herein shall be in a form and issued by a company or companies approved to do insurance business in the State of Maine. Each such policy affecting the Premises shall provide that such policy may not be changed, altered or canceled by the insurer during its term without first giving thirty (30) days' notice in writing to the Airport Manager. Each liability policy required to be obtained hereunder shall name the **CITY** as an additional insured thereunder and shall be on an occurrence basis. All policies required hereunder shall be primary to any insurance or self-insurance that **CITY** may maintain for its own benefit.

8.3.6 Certificates or other evidence of insurance coverage required of **TENANT** in this Article, in amounts no less than those stipulated herein or as may be in effect from time-to-time, shall be delivered to the **CITY** prior to the execution of this Lease Agreement and annually thereafter. **TENANT** shall at all times during the term of this Lease Agreement provide **CITY** with at least thirty (30) days prior written notice of any change or modification in insurance coverage or insurance carrier affecting the Leased Premises. Insurer shall provide no less than thirty (30) days written notice prior to cancellation, reduction in coverage or expiration of each policy required hereunder, said notice to be sent to the Airport Manager. It shall be **TENANT's** responsibility throughout the term of this Lease to provide or have

provided to the Airport Manager renewal insurance certificates with no lapse in coverage prior to such renewal.

8.3.7 If at any time **TENANT** should fail either to obtain or to maintain in force the insurance required herein, the **CITY** shall notify **TENANT** of its intention to purchase such insurance for **TENANT**'s account; and, if **TENANT** has not delivered evidence of insurance to the Airport Manager prior to the date on which the current insurance expires, the **CITY** may effect such insurance by taking out policies in companies satisfactory to the **CITY**. Such insurance shall be in amounts no greater than those stipulated herein or as may be in effect from time-to-time. The amount of the premiums for such insurance obtained by the **CITY** shall be payable by **TENANT** as additional rental immediately upon demand therefor by CITY.

ARTICLE 9 - DESTRUCTION OF PREMISES

9.1 In the event the buildings and improvements on the Premises, or any substantial part thereof, should be damaged or destroyed by an insured casualty, such buildings or improvements shall be repaired or rebuilt by **TENANT** and paid for with **TENANT**'s insurance proceeds; and, if such proceeds are insufficient for such purposes **TENANT** shall pay the deficiency, unless otherwise agreed as provided herein. Repair or restoration of the buildings and improvements shall be in accordance with the original Plans and Specifications, together with alterations or modifications made or agreed upon prior to the casualty, unless the Parties otherwise mutually agree to new or modified plans.

9.2 Notwithstanding the foregoing, during the term of this Agreement or any renewal thereof, in the event the buildings and improvements on the Premises, or a substantial part thereof, should be destroyed, then **TENANT** may terminate this Agreement by written notice to **CITY** within ninety (90) days of the casualty and all obligations of each party hereunder shall terminate. In the event of such termination, **TENANT** shall return the Premises to **CITY** restored to a clean and usable condition, with removal of all personal and real property as provided in Article 12 below. If **TENANT** does not provide notice of such termination, **TENANT** shall proceed diligently to rebuild and restore the Premises and the buildings and improvements thereon in accord with the original plans and specifications or such other plans and specifications as may be approved by the Planning Office and, if required, the Planning Board.

ARTICLE 10 - CONDEMNATION

10.1 **CITY** agrees to give prompt written notice to **TENANT** of any eminent domain, condemnation, compulsory acquisition or like proceedings by any competent authority which might result in a partial or full taking of the Leased Premises and of which **CITY** has actual notice. Each party may file and prosecute their respective claims for an award, but all awards and payments on account of a taking shall be held in trust by the recipient to be distributed according to the respective interests of the parties, i.e., payments allocable to the value of the Leased Premises and the residual interest in the Leased Premises shall be paid to **CITY** and payments allocable to **TENANT**'s leasehold interest and improvements shall be paid to **TENANT.**

10.2 In the case of a taking (other than for temporary use) of the fee of the entire Leased Premises, or so substantial a part of the Leased Premises that such taking materially impairs **TENANT**'s conduct of its operations at or from the Premises, this Agreement shall terminate as of the effective date of such taking. In the case of a temporary taking (including without limitation a temporary taking as a result of relocation under 7.1.2 above), this Agreement shall be suspended during such time as **TENANT** is unable to use the Leasehold Premises for the uses provided herein. In the case of a temporary taking which does not permit **TENANT** to use the Premises as provided herein for a period of ninety (90) days or more, at the

conclusion of said ninety (90) day period, **TENANT** may, in its discretion, give **CITY** a thirty (30) day notice of its intent to terminate the Lease Agreement. This Lease shall terminate at the end of the thirty (30) day notice period, with no further obligation by either party. **TENANT**'s obligation to pay rent hereunder shall be suspended during any temporary taking during which **TENANT** is unable to conduct its operations at or from the Leased Premises; provided, however, to the extent **TENANT** is able to continue its operations hereunder from the Premises or from an alternative site, the **TENANT** shall continue to pay the fixed rent based upon the square footage then available to **TENANT**.

ARTICLE 11 - TERMINATION OF LEASE

11.1 CITY's Right to Terminate. The **CITY**, in addition to any other rights to which it may be entitled by law, acting by and through its **CITY MANAGER**, may declare this Lease Agreement terminated in its entirety, subject to and in the manner provided herein, upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the Premises:

(a) To the extent permitted by law, the filing by **TENANT** of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of **TENANT**'s assets;

(b) To the extent permitted by law, the entry of an order for relief against the **TENANT**, by a court of applicable jurisdiction, pursuant to any involuntary bankruptcy petition filed against the **TENANT**;

(c) To the extent permitted by law, the taking of jurisdiction by a court of competent jurisdiction of **TENANT** or its assets, pursuant to proceedings brought under the provisions of any Federal reorganization act;

(d) To the extent permitted by law, the appointment of a receiver or trustee of **TENANT**'s assets by a court of competent jurisdiction or a voluntary agreement with TENANT's creditors;

(e) The voluntary abandonment by **TENANT** of the Leased Premises (and the failure to pay rent thereon) for a period in excess of sixty (60) days; or

(f) The material breach by **TENANT** of any of the covenants or agreements herein contained and not cured as provided below. A material breach shall include, but not be limited to, the failure of the **TENANT** to comply with the Minimum Standards, **TENANT**'s use of the premises in a manner prohibited under this Lease, or the failure of **TENANT** to pay any rental, fee, or charge required to be paid by the terms of this Lease Agreement when the same is due and payable.

11.2 TENANT's Right to Terminate. **TENANT**, in addition to any other right given to it herein or to which it may be entitled by law, may terminate this Agreement in its entirety, subject to and in the manner provided herein, upon or after the happening of any one of the following events:

(a) The issuance by any court of competent jurisdiction of an injunction which materially prevents or restrains the use of the Airport or the Leased Premises for the purposes permitted under this Lease Agreement and such injunction remaining in force for a period of at least ninety (90) days after the date of receipt of written notice of such injunction by CITY;

(b) Subject to **TENANT**'s obligation to restore or repair the Premises under Article 9 above, the inability of **TENANT** to use said Leased Premises and Airport facilities due to war,

earthquake or other casualty for a longer period than ninety (90) days after the date of receipt of written notice of such inability from **TENANT;**

(c) Any action of any governmental authority, board, agency or officer having jurisdiction thereof preventing **TENANT** from conducting the activities permitted hereunder at or on the Leased Premises by a taking, directly or indirectly, in whole or a substantial part, of the Leased Premises for a period of at least ninety (90) days after receipt of written notice of such action by **CITY**, subject to Article 10 above;

(d) The taking, through the process of eminent domain, of all or a substantial part of the Premises leased by **TENANT**, subject to Article 10 above; or

(e) The material breach by **CITY** of any of the covenants or agreements herein contained and not cured as provided below.

11.3 Default by CITY. In the event of any default by **CITY** of any of its obligations under this Lease Agreement, **TENANT** may declare the **CITY** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to the **CITY MANAGER** addressed and copied as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. No termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **TENANT** to **CITY,** and the City shall not have cured such default during such thirty (30) day period. If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **CITY** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable.

11.4 Default by TENANT. In the event of any default by **TENANT** of any of its obligations under this Lease Agreement, **CITY** may declare the **TENANT** in default by delivering by hand during regular business hours or sending by certified mail, return receipt requested, of written notice to **TENANT** addressed as provided in Section 14.9 below, specifying both the date upon which termination will take effect and also the cause for which this Lease Agreement is being terminated. Except as provided otherwise in this Lease Agreement whereby no opportunity to cure is required, no termination shall be effective until not less than thirty (30) days have elapsed after the date of delivery of notice by **CITY** to **TENANT,** and such default shall not have been cured during such thirty (30) day period by the **TENANT.** If such default by its nature cannot be cured within such thirty (30) day period, no termination shall be effective if the **TENANT** commences to correct such default within said thirty (30) days from the date of delivery of the notice of default, and continues with due diligence to correct the same as promptly as reasonably practicable. In the event **TENANT** knew or should have known of the default prior to receipt of **CITY** notice, said thirty (30) day period to cure shall be deemed to begin as of the date **TENANT** knew or should have known of said default. Notwithstanding the foregoing, if **TENANT** should fail to pay any sum, including without limitation any rental, tax, assessment or use fee or charge, as required hereunder, **TENANT** shall have ten (10) days from receipt of **CITY** notice of default to cure said default, and if not so cured, termination of this Lease Agreement shall be effective as of the eleventh day following said receipt of notice.

ARTICLE 12 - RIGHTS UPON TERMINATION

12.1 **TENANT** agrees that upon the expiration of the Initial Term of this Lease or sooner termination thereof, the Leased Premises will be promptly delivered to **CITY. TENANT** shall remove all buildings,

fixtures and personal property located on the Leased Premises within thirty (30) days of the date of expiration or termination, and repair any damage resulting from such removal and restore the Premises, all at **TENANT**'s cost and expense. In lieu of removal, **TENANT** may, at its option, offer to transfer title, through execution of appropriate documents, to some or all of the buildings and improvements on the Premises to **CITY** at no cost to **CITY** and in such case, **TENANT** shall provide **CITY** of notice of such offer at least ninety (90) days prior to termination of this Agreement. **CITY** shall notify **TENANT** in writing within the ninety (90) day period as whether it accepts or rejects said offer. In the event CITY rejects the offer, **TENANT** shall be obligated to remove the buildings and improvement from the Premises within thirty (30) days of expiration or termination as provided herein. Upon the termination or expiration of the Initial Term of this Lease Agreement, all rights of **TENANT** hereunder to possession of the Premises under this Agreement shall immediately terminate.

12.2 If the **TENANT** elects, and **CITY** agrees, to enter into a Renewal of this Agreement, at expiration or termination of any Renewal term, at **CITY**'s option, the **CITY** may take title or require removal of improvements, alterations and additions made by **TENANT** in the same manner and on the same terms as provided in Section 12.1 at termination or expiration of the Initial Term.

12.3 Unless **CITY** has agreed in writing to accept title to buildings and improvements under Section 12.1 above, in the event **TENANT** fails to remove the buildings, fixtures or personal property from the Premises within thirty (30) days of termination or expiration of this Lease, title to said buildings, fixtures and personal property shall vest in **CITY** on the thirty-first (31st) day after the date of such termination or expiration, and **CITY** may dispose of such buildings, fixtures and personal property as it sees fit, in **CITY** discretion, and retain any proceeds from such disposal. In the event **CITY** incurs a net loss for such disposal, **TENANT** shall be liable to **CITY** for reimbursement of such loss.

ARTICLE 13 - NO ASSIGNMENT AND SUBLETTING

13.1 The **TENANT** shall not assign, rent, sublease, sell, convey, mortgage, encumber or otherwise transfer in any manner all or any part of the Leased Premises or the improvements located thereon or any of the privileges granted to **TENANT** hereunder, without the prior written consent of the **CITY**, which approval shall be at the **CITY**'s sole discretion. **CITY** reserves the right to review the form of all such proposed transfers. **TENANT** shall notify **CITY** annually of the identity of all sublessees of any portion of the Premises, or shall provide such information upon **CITY**'s request. **CITY** further reserves the right to place such reasonable conditions upon any such transfer as it deems to be in the best interest of the CITY.

In the event of any approved transfer, sublease or assignment, **TENANT** shall continue to be liable to **CITY** for all rent, fees, taxes, assessments and all other obligations under this Lease for which it is liable hereunder. All approved transferees, subleases or assignees shall be required to conform to all of the terms and conditions of this Lease Agreement, including without limitation, all insurance requirements hereunder.

13.2 Any violation of the terms of this Article by any person at or on the Premises, or conducting any activities from, at or on the Premises, shall be deemed a breach of this Lease Agreement and, at **CITY**'s option, may result in termination of this Lease Agreement pursuant to Article 11.

13.3 Any sale or transfer, whether to one or more persons or entities and whether at one or more different times, of a total of fifty percent (50%) or more of the ownership interest in any corporation, partnership, limited liability company or other entity which is then the legal tenant under this Lease Agreement shall be deemed an assignment of this Lease Agreement within the meaning of this Article 13.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

14.1 NON-INTERFERENCE WITH OPERATION OF AIRPORT

14.1.1 **TENANT,** by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard or interfere with or endanger general operations at the Airport. In the event the aforesaid covenant is breached, the **CITY** reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the **TENANT**, and reimbursement for such **CITY** expense shall be paid by **TENANT** immediately upon **CITY's** demand therefor.

14.1.2 **CITY** hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport. In addition, **TENANT** acknowledges that because of the close location of the Premises to the "airfield operations area", that noise, vibration, fumes, debris and other interference with the Premises will be caused by Airport operations. **TENANT** hereby waives any and all rights and remedies against **CITY** arising out of any noise, vibration, fumes, debris and/or interference that is caused by the operation of the Airport.

14.2 QUIET ENJOYMENT

The **CITY** agrees that on payment of the rentals and fees hereunder, and subject to performance and compliance by **TENANT** of the covenants, conditions and agreement on its part to be performed and complied with herein, **TENANT** shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities, and of the Leased Premises, to the extent granted herein.

14.3 AGREEMENTS WITH FEDERAL GOVERNMENT

This Lease Agreement is subject and subordinate to the provisions of any agreements that have been or shall be made between the **CITY** and the United States of America relative to the operation or maintenance of the Airport, the execution of which have been or shall be required as a condition to the expenditure of Federal funds for the extension, expansion, improvement, maintenance or development of the Airport. **TENANT** agrees to comply with all applicable laws and regulations and to modify or amend this Agreement as required to comply with such applicable laws and regulations.

14.4 LICENSE FEES AND PERMITS

TENANT shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or Local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

14.5 SECURITY AGREEMENT

TENANT, at its own cost and expense, shall be responsible for ensuring that all building entrances, exits, and any access to the Leased Premises are in compliance with all applicable Airport Security Programs. It shall be **TENANT**'s responsibility, at its own cost and expense, to be in compliance with all existing

and future security requirements of the Department of Transportation, Transportation Security Administration, and/or the Airport Security Program, and **TENANT** shall hold the **CITY** harmless and shall pay any fines, penalties, cost or expenses incurred by **CITY** or by **TENANT** and arising out of any breach of said security requirements by **TENANT,** its invitees, subtenants, or anyone for whose act **TENANT** may be liable.

14.6 PARAGRAPH HEADINGS

The paragraph headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of the Lease.

14.7 INTERPRETATIONS

The laws of the State of Maine shall govern the validity, interpretation, performance and enforcement of this Agreement. Words of gender used in this Agreement shall be held and construed to include the other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires. Unless the context specifically provides otherwise, "person" wherever used in this Lease shall include, without limitation, an individual, a sole proprietor, a corporation, a partnership or any legal entity authorized by law.

14.8 DISPUTE RESOLUTION

All disputes hereunder which are not mutually resolved shall be resolved by trial without a jury in the Courts of York County, State of Maine. TENANT hereby agrees to waive any rights which **TENANT** may have to a trial by jury. Notwithstanding the foregoing, **TENANT** and **CITY** may mutually agree to submit any dispute hereunder to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

14.9 NOTICES

Except as otherwise provided in Article 11 for certified mail or hand delivery of notice of default, whenever any notice or payment is required by this Lease Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, addressed to, or hand-delivered to:

CITY:

City Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

Airport Manager
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

TENANT:
John M. O'Donnell
368 Highland St.
Weston, Massachusetts 02493

Or such place as either party shall designate in writing.

14.10 ENTIRE AGREEMENT

This Lease Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the Parties and all other representations or statements heretofore made, verbal or written, are merged herein, and this Lease Agreement may be amended only in a writing executed by duly authorized representatives of the parties hereto.

14.11 NON-WAIVER

No waiver by either Party of any of the terms, covenants, and conditions hereof to be performed kept and observed by the other Party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained, to be performed, kept, and observed by the other party. The receipt by **CITY** of any rent with knowledge of any breach of this Lease Agreement by **TENANT** or of any default by **TENANT** in the observance or performance of any of the terms, covenants or conditions of this Lease Agreement shall not be deemed to be a waiver of any provision of this Lease Agreement. If any action by **TENANT** shall require the consent or approval of **CITY, CITY's** consent to, or approval of, such action on any one occasion shall not be deemed a consent to, or approval of, said action on any subsequent occasion, or consent to, or approval of, any other action on the same or any subsequent occasion.

14.12 REMEDIES CUMULATIVE

All rights and remedies of the parties herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by either party of any remedy provided herein or allowed by law shall not be to the exclusion of any other remedy.

14.13 TIME OF ESSENCE

Time is and shall be of the essence in respect to the performance of each and every provision of this Lease Agreement.

14.14 FORCE MAJEURE

Neither the **CITY** nor **TENANT** shall be deemed in violation of this Lease Agreement if either should be prevented from performing any of the obligations hereunder (other than any obligations to make payments) by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not within its control. The party claiming force majeure shall give prompt written notice to the other party of such event or events, and shall resume performance promptly upon the conclusion of the event or events preventing its performance.

14.15 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall at any time or to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable,

shall not be affected thereby, and each term, covenant, condition, and provision of this Lease Agreement shall be valid and be enforced to the fullest extent permitted by law.

14.16 MEMORANDUM OF LEASE

Either party at the request of the other, shall execute, acknowledge and deliver for recording, a memorandum or short form lease prepared by the requesting party; provided, however, that the relations between **CITY** and **TENANT** shall be governed solely by the provisions of this Lease Agreement and not by any such memorandum or short form lease which may be executed, delivered and recorded.

14.17 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, stipulations, conditions and considerations in this Lease Agreement shall extend to and bind the legal representatives, heirs, successors, and any permitted assigns of the respective parties hereto. Nothing herein shall be deemed to authorize or permit any assignment or other transfer, in whole or in part, of the interest of **TENANT** in violation of any other provisions contained in this Lease Agreement.

14.18 ASSIGNMENT TO CITY SUCCESSOR IN INTEREST

The **CITY** may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed by their duly authorized representatives as of the date first above mentioned at Biddeford, Maine.

WITNESS

CITY OF BIDDEFORD, MAINE

By:
Its City Manager

TENANT

By: John M. O'Donnell

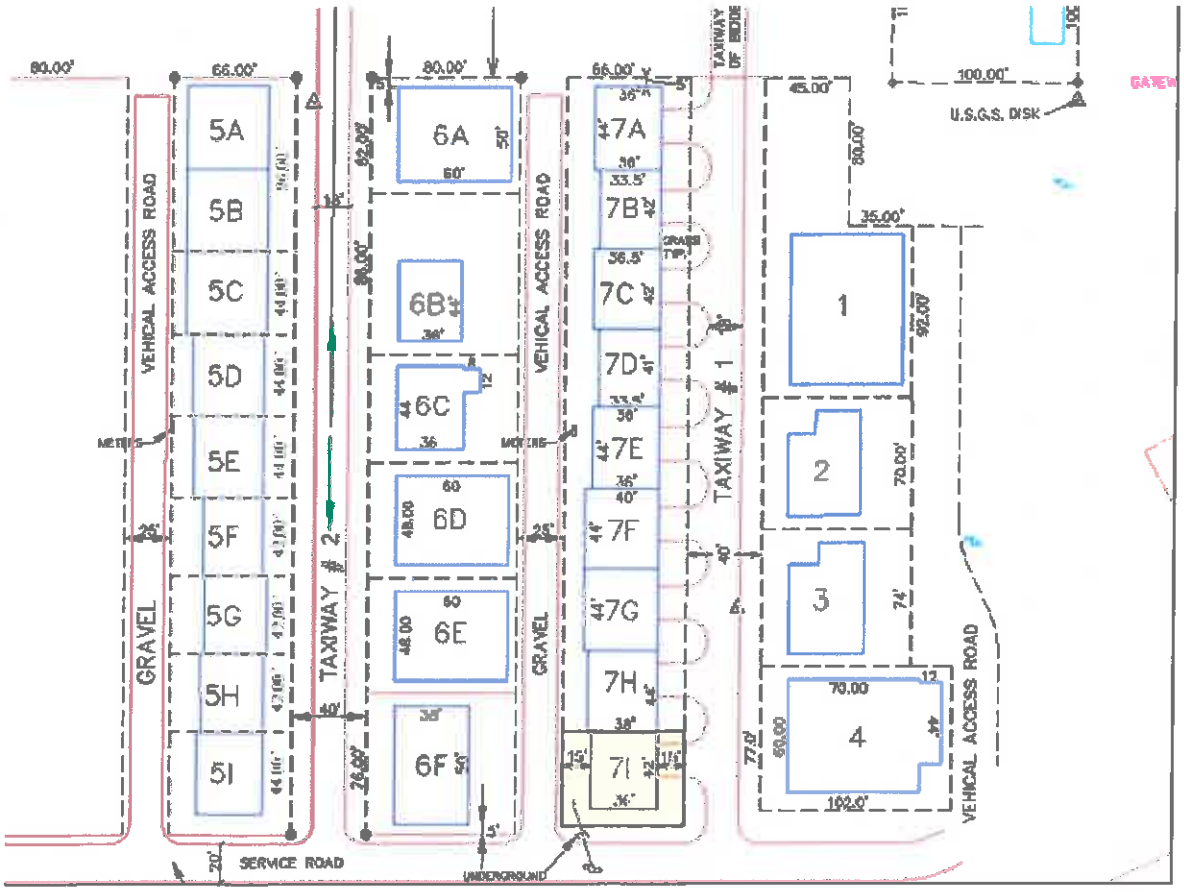
City of Biddeford, Maine

205 Main St. P.O. Box 586 Biddeford, Maine 04005

Exhibit A

Hanger 7I

42' x 66' = 2,772 sq. ft.



Capital Projects / Operations Committee

Meeting Date:	February 11, 2026
Meeting Time:	6:00 PM
Agenda Item No:	5.a
Item Description:	Verizon Lease Agreement
Submitted By:	JoAnne Fisk, Chief of Police

Key Terms:

Executive Summary:
Since 2004, Verizon Wireless has leased space at the Biddeford police station building at 39 Alfred Street for the installation and maintenance of communications towers and equipment. Verizon is now proposing the right to have an exclusive easement. Attachment 1 is a legal memorandum prepared by the City Solicitor and his firm analyzing the agreement and providing further guidance.

Detailed Review:

Funding Source:
N/A

Staff Recommendation:

Next Steps:

Attachments:
1. Attachment 1-Legal memo on lease agreement
2. Attachment 2-Purchase and Sale Agreement
3. Attachment 3-Verizon Easement and Assignment Agreement

4. Attachment 4-2004 Lease Agreement
5. Attachment 5-Mayors Memo Capital projects Committee Verizon Lease Agreement 02112026

Memorandum

TO:	Capital Committee
From:	Woodman Edmands
Date:	February 4, 2026
RE:	Lease Agreement between City of Biddeford and Wirelessco 1, LLC

This memo is being provided to you to provide our legal opinion on the prospective Lease Agreement with Verizon (by and through Wirelessco 1, LLC) related to the communications towers on top of the Biddeford Police Station.

Initial Observations

As an initial observation of large concern, our review of the documents provided to us by Chief Fisk, the proposed paperwork consists of a Purchase and Sale Agreement, along with the attached Exhibits, of which Exhibit D consists of a Building and Rooftop Easement and Assignment Agreement. Although the initial communication notes that what is to be considered is a 20-year lease with an upfront payment, the paperwork instead seems to contemplate a sale of the lease area to Wirelessco 1, LLC, and notes that it is for a perpetual duration rather than for 20 years. In particular, the agreements note the following:

From the Purchase and Sale Agreement Section 2(c):

c. A perpetual, exclusive easement in, to, under, over and across the applicable real property in accordance with the Easement and Assignment Agreement (as defined below), together with all rights appurtenant thereto, which easement shall be conveyed free and clear of all liens, claims, encumbrances and other restrictions of any kind, and shall run with the land for the benefit of Grantee and its successors and assigns.

And from Exhibit D, Section 1 (Easement and Assignment Agreement):

1. Grant of Easement. Grantor hereby grants to Grantee an exclusive perpetual easement over the Easement Area for the purpose of installing, operating, maintaining, repairing, replacing and removing digital and communication infrastructure equipment and related facilities by Grantee and its tenants, and for leasing, licensing and otherwise permitting third-party digital and communication infrastructure tenant(s) to use space on the Real Property and Building for such purposes, together with all related ancillary and appurtenant uses.

In addition, Exhibit D, Section 2 defines the term as follows:

2. Term. This Agreement shall commence as of the Effective Date, with a perpetual term. Notwithstanding the foregoing, in the event Grantee voluntarily ceases to use the Easement Area for a period of more than five (5) consecutive years (for reasons other than casualty, condemnation, act of God, force majeure, governmental action or restriction, or economic conditions affecting the telecommunications industry), the Easement shall be deemed abandoned. Grantee may abandon the Easements for any reason or at any time by giving thirty (30) days' written notice to Grantor, and Grantee and Grantor shall execute and record such documents reasonably required to memorialize such abandonment.

Based on these provisions, the City will be granting to Wirelessco 1, LLC, the right to have an exclusive easement for the purposes of installing, operating, maintaining, repairing, replacing, and removing digital and communications infrastructure equipment from the Leased Area. In addition to some of the other rights granted to Wirelessco 1, LLC under the terms of the Purchase and Sale Agreement, as discussed later in this memo, these provisions provide Wirelessco 1, LLC the right to use the easement in perpetuity, subject to the terms and conditions of the agreement and Easement/Assignment Agreement.

Lease Concerns

In terms of discussing a Lease, the Purchase and Sale Agreement provides under Section 2(b), entitled Transfer of Landlord Rights, that the City will transfer all right, title, and interests they have as landlord, lessor, or licensor, in and under the Existing Lease Agreement[1]. This includes all rents, security deposits, and other money due to the City under the existing lease, but also provides that the City must continue to faithfully perform and discharge any and all of their obligations as the lessor under the agreement that relate to ownership, operation, and use of the Property which can only be satisfied by the City. Section 2(b) also provides that Wirelessco 1, LLC shall have the right to amend the terms and conditions of the Existing Lease Agreement without any consent or joining in required by the City, effectively allowing them to change the current lease as they see fit.

Three major concerns arise from this. First, the City will continue to be obligated to provide certain services and responsibilities under an agreement that they are no long able to change. These provisions are repeated in Section 3(b) of the Purchase and Sale Agreement, requiring the City to continue to timely perform and discharge all obligations of the landlord under the Existing Lease.

Second, this would remove the City's benefit of some of the negotiations which are present in the prior Lease Agreement. As an example of this, Section 13 of the Existing Lease provides limitations for the installment of radio equipment that is of a type and frequency which will cause interference to the existing equipment, and obligates the Lessee to cooperate with the Lessor to eliminate any interference caused by any future public safety equipment that the Lessor installs. With the prospective changes under the Purchase and Sale Agreement, such a provision could be removed by the new Lessor, namely, Wirelessco 1, LLC.

Third, the question arises of how this provision will impact Article I, Section 62-2 of the Biddeford City Ordinances related to the Authorization to lease City Land, which is included below for your convenience:

☐ Sec. 62-6 **Authorization to lease City land; terms and conditions of lease.**
[Code 1975, § 7-29.1; Ord. of 4-18-1995]

The Committee on Capital Projects shall, subject to the approval of the Mayor and Council, have the authority to recommend the leasing of any lot or part thereof owned by the City not already under lease or appropriated to the use of any of the various branches of the City government. Such lease shall be recommended to the full Council upon such terms and conditions as the committee deems expedient and shall be for a period not to exceed 15 years, with one option to renew for a ten-year period.

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[1] The existing lease between the City of Biddeford and Portland Cellular Partnership, d/b/a Verizon Wireless dated June 1, 2004, is attached to the Purchase and Sale Agreement as Exhibit C.

Of particular concern is the portion which places limits on the duration of leases on city owned land. An issue may arise if the City Council, Mayor, or the Committee of Capital projects does not have the ability to provide input on these lease negotiations, especially if the terms exceed the authority that can be granted.

Finally, one other area of concern related to the general "Lease" provisions under the Agreement is Section 1(b) of Exhibit D, which allows for the Grantee to have the right to expand the Easement Area (there are some approvals here for the City to allow the expansion), but provides the right for the Grantee to then sublet the area to a new tenant and pay to the City only 50% of the rental revenues.

Difference in Access Rights

Looking to other provisions that may be a concern, we would like to point out some of the differences in the level of access that will be granted, both to the easement area and the existing building at large. Under the Existing Lease Agreement, Section 1 describes the Premises as approximately 157.5 square feet of floor space on the mezzanine level to be constructed by the Lessee, and space on the tower located on the roof of the building to install equipment as described in the agreement. In addition, it provides a non-exclusive right for ingress and egress, seven days a week and twenty four hours a day, for the purpose of installation and maintenance of the described premises. The Existing Lease further expands upon this in Section 7, which states that Lassee shall have free access to the Tower at all times for the purposes of installation and maintenance, and necessary means of access for the purpose of ingress and egress to the roof and tower. This access is limited only to authorized engineers, employees, or properly licensed authorized contractors of Lessee, or persons under their direct supervision, and that all access and activities by Lessee must be conducted in a manner which will minimize any interference with the police functions being performed.

To summarize, all-in-all the access given is relatively reasonable, it is limited to the areas that it is necessary for the scope of the lease, and there are limitations on the access which seem reasonable.

Under the terms of the Purchase and Sale Agreement, specifically Exhibit B which describes the Purchase Area, the rights granted are:

Non-Exclusive Easement:
A non-exclusive easement for ingress, egress, maintenance, repairs, replacements, and utility service for and to the Communications Facility and Leased Area, whether in, to, under, over, across, or through portions of the Property as reasonably necessary for such purposes, together with the right to lease or grant licenses to third parties, including digital infrastructure, communication and utility providers, provided such third-party uses are consistent with the purposes of this Agreement.

In addition, the Easement and Assignment Agreement notes the following:

4. Non-Exclusive Access Easement. As part of the consideration for this Agreement, Grantor hereby grants to Grantee a non-exclusive perpetual easement in, to, under, through and across the Real Property and Building, as more particularly described as the "Non-Exclusive Area" in Exhibit "B" (the "Access Easement"), for purposes of ingress and egress and utility connections to and from the Exclusive Area. Grantor covenants and agrees that Grantee shall at all times have continuous, unobstructed, and commercially reasonable access to the Exclusive Area via the Access Easement. Any failure by Grantor to provide, maintain, or permit such access, or any action or omission by Grantor that materially interferes with Grantee's use of the Access Easement, shall constitute a material default and Event of Default under this Agreement, subject to the notice and cure provisions set forth in Section 10, and entitling Grantee to exercise all rights and remedies available under this Agreement.

While admittedly, much of this language could be called commercially standard for access easements, we would argue that it is important to note the nature of the existing structure itself, namely, the Biddeford Police Station. As a result, there are concerns to make sure that there are proper levels of control, review, and limitations to the level of access that is granted to third parties, and the rights of the Grantee to provide access to new third-parties.

General Concerns

This section of this Memo will analyze various general concerns or suggestions for the contract.

First and foremost, the Purchase and Sale Agreement should be clarified to provide a more definite description of what is to be transferred and purchased. In particular, in Section 1(a) which describes the Purchase Area, reference is made to Exhibit B, in which the following is included:

The Purchase Area shall include that portion of the Property on which any Communications Facility exist as of the date of this Agreement, together with the Leased Area and Non-Exclusive Easement, each as defined and described as follows:

Leased Area:
That certain premises demised under the Existing Lease Agreement(s), as more particularly described in Exhibit C attached hereto.

Our recommendation would be to clarify that these areas include only the rights and access to, rather than conveying any full fee ownership in the real property.

Under Section 9 stating Closing Costs, there terms place the responsibility on the City to pay all costs of recording fees associated with releasing or subordinating any liens on the Property and any transfer taxes or similar conveyance related fees. Generally, transfer taxes are split between Buyers and Sellers, and it may be worth reviewing what fees would be incurred for the City to pay.

Under Section 14, entitled Termination, certain Termination rights are afforded to the parties. While this portion is pretty commercially standard, it does allow for the Grantee to cancel in its sole and absolute discretion and upon not less than 10 days notice if they are dissatisfied with their due diligence investigations. Our recommendation would be to provide some form of limitation, whether that be a date by which due diligence must be completed and consent given, or a date for the rights of the Grantee to take advantage of this provision to cease, so that the Agreement can become a "firm" agreement and expectations can be managed.

We would also like to draw your attention to Section 4(l) of the Purchase and Sale Agreement, which states that Grantor will give access to Grantee, both within a reasonable time after executing the Agreement and from time to time thereafter as requested by the Grantee, certain documents and materials relating to the property. I would recommend reviewing these documents to ensure that the City is comfortable obligating themselves to provide these documents to a third party on request, especially as it relates to any correspondence with governmental authorities, utilities, or third parties relating to the Property, and operating statements utility bills and expense records for the property.

Final Notes

In concluding our memo, our final notes on the proposed agreement is that they are more in line with a sale of property rather than a lease, and the rights and obligations reflect such a transaction. By entering into this agreement with Wirelessco 1, LLC, the City will effectively be relinquishing any rights they have for the Communications Facility and leased area to Wirelessco 1, LLC, who will be in charge of managing and effectively owning that portion of property in the future.

The current agreement is in line with a lease and what would be expected from such a transaction. While the initial duration considered under the Lease is for Twenty-Five years, measured in 5-year increments, Section 5 of the Existing Lease does allow for further extensions if the agreement is not cancelled within 3 months prior to the end of the term. If the City wishes to provide a 20-year lease to Verizon with an upfront payment rather than a monthly lease, we would want to see terms more in line with such a duration (while cautioning to abide by the City Lease durations ordinance) rather than the agreement presented currently.

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("**Agreement**") is made effective as of the date of last signature below ("**Effective Date**") and entered into by and between **City of Biddeford, Maine,** a body corporate and politic ("**Grantor**") and **WIRELESSCO 1, LLC**, a Delaware limited liability company ("**Grantee**"). Grantor and Grantee may hereinafter each be referred to at times as a "**Party**" and collectively as the "**Parties**".

RECITALS

WHEREAS, Grantor is the owner of that certain real property located at 39 Alfred Street, Biddeford, Maine 04005, as described more fully in **Exhibit A**, attached hereto and incorporated herein by this reference (hereinafter, "**Property**").

WHEREAS, Grantor leases a portion of the Property for use as a Communications Facility (defined below); and

Grantee?

WHEREAS, Grantee desires to purchase from Grantor, and Grantor desires to sell and convey to Grantee, certain rights and interests over that portion of the Property relating to the Communications Facility, as set forth more fully below.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Summary of Terms.

1.1 Closing Date	As defined in Section 6
1.2 Purchase Price	Three Hundred Thousand and No/100 Dollars ($300,000.00)
1.3 Grantor's Notice Address	City of Biddeford Attn: City Manager 205 Main Street Biddeford, ME 04005
1.4 Grantor's Broker, if any:	None
1.5 Grantee's Notice Address	WIRELESSCO 1, LLC Attn: Legal Department 7801 Alma Drive, Suite #105/34 Plano, TX 75025
1.6 Grantee's Broker, if any:	None

2. Sale and Purchase of Assets. In exchange for payment of the Purchase Price by Grantee to Grantor, Grantor will, on the Closing Date transfer to Grantee all of Grantor's interest in the following assets ("**Transferred Assets**"), free and clear of any liens, claims, encumbrances, security interests, mortgages, pledges, charges, or other restrictions of any kind other than the Permitted Encumbrances (defined below), with Grantor providing customary title warranties and indemnification for any breach of this covenant:

a. Purchase Area. That portion of the Property ("**Purchase Area**") as more fully described in **Exhibit B**, attached hereto, subject to use as a digital and communication infrastructure facility ("**Communications Facility**") as set forth more fully in certain communications lease(s) or license(s) agreement(s) described on **Exhibit C** (collectively, "**Existing Lease Agreement(s)**");

b. Transfer of Landlord Rights. All right, title and interests of Grantor, as landlord, lessor or licensor, in, to and under the Existing Lease Agreement(s), including, without limitation, all rents, security deposits and other monies due Grantor as specified in the Existing Lease Agreement(s); provided, however that Grantor shall continue to faithfully perform and discharge any and all of Grantor's obligations as lessor under the Existing Lease Agreement(s) relating to the ownership, operation and use of the Property that can only be satisfied by Grantor as owner of the Property, including, without limitation: (a) all maintenance and repair obligations; (b) the payment of real property taxes; (c) any covenant or obligation of Grantor relating to the environmental condition of the Property and hazardous substances and waste; (d) any obligation to provide access to the Property and tenant premises as set forth in the Existing Lease Agreement(s); and (e) applicable covenants, easements, zoning and land use regulations, restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, accessibility (including without limitation the Americans with Disabilities Act) whether now in effect or which may hereafter come into effect. Grantor's failure to timely perform any such obligations shall constitute a material breach of this Agreement and, after applicable notice and cure periods, if any are to be afforded under Section 12 hereof, shall mature into a default in accordance with the terms of Section 12. Grantor acknowledges and agrees that from and after the Closing Date, Grantee shall have the right to amend the terms and conditions of the Existing Lease Agreement(s) without Grantor consenting to or joining in such amendment. The provisions of this Section shall survive the Closing and shall not be merged into any deed, assignment or other document delivered at Closing.

c. A perpetual, exclusive easement in, to, under, over and across the applicable real property in accordance with the Easement and Assignment Agreement (as defined below), together with all rights appurtenant thereto, which easement shall be conveyed free and clear of all liens, claims, encumbrances and other restrictions of any kind, and shall run with the land for the benefit of Grantee and its successors and assigns.

d. Excluded Assets. The Transferred Assets will not include cash or accounts receivable attributable to periods prior to the Closing Date. In the event that any tenant under the Existing Lease Agreement(s) pays to Grantor any fees relating to utility service or taxes, such fees shall continue to be paid by the tenant to Grantor. To the extent either Party receives monies belonging to the other Party, such receiving Party shall promptly, and in no event later than five (5) business days of receipt thereof, pay over such monies to the proper Party.

e. Closing Deliverables. At the Closing (defined below), the Parties agree:

(i) They will each execute and deliver to the other Party an easement and assignment agreement in the form attached hereto as Exhibit D ("**Easement and Assignment Agreement**"), whereby Grantor grants to Grantee an easement with respect to the Purchase Area and an assignment of the Existing Lease Agreement(s);

(ii) Grantor shall deliver to Grantee copies of all consents, approvals, waivers and similar authorizations necessary for Grantor to enter into the transactions contemplated by this Agreement;

(iii) With respect to any loans or similar encumbrances against the Property, Grantor shall obtain and deliver to Grantee a subordination, non-disturbance and attornment agreement in form and substance satisfactory to Grantee, or otherwise cause such liens or encumbrances to be paid off and released prior to Closing;

(iv) Grantor and Grantee will execute and deliver a closing statement ("**Closing Statement**") showing all closing costs and related settlement figures, including purchase price, fees, and any prorated rent or other payments related to the Existing Lease Agreement(s); and

(v) To the preparation and delivery of a statement of allocation of the Purchase Price among the Transferred Assets in accordance with Section 1060 of the Internal Revenue Code.

3. Operation Covenant.

a. From and after the Effective Date and continuing through the Closing, Grantor shall operate, administer, and perform all obligations of landlord under the Existing Lease Agreement(s) in a commercially reasonable manner consistent with the practices of a prudent owner and landlord of comparable digital infrastructure and communication facility properties, and in all events in material compliance with the terms of the Existing Lease Agreement(s). Without limiting the foregoing, Grantor shall not, without Grantee's prior written consent, which may be granted or withheld in Grantee's sole discretion: (i) amend, modify, terminate, or waive any provision of any Existing Lease Agreement; (ii) consent to any assignment, sublease, or transfer thereunder; (iii) enter into any side letter or other agreement with any tenant; (iv) accept any early termination, surrender, or rent concession; or (v) take or omit to take any action that would reasonably be expected to materially impair the economic value of the Transferred Assets or Grantee's rights thereunder. Grantor shall promptly notify Grantee of any default by any tenant or any event that, with notice or passage of time, would constitute a default, and shall enforce the Existing Lease Agreement(s) in good faith and in accordance with their terms.

b. From and after the Closing, Grantor shall continue to timely perform and discharge all obligations of landlord under the Existing Lease Agreement(s) that, by their nature or under the terms thereof, are required to be performed by the fee owner of the Property, in each case in a commercially reasonable manner consistent with the practices of a prudent owner and landlord of comparable digital infrastructure and communication facility properties and in material compliance with the terms of the Existing Lease Agreement(s). Grantor shall not take or omit to take any action that would reasonably be expected to interfere with, impair, or diminish Grantee's rights as assignee of the Existing Lease Agreement(s) or the economic benefits thereof. Grantor's obligations under this subsection shall survive the Closing and shall be enforceable by Grantee as a direct contractual obligation.

4. Representations and Covenants by Grantor. Grantor represents, warrants and agrees as follows:

a. If Grantor is an entity, (a) it is a duly organized, validly existing entity in good standing under the laws of its state of formation, (b) the signatory of this document is duly authorized to sign on its behalf, and (c) the execution and delivery of this Agreement will not violate any laws, conflict with Grantor's organizational documents, or breach any material agreements, including but not limited to mortgages or deeds of trust.

b. Grantor has the full power, authority, and legal right to execute, deliver, and perform under this Agreement and any related documents.

c. No person or entity other than Grantor has any interest in any of Transferred Assets, except as set forth herein.

d. Grantor owns the Property in fee simple and has clear rights to access and utilities, free from all encumbrances except for (a) the Existing Lease Agreement(s) and (b) any matters disclosed in the Title Policy (collectively, "Permitted Encumbrances").

e. There are no (a) zoning changes pending that would prevent or restrict the Property's use as a Communications Facility, (b) pending or threatened condemnation or eminent domain proceedings, or (c) public improvements planned that might result in assessments against Grantor, Grantee, or the Property.

f. Neither Grantor nor any tenant has breached or defaulted on any of their respective obligations under the Existing Lease Agreement(s), and there exists no event, condition or circumstance which, with the passage of time, the giving of notice, or both, would constitute or result in a breach or default under any of the Existing Lease Agreement(s).

g. There are no pending or threatened lawsuits, claims, or investigations related to the Transferred Assets.

h. The Transferred Assets are currently operated in compliance with all applicable laws.

i. Neither Grantor nor any of its agents or affiliates have, in connection with the operation of the Property, generated, stored, treated, transported, handled, disposed of, or released any hazardous substance or waste in a manner that would give rise to any material liability under any statute or governmental regulation, and Grantor has no knowledge that any tenant or any other third party has engaged in any such activities in connection with the Property in a manner that would give rise to any material liability under any statute or governmental regulation.

j. Grantor agrees to disclose any material adverse change in the Transferred Assets or the operations, financial condition, or prospects of the Transferred Assets up to and including the Closing Date.

k. Grantor and its direct and indirect owners, managers, members, partners, general partners, limited partners, shareholders, directors, officers, employees, agents, and Affiliates are, and at all times have been, in compliance with all applicable laws and regulations relating to money laundering, foreign asset control, economic sanctions and terrorism, including, without limitation, the USA PATRIOT Act, the Bank Secrecy Act, and the regulations administered by the Office of Foreign Assets Control ("OFAC"), and no such Person is listed on, or owned or controlled by any Person listed on, any government list of prohibited or restricted parties. Grantor further represents and warrants that no funds or other assets of Grantor have been derived from, financed by, or otherwise connected with any activity that would violate any such laws or regulations.

l. Grantor shall, within a reasonable time after the Effective Date and from time to time thereafter as reasonably requested by Grantee, deliver to Grantee true, correct and complete copies of all documents and materials in Grantor's possession or control relating to the Property, including, without limitation: (i) all leases, licenses, subleases and occupancy agreements; (ii) service, maintenance, management, utility and access agreements; (iii) easements, covenants, conditions and restrictions, and other recorded instruments affecting the Property; (iv) surveys, plats, legal descriptions and title materials; (v) environmental reports and studies; (vi) engineering, architectural and construction plans, permits and approvals; (vii) warranties and guaranties relating to the Property or any improvements; (viii) tax statements, assessments and protest materials; (ix) operating statements, utility bills and expense records; and (x) all correspondence with governmental authorities, utilities, or third parties relating to the Property; and (xi) any amendments, renewals or modifications of any of the foregoing, in each case together with such additional documents and information as Grantee may reasonably request in connection with its due diligence review or ownership and operation of the Property.

m. All documents, reports, studies, data, financial information, environmental materials, title materials, surveys, leases, service contracts and all other materials or information delivered or made available by or on behalf of Grantor to Grantee in connection with this Agreement or the Property are true,

correct and complete in all material respects and do not omit any material facts necessary to make such materials not misleading.

n. Grantor represents and warrants to Grantee that Grantor is solvent and is not the subject of any voluntary or involuntary case, proceeding or petition under the United States Bankruptcy Code or any other federal or state insolvency, receivership, liquidation, reorganization, moratorium or similar law. Grantor has not made any assignment for the benefit of creditors, has not admitted in writing its inability to pay its debts as they become due, and no trustee, receiver, custodian or similar official has been appointed for Grantor or any of its property. Grantor covenants that it shall not take any action to commence or consent to any such proceeding prior to the Closing.

o. All real estate, personal property and other taxes, assessments and governmental charges relating to the Property and the Transferred Assets have been timely paid or will be prorated and paid at Closing, and there are no pending or threatened tax protests, abatements or reassessments except as disclosed in writing to Grantee.

p. Except for the Existing Lease Agreement(s) and contracts delivered to Grantee, Grantor is not a party to any service, maintenance, management or other agreements affecting the Property that will be binding on Grantee after Closing.

q. Grantor has maintained commercially reasonable insurance coverage on the Property in accordance with industry standards, and Grantor has not received any written notice of cancellation or non-renewal of any such policies.

r. The Property has legal and practical access to public rights-of-way and all necessary utilities for its current and intended use as a Communications Facility, without reliance on any unrecorded or terminable rights.

s. All utility services required for the operation of the Property are available to the Property, and Grantor has not received notice of any pending termination, relocation, or impairment of such services.

t. There is no work performed or contracted by Grantor on the Property that could give rise to any mechanic's, materialman's or similar lien, and no notices of commencement, lien claims or stop notices have been recorded or served.

u. Grantor has not entered into any agreement, option, right of first refusal, right of first offer, letter of intent, or other arrangement to sell, lease, encumber or otherwise transfer any interest in the Property or the Transferred Assets other than this Agreement.

v. Grantor is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code, and Grantor shall deliver to Grantee at Closing a FIRPTA affidavit in customary form.

w. Grantor has not received any written notice from any governmental authority or utility provider alleging any violation of law or requiring any repairs, replacements or upgrades to the Property that remain uncured.

x. After Closing, Grantor shall execute and deliver such additional documents and take such further actions as may be reasonably necessary to carry out the intent of this Agreement and to vest in Grantee good and marketable title to the Transferred Assets.

y. No person or entity has acted as a broker or similar representative on behalf of Grantor except as identified in Section 1.4 above.

Grantor acknowledges Grantee's material reliance on the foregoing representations and covenants, all of which shall remain true and correct through the time of Closing. Except as otherwise expressly provided herein, all representations and warranties of Grantor contained in this Agreement and in any certificate or other document delivered in connection herewith shall survive the Closing for a period of one (1) year following the Closing Date, at which time such representations and warranties shall automatically terminate and be of no further force or effect; provided, however, that the indemnification obligations of Grantor under this Agreement, including, without limitation, indemnities relating to environmental matters, hazardous materials, or violations of environmental laws, shall survive the Closing without limitation as to time (or for the applicable statute of limitations, if shorter).

5. Representations and Covenants by Grantee. Grantee represents, warrants and agrees as follows:

a. Grantee is (a) a duly organized, validly existing entity in good standing under the laws of its state of formation, (b) the signatory of this document is duly authorized to sign on its behalf, and (c) the execution and delivery of this Agreement will not violate any laws, conflict with Grantor's organizational documents, or breach any material agreements.

b. Grantee has the full power, authority, and legal right to execute, deliver, and perform under this Agreement and any related documents.

Grantee acknowledges Grantor's material reliance on the foregoing representations and covenants, all of which shall remain true and correct through the time of closing.

6. Conditions to Closing. Closing shall be contingent upon Grantee's satisfaction with the results of its due diligence investigation, which may include:

a. The ability of Grantee to obtain, at Closing, an easement or leasehold policy of title insurance in a form and substance acceptable to Grantee, subject only to Permitted Encumbrances and other exceptions that have been expressly approved by Grantee, including such endorsements as Grantee deems reasonably necessary or appropriate.

b. Such documents as the title company may reasonably request to issue its insurance policy including, without limitation, consents, subordination, non-disturbance and attornment agreements, owner's affidavits, certificates of good standing, trust documents, corporate resolutions, and minutes of board meetings.

c. At Grantee's option, and in a form acceptable to Grantee, a survey of the Property and Purchase Area.

d. Grantee and its agents, engineers, surveyors and other representatives' entry upon the Property to inspect, photograph, conduct environmental studies, and examine the Property (collectively, "**Inspection**"), and otherwise to do those things on or off the Property that, in the opinion of Grantee, are necessary in Grantee's sole discretion to determine the feasibility or suitability of the Property for use as contemplated under this Agreement.

e. As a condition to Grantee's obligation to Close, all representations and warranties of Grantor contained in Section 4 shall be true and correct in all material respects as of the Closing Date. In the event Grantor discloses, amends, updates, or otherwise modifies any representation or warranty contained in Section 4 after the Effective Date (whether by written notice, disclosure schedule update, or otherwise), then, at Grantee's election, (i) Grantee shall be entitled to a new diligence review period of ten (10) days following receipt of such disclosure or modification, during which Grantee may investigate the matters disclosed or modified, and (ii) Grantee shall have the right to terminate this Agreement prior to the expiration of such diligence period without penalty or liability.

f. As a condition precedent to Grantee's obligation to consummate the Closing, all representations and warranties of Grantor contained in this Agreement and in any document delivered in connection herewith shall be true, correct and complete in all respects as of the Effective Date and again as of the Closing Date as though made on and as of the Closing Date.

7. Closing Date and Time. Upon Grantee's written confirmation of its satisfaction of the conditions precedent set forth in Section 6 above, the closing of this transaction ("**Closing**") will take place in escrow or at a mutually satisfactory time and location on such date as may be agreed to by the Parties ("**Closing Date**"), and the Purchase Price will be paid to Grantor through funds supplied by Grantee by wire transfer in accordance with Grantor's written wire instructions.

8. Further Assurances. Grantor will, from time to time after the Closing, upon the reasonable request of Grantee, execute and deliver all such additional documentation as may be reasonably required to effectuate the transactions contemplated under this Agreement.

9. Closing Costs and Recording Fees. Grantee will pay the costs of title insurance, surveys, environmental studies (if any) and other due diligence set forth in Section 6 above, as well as any costs to record the Easement and Assignment Agreement. Grantor will pay all costs of recording fees associated with releasing or subordinating any liens on the Property and any transfer taxes or similar conveyance related fees. Grantor shall indemnify, defend and hold Grantee harmless from and against any claims, suits, demands, losses, or expenses related to any taxes applicable prior to Closing or attributable to the Closing.

10. Prorations. Rents and other payments due under the Existing Lease Agreement(s) will be prorated as of the Closing Date with any net amount owed at Closing to be addressed through escrow on the Closing Date. For the avoidance of doubt, all security deposits under the Existing Lease Agreement(s) are to be paid over in full to Grantee. For tenants paying rent on a monthly basis, at Closing, Grantor will credit Grantee for two (2) full months' rent plus rent for the partial month in which Closing occurs and Grantor will retain the checks attributable for those months when received.

11. Indemnification. Grantor and Grantee shall each indemnify and hold harmless the other against any and all claims, damages, costs and expenses, including reasonable attorneys' fees, caused by or arising out of the negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying Party or the employees, agents, or contractors of the indemnifying Party prior to the Closing. The indemnification obligations set forth in this Section shall survive the Closing, the delivery and recording of the Easement and Assignment Agreement and any other documents contemplated hereby, and shall not be merged into any such documents.

12. Default. Except as otherwise set forth herein, in the event there is a breach by either Party with respect to any provision of this Agreement or its obligations under it, the non-defaulting Party shall give the defaulting Party written notice of such breach whereupon the defaulting Party shall have thirty (30) days in which to cure, provided the defaulting Party shall have such extended period as may be required if the nature of the cure is such that it reasonably requires more than thirty (30) days and the defaulting Party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion; provided however, any cure period may not extend beyond the requirements set forth in the Existing Lease Agreement(s), to the extent applicable. In the event that the defaulting Party fails to cure such default within the cure period, the non-defaulting Party shall be entitled to exercise any rights permitted by applicable law or in equity. For the avoidance of doubt, this thirty (30) day cure period shall not apply to notices given pursuant to Section 14(a)(ii) below.

13. Specific Performance. The Parties acknowledge that the Transferred Assets are unique and Grantee would be irreparably damaged in the event any provision of this Agreement is not performed in accordance with the terms hereof. Therefore, in addition to any other rights or remedies available to Grantee at law or in equity, Grantee will be entitled to the remedies of specific performance or injunctive relief in connection with a breach by Grantor of its obligations under this Agreement.

14. Termination.

a. Notwithstanding anything herein to the contrary, this Agreement may be terminated at any time on or prior to the Closing Date under the following circumstances:

City can't cancel but Tele can

(i) By Grantee, in its sole and absolute discretion, upon not less than ten (10) days' prior written notice to Grantor, if Grantee is dissatisfied, for any reason or no reason, with its due diligence investigations relating to the Property or any portion thereof;

(ii) By the written consent of Grantee and Grantor; or

(iii) By Grantee if (i) within ninety (90) days of the Effective Date, any condition set forth in Section 6 (Conditions to Closing) is not reasonably capable of fulfillment or any closing deliverable set forth in Section 2(e) is not reasonably available, (ii) Grantee has given Grantor ten (10) days' written notice, (iii) Grantor has failed to cure such matter such period, and (iv) Grantee is not otherwise in material default of this Agreement.

b. If this Agreement is terminated in accordance with this Section or otherwise, this Agreement will become void and of no further force and effect. Neither of the Parties will have any liability to the other in respect of such termination; provided, however, that nothing in this Section will relieve any Party from liability it may have hereunder for a breach of this Agreement prior to such termination.

15. Destruction or Condemnation. In the event of destruction to the Property that is not remedied by Grantor by the Closing Date or a condemnation of any portion of the Property, Grantee may, at its option terminate this Agreement.

16. Notices. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by nationally recognized commercial courier, sent to the address listed below. Any Party may change the address to which notices are to be addressed by giving the other Party notice in the manner set forth in this Section. Notice shall be effective upon actual receipt or documented refusal.

As to Grantor: City of Biddeford
Attn: City Manager
205 Main Street
Biddeford, ME 04005

As to Grantee: WIRELESSCO 1, LLC
Attn: Legal Department
7801 Alma Drive, Suite #105/34
Plano, TX 75025

17. Governing Law; Attorney's Fees; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located without giving effect to any choice of law or conflict of law provision. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY LEGAL ACTION OR SIMILAR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREUNDER. In the event of litigation arising out of this

Agreement, if a court or other trier of fact issues a final, non-appealable order, the non-prevailing Party shall reimburse the prevailing Party for its reasonable costs and expenses, including attorney's fees.

18. Successors and Assigns. This Agreement will be binding upon Grantor and Grantee and their respective successors and assigns. Notwithstanding the foregoing, Grantor may assign its rights and delegate its duties under this Agreement only upon the prior written consent of Grantee. Grantee may assign its rights and delegate its duties under this Agreement to any of its affiliates, successors, assigns, lenders, or any purchaser of Grantee's interest, without the consent of Grantor.

19. Survival. All covenants and agreements contained herein shall survive the Closing and the execution and delivery of the Easement and Assignment Agreement, including but not limited to Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, and 18.

20. Miscellaneous. This Agreement contains the entire agreement among the parties with respect to its subject matter and supersedes all negotiations, prior discussions, agreements, letters of intent, and understandings, written or oral, relating to the subject matter of this Agreement. The exhibits attached to this Agreement and the other documents delivered pursuant hereto are made a part of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable to any extent, such provision shall be reformed to the minimum extent necessary to make it valid and enforceable, and if it cannot be reformed, it shall be severed from this Agreement. The enforceability and validity of the remaining provisions of this Agreement will not be affected, provided that the essential purposes and material terms of this Agreement can still be accomplished. Headings, subheadings, and are for reference purposes only and are not intended to affect the meaning or interpretation of this Agreement. Except as expressly set forth herein, neither this Agreement nor any term hereof may be amended, supplemented, superseded, waived, or terminated other than by a written instrument signed by both Grantor and Grantee. No course of dealing between the parties shall be deemed to modify this Agreement. Accordingly, no act or failure to act shall be deemed to constitute an amendment or modification or termination hereof.

21. Counterparts and Electronic Signatures. This Agreement may be executed electronically or in counterparts, with each counterpart deemed to be an original and all counterparts together constituting one and the same instrument. Any signature transmitted digitally or electronically (including by PDF, DocuSign, or similar electronic signature platform) shall be deemed to be a valid and binding original signature for all purposes under this Agreement.

[NO MORE TEXT ON THIS PAGE - SIGNATURES FOLLOW ON NEXT PAGE]

GRANTOR:

City of Biddeford, Maine,
a body corporate and politic

By: _____
Name: _____
Title: _____

GRANTEE:

WIRELESSCO 1, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

To be inserted upon completion of title

EXHIBIT B

PURCHASE AREA DESCRIPTION

The Purchase Area shall include that portion of the Property on which any Communications Facility exist as of the date of this Agreement, together with the Leased Area and Non-Exclusive Easement, each as defined and described as follows:

Leased Area:
That certain premises demised under the Existing Lease Agreement(s), as more particularly described in Exhibit C attached hereto.

Expansion Area:
Up to a maximum of five hundred (500) square feet of space at a location approved by the Grantor, which approval shall not be unreasonably withheld, conditioned, or delayed

Non-Exclusive Easement:
A non-exclusive easement for ingress, egress, maintenance, repairs, replacements, and utility service for and to the Communications Facility and Leased Area, whether in, to, under, over, across, or through portions of the Property as reasonably necessary for such purposes, together with the right to lease or grant licenses to third parties, including digital infrastructure, communication and utility providers, provided such third-party uses are consistent with the purposes of this Agreement.

See attached.

Grantor acknowledges and agrees that Grantee may survey the Purchase Area at Grantee's expense and Exhibit B may be amended or replaced to include said survey without the need for further agreement or documentation between the Parties notwithstanding anything in the Agreement to the contrary, including but not limited to Section 19.

EXHIBIT C

EXISTING LEASE AGREEMENT(S)

That certain Building and Rooftop Lease Agreement dated as of June 1, 2004, by and between City of Biddeford, Maine, a body corporate and politic, as landlord, and Portland Cellular Partnership, d/b/a Verizon Wireless, as tenant.

(See attached)

EXHIBIT D

EASEMENT AND ASSIGNMENT AGREEMENT

(See attached)

PARCEL #: BIDD-000038-000000-000404

SPACE ABOVE FOR RECORDER'S USE

LEGAL DESCRIPTION, page 10

Prepared by, and
after recording return to:
WIRELESSCO 1, LLC
7801 Alma Drive, Suite #105/34
Plano, TX 75025

BUILDING AND ROOFTOP EASEMENT AND ASSIGNMENT AGREEMENT

This Building and Rooftop Easement and Assignment Agreement ("**Agreement**") dated _____, 20____ ("**Effective Date**") is entered into by and between **City of Biddeford, Maine,** a body corporate and politic ("**Grantor**") and **WIRELESSCO 1, LLC**, a Delaware limited liability company ("**Grantee**"). Grantor and Grantee may hereinafter each be referred to at times as a "**Party**" and collectively as the "**Parties**".

WHEREAS, Grantor owns certain real property located at 39 Alfred Street, Biddeford, Maine 04005, as described more fully in **Exhibit A**, attached hereto and incorporated herein by this reference (hereinafter, the "**Real Property**"), upon which is located a certain building ("**Building**") (the Building and the Real Property are hereinafter sometimes collectively referred to as the "**Property**"); and

WHEREAS, Grantor has agreed to grant to Grantee an exclusive easement (the "**Easement**") in, to, under and over a certain portion of the Real Property and Building for the placement of digital and communication infrastructure and ancillary equipment currently existing thereon and as may be placed, operated, and maintained from time to time on or around the Building and Grantor's Real Property, all as more particularly described as "Exclusive Area" in **Exhibit B** attached hereto ("**Easement Area**") and Grantor shall not use, occupy, license, lease, or permit any third party to use or occupy any portion of the Easement Area, or take any action with respect thereto, that interferes with, impairs, or diminishes Grantee's rights hereunder or the operations of Grantee or its tenants, provided that Grantee's use of the Building and Real Property does not materially and adversely interfere with Grantor's normal use of the Building or Grantor's Real Property; and

WHEREAS, pursuant to certain existing digital and communication infrastructure lease(s) or license(s) encumbering the Property (collectively, the "**Existing Lease Agreement(s)**"), as more particularly described in Exhibit C, and any renewals, extensions, amendments, replacements or future infrastructure lease(s) or license(s) relating to the Easement Area, there is located within the Easement Area a certain Building rooftop digital and communication infrastructure facility; and

WHEREAS, Grantor intends to sell, assign, set over, convey and transfer the **Existing Lease Agreement(s)** as more particularly described in **Exhibit C** to Grantee; and

WHEREAS, Grantor intends to allow Grantee to use the Easement in order that Grantee may lease space for digital and communication infrastructure and related ancillary purposes; and

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee an exclusive perpetual easement over the Easement Area for the purpose of installing, operating, maintaining, repairing, replacing and removing digital and communication infrastructure equipment and related facilities by Grantee and its tenants, and for leasing, licensing and otherwise permitting third-party digital and communication infrastructure tenant(s) to use space on the Real Property and Building for such purposes, together with all related ancillary and appurtenant uses.

a. Grantee shall have the one (1) time right to expand the Easement Area at no additional cost, up to a maximum of five hundred (500) square feet of space at a location approved in writing by the Grantor, which approval shall not be unreasonably withheld, conditioned, or delayed ("**Additional Easement Area**").

b. In the event that Grantee exercises its one (1) time right to expand the Easement Area and Grantee subleases space within the Additional Easement Area to any new tenant (other than a current tenant, or any successor or assign of a current tenant under the Existing Lease Agreement(s) or any renewal or replacement thereof) ("**Additional Easement Area Tenant**"), Grantee shall ensure the Additional Easement Area Tenant shall pay directly to Grantor fifty percent (50%) of the rental revenues actually received by Grantee from the Additional Easement Area Tenant.

→ Lease/Sale of City owned Land

2. Term. This Agreement shall commence as of the Effective Date, with a perpetual term. Notwithstanding the foregoing, in the event Grantee voluntarily ceases to use the Easement Area for a period of more than five (5) consecutive years (for reasons other than casualty, condemnation, act of God, force majeure, governmental action or restriction, or economic conditions affecting the telecommunications industry), the Easement shall be deemed abandoned. Grantee may abandon the Easements for any reason or at any time by giving thirty (30) days' written notice to Grantor, and Grantee and Grantor shall execute and record such documents reasonably required to memorialize such abandonment.

3. Assignment of Existing Lease Agreement(s). As part of the consideration provided for this Agreement, Grantor hereby assigns and conveys all of its right, title and interest in and to the Existing Lease Agreement(s), more particularly described in Exhibit C and as amended from time to time, including the right to receive all rents, revenues, and other payments under the Existing Lease Agreement(s) and the right to amend, extend, renew, or replace the Existing Lease Agreement(s) as lessor in Grantee's sole discretion. Grantor shall retain and continue to faithfully perform and discharge any and all obligations of lessor under the Existing Lease Agreement(s) and any renewals, extensions, amendments, replacements or future digital and communication infrastructure lease(s) or license(s) relating to the Easement Area (collectively, the "**Lease Agreements**") and shall remain solely responsible for compliance therewith and Grantee assumes no obligations of lessor thereunder; provided, however, that Grantee shall have the right, but not the obligation, to enforce all tenant obligations and landlord rights under the Lease Agreements (including under any future Lease Agreements), to collect all payments due thereunder, and to enforce any such obligations on Grantor's behalf, including through the exercise of self-help rights as provided herein. If Grantor fails to timely perform any obligation under any Lease Agreement, after written notice from Grantee and the expiration of any applicable cure period, Grantee shall have the right, but not the obligation, to perform such obligation on Grantor's behalf through self-help or otherwise, and Grantor shall promptly reimburse Grantee for all reasonable costs and expenses incurred in connection therewith.

4. Non-Exclusive Access Easement. As part of the consideration for this Agreement, Grantor hereby grants to Grantee a non-exclusive perpetual easement in, to, under, through and across the Real Property and Building, as more particularly described as the "Non-Exclusive Area" in Exhibit "B" (the "Access Easement"), for purposes of ingress and egress and utility connections to and from the Exclusive Area. Grantor covenants and agrees that Grantee shall at all times have continuous, unobstructed, and commercially reasonable access to the Exclusive Area via the Access Easement. Any failure by Grantor to

→ Compare to current rights to access

provide, maintain, or permit such access, or any action or omission by Grantor that materially interferes with Grantee's use of the Access Easement, shall constitute a material default and Event of Default under this Agreement, subject to the notice and cure provisions set forth in Section 10, and entitling Grantee to exercise all rights and remedies available under this Agreement.

5. Improvements; Utilities. Grantee and its tenants may at their discretion and expense, construct such improvements in, to, under and over the Easement Area, consistent with the uses specified in Section 1. The improvements shall remain the property of Grantee and its tenant(s), as applicable, and Grantor shall possess no right, title or interest therein. In the event utilities to serve Grantee's tenants cannot be installed within the Easement Area, Grantor agrees to cooperate with Grantee and to act reasonably and in good faith in granting Grantee the right to locate such utilities on the Real Property and within and on the Building without requiring the payment of additional fees; and any failure by Grantor to provide such utilities, or any interference by Grantor with Grantee's installation, use, operation, maintenance, repair or access to such utilities, shall constitute a material default by Grantor under this Agreement. If necessary, Grantor shall, upon Grantee's request, execute and record a separate written easement with Grantee or with the utility company providing the utility service to reflect such right. Grantor agrees to cooperate with Grantee in obtaining, at Grantee's expense, all licenses and permits required for Grantee's use of the Easements and Grantor hereby irrevocably constitutes and appoints Grantee as its true and lawful attorney-in-fact, with full power of substitution and resubstitution, to apply for and obtain any and all licenses, permits, consents or approvals which may be required in connection with the use of the Easements by Grantee, in the name of Grantor or Grantee, as necessary to comply with applicable laws, statutes or regulations. This power of attorney is coupled with an interest and shall survive and not be affected by the subsequent disability or incapacity of Grantor.

6. Representations, Warranties and Covenants of Grantor. Grantor represents, warrants and covenants to Grantee, as of the date hereof and throughout the term, that:

a. This Agreement and any other documents executed by Grantor in connection with it constitute the legal, valid and binding obligation of Grantor, enforceable against Grantor in accordance with their terms.

b. The execution, delivery and performance by Grantor of this Agreement does not and will not violate or conflict with any provision of Grantor's organizational documents (if Grantor is an organization) or of any agreement to which Grantor is a party including mortgages and deeds of trust, or by which Grantor or the Property is bound and will not violate or conflict with any law, rule, regulation, judgment, order or decree to which Grantor is subject.

c. There is no pending or threatened action, suit or proceeding that, if determined against Grantor, would adversely affect Grantor's ability to grant this easement or such other documents or to perform its obligations hereunder or thereunder.

d. Grantor owns one hundred percent (100%) of the fee simple title to the Real Property and Building, free and clear of all liens, encumbrances, easements, and restrictions except as disclosed in writing to Grantee prior to the Effective Date, and owns the lessor's interest in and to the Existing Lease Agreement(s).

e. Grantor has not previously deeded, granted, assigned, mortgaged, pledged, hypothecated, alienated or otherwise transferred any of its right, title and interest in and to the Existing Lease Agreement(s), to any other person, and no other person or entity has any right, title, interest, or claim in or to the Existing Lease Agreement(s) or the rents, revenues, or payments thereunder.

f. Grantor shall comply with all applicable laws which may affect the Real Property and Building. Further, Grantor represents and warrants to Grantee that as of the Effective Date, Grantor has no knowledge of any claim having been made by any governmental agency that a violation of applicable

building codes, regulations, or ordinances exists as relates to the Building and Real Property, or any part thereof.

g. Grantor agrees to maintain the Real Property and Building, including without limitation the structural elements of the Building and all Building systems (including, but not limited to the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler or other automatic fire extinguishing system, fire hydrants, plumbing, electrical, ventilating, air conditioning, heating, and loading doors, if any, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the common areas) in good operating condition and repair, free of any leakage or defects that could damage Grantee's or its tenants' equipment or interfere with their operations, and in compliance with all applicable laws. Grantor shall promptly make all necessary repairs and shall provide Grantee with at least forty-eight (48) hours' advance written notice of any non-emergency maintenance that may affect access to or use of the Easement Area. Any failure by Grantor to maintain the Real Property and Building in accordance with this Section shall be deemed an Event of Default.

h. Further, Grantor represents and warrants to Grantee that as of the Effective Date, the Real Property and Building are free of all hazardous substances, as such term may be defined under any applicable federal, state or local law, and that Grantor has not received any notice or claim from any governmental authority regarding the presence of hazardous substances at the Real Property or Building. Without limiting the foregoing, except to the extent maintenance is the obligation of tenants under the Existing Lease Agreement(s), Grantor shall be solely responsible for the maintenance of the Real Property and Building, including the rooftop.

i. Grantor agrees to provide Grantee and its Customers access to and from the Easements and all other space in the Real Property and Building, including the rooftop, consistent with the grant of the Easements set forth in Section 1 above, twenty-four (24) hours a day, seven (7) days a week.

j. Grantor shall not, nor shall Grantor permit its lessees, licensees, employees, invitees or agents to use any portion of the Real Property, Building, or the Easement Area in a way which interferes with the operations of tenants under the Existing Lease Agreement(s), or any other of Grantee's future lessees or licensees, or to interfere with the Easement or the Non-Exclusive Access Easements. Such interference shall be deemed a material breach and an Event of Default by Grantor. Grantor shall not grant any easements, licenses, or other rights to third parties that would conflict with or impair Grantee's rights under this Agreement without Grantee's prior written consent.

k. Grantor, and any successor owner of the Property, and any person or entity claiming by, through or under Grantor, shall not disturb, impair, interfere with, restrict, hinder or terminate (i) Grantee's Easement, access rights, or any other rights granted under this Agreement, (ii) Grantee's use, operation, maintenance, repair, replacement and removal of improvements, equipment and facilities at the Property, or (iii) the leasehold interests and rights of the tenants under the Leases, so long as Grantee is not in material default under this Agreement beyond any applicable notice and cure periods.

l. Grantor further covenants that no act or omission by Grantor or any such successor shall materially interfere with any activity conducted by Grantee or its tenants at the Property in accordance with this Agreement or the Lease Agreements.

m. Grantor shall, at all times during the Term, maintain property and casualty insurance covering the Real Property and Building, including the rooftop, in commercially reasonable amounts with financially sound insurers, and shall name Grantee and tenant as an additional insured.

n. Grantor covenants that Grantee shall quietly enjoy the Easement Area and its rights hereunder without interference from Grantor or any person claiming by, through, or under Grantor.

o. Grantor shall continue to timely perform and discharge all obligations of landlord under the Lease Agreement(s) that, by their nature or under the terms thereof, are required to be performed by

the fee owner of the Property, in each case in a commercially reasonable manner consistent with the practices of a prudent owner and landlord of comparable digital and communication infrastructure facility properties and in material compliance with the terms of the Existing Lease Agreement(s). Grantor shall not take or omit to take any action that would reasonably be expected to interfere with, impair, or diminish Grantee's rights as assignee of the Existing Lease Agreement(s) or the economic benefits thereof. Grantor's obligations under this subsection shall survive the Closing and shall be enforceable by Grantee as a direct contractual obligation.

7. Environmental Representations.

a. Grantor Environmental Representation. Grantor represents that it has no knowledge of any substance, chemical or waste (collectively "**Hazardous Substance**") at the Real Property or Building that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Grantor shall not introduce or use (or permit the use of) any Hazardous Substance at the Real Property or Building in violation of any applicable federal, state or local environmental laws. Grantor shall be responsible for (and shall promptly conduct any investigation and remediation as required by any applicable environmental laws) all spills or other releases of any Hazardous Substance not caused solely by Grantee, that have occurred, or which may occur at the Property or Building.

b. Grantee Environmental Representations. Grantee shall not introduce or use any Hazardous Substance (hereinafter defined) at the Real Property, Building or Easement in violation of any applicable federal, state or local environmental laws. Notwithstanding the foregoing, Grantee shall not be responsible for any Hazardous Substances arising or present on or before the Effective Date. Liability of Grantee for any claims with respect to any Hazardous Substances at the Real Property, Building or Easement shall be limited to contamination which is shown by clear evidence to have been solely caused by a release of a Hazardous Substance by Grantee after the Effective Date, and in violation of any applicable federal, state or local environmental laws.

c. Mutual Indemnification. Each Party agrees to defend, indemnify, and hold harmless the other from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability including, but not limited to damages, costs, expenses, assessments, penalties, fines, cleanup, remedial, removal or restoration work required by any governmental authority, losses, judgments and reasonable attorneys' fees that the indemnified Party may suffer or incur due to the existence or discovery of any Hazardous Substance at the Real Property or Building caused by the other Party. This indemnification shall also apply to the migration of any Hazardous Substance to other properties, and the release of any Hazardous Substance into the environment that relate to or arise from the indemnitor's activities on the Real Property or Building. Grantor agrees to defend, indemnify, protect and hold Grantee harmless from claims resulting from actions on the Real Property or Building not caused by Grantee prior to, and during the Term of, this Agreement. This indemnification shall survive the termination or expiration of this Agreement.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Grantor and Grantee and their respective successors and permitted assigns. Grantor may assign its rights and delegate its duties under this Agreement only to a future owner of the Property and only with the prior written consent of Grantee. Grantee may assign this Agreement, in whole or in part, and may assign its rights and delegate its duties hereunder, to any of its affiliates, successors, assigns, lenders, or any purchaser of Grantee's interest, without the consent of Grantor.

9. Notices. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by nationally recognized commercial courier, sent to the address listed below. Any Party may change the address to which notices are to be addressed by giving the other Party notice in the manner set forth in this Section. Notice shall be effective upon actual receipt or documented refusal.

As to Grantor: City of Biddeford
Attn: City Manager
205 Main Street
Biddeford, ME 04005

As to Grantee: WIRELESSCO 1, LLC
Attn: Legal Department
7801 Alma Drive, Suite #105/34
Plano, TX 75025

10. Default. It shall be an "**Event of Default**" if either Grantor or Grantee fails to observe or perform any of the terms, conditions or its respective obligations set forth in this Agreement or in that certain Purchase and Sale Agreement dated [_____]. Upon receiving written notice of such a default or breach of this Agreement, the defaulting Party shall have thirty (30) days to cure such default; provided, however, that for any default affecting access, utilities, structural integrity, or digital and communication infrastructure facility operations, the cure period shall be ten (10) business days.. In the event the defaulting Party fails to cure such default within the cure period, the non-defaulting Party shall be entitled to exercise any rights available at law or in equity.

11. Governing Law; Waivers.

a. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS IN WHICH THE PROPERTY IS LOCATED, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS THEREOF. IF ANY TERM OF THIS AGREEMENT IS FOUND TO BE VOID OR INVALID, SUCH PROVISION SHALL BE FULLY SEVERABLE HEREFROM AND SUCH INVALIDITY SHALL NOT AFFECT THE REMAINING TERMS OF THIS AGREEMENT, WHICH SHALL CONTINUE IN FULL FORCE AND EFFECT, AND THIS AGREEMENT SHALL BE REFORMED AND CONSTRUED AS IF SUCH INVALID PROVISION HAD NEVER BEEN CONTAINED HEREIN, AND IF POSSIBLE, SUCH PROVISION SHALL BE REFORMED TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW TO RENDER SAME VALID, OPERATIVE AND ENFORCEABLE TO REFLECT THE INTENT OF THE PARTIES AS EXPRESSED HEREIN.

b. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY ACTION OR PROCEEDING TO ENFORCE OR INTERPRET THIS AGREEMENT.

c. EACH PARTY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE SUPERIOR COURT OF YORK COUNTY, STATE OF MAINE.

12. Indemnity. Grantor and Grantee shall each indemnify and hold harmless the other against any and all claims, damages, costs and expenses, including reasonable attorneys' fees, caused by or arising out of the negligent acts or omissions or willful misconduct in the operations or activities on the Property by the indemnifying Party or the employees, agents, or contractors of the indemnifying Party.

13. Counterparts. This Agreement may be in counterparts, with each counterpart deemed to be an original.

14. Time of the Essence. Time is of the essence with respect to each and every obligation of the parties under this Agreement. Any failure by a party to timely perform any obligation required hereunder shall constitute a material breach of this Agreement.

15. Further Assurances. Each party shall, from time to time and at any time after the Effective Date, upon the reasonable request of the other party, execute, acknowledge and deliver such further instruments, documents and assurances, and take such further actions, as may be reasonably necessary or desirable to carry out the intent and purposes of this Agreement and to evidence, perfect, protect and enforce the easement and the rights granted hereunder, including, without limitation, any instruments necessary to record or re-record this Agreement or any memorandum hereof in the Official Records of the applicable jurisdiction.

[NO MORE TEXT ON THIS PAGE - SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, have caused this Agreement to be duly executed as of the date first written above.

GRANTOR:

City of Biddeford, Maine,
a body corporate and politic

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public in and for said County and State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

_____
Notary Public
My Commission Expires: _____

[SEAL]

GRANTEE:

WIRELESSCO 1, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public in and for said County and State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official Seal.

_____
Notary Public
My Commission Expires: _____

[SEAL]

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

To be inserted upon completion of title

EXHIBIT B

EASEMENT AREA DESCRIPTION

Exclusive Area:

That portion of the Property on which the communications facility exist, as more particularly described in the Existing Lease Agreement(s), together with such space in, on, over, under and around the Building and Grantor's Real Property (including, without limitation, all surface areas of the Building such as the roof and facades and airspace above and around the Building, ground space and all Building and ground space appurtenances) for the placement and maintenance from time to time of additional digital and communication infrastructure and ancillary equipment so long as Grantee's use of the Building and Real Property does not materially interfere with Grantor's normal use of the Building or Grantor's Real Property.

Non-Exclusive Area:

All space to, under, through and across the Real Property and Building adequate to allow ingress, egress, maintenance, repairs, replacements, and utility service for and to the digital and communication infrastructure facilities and Easement Area, whether in, to, under, over, across, or through portions of the Property as reasonably necessary for such purposes, together with the right to lease or grant licenses to third parties, including digital infrastructure, communications and utility providers, provided such third-party uses are consistent with the purposes of this Agreement.

Additional Easement Area:

Up to a maximum of five hundred (500) square feet of space at a location approved by the Grantor, which approval shall not be unreasonably withheld, conditioned, or delayed

EXHIBIT C

EXISTING LEASE AGREEMENT(S)

That certain Building and Rooftop Lease Agreement dated as of June 1, 2004, by and between City of Biddeford, Maine, a body corporate and politic, as landlord, and Portland Cellular Partnership, d/b/a Verizon Wireless, as tenant.

BUILDING AND ROOFTOP LEASE AGREEMENT

This Agreement, made this 1st day of June, 2004, between the CITY OF BIDDEFORD, MAINE, a body corporate and politic, with its principal offices located at 205 Main Street, Biddeford, Maine, Tax ID #01- 6000023 hereinafter designated LESSOR and PORTLAND CELLULAR PARTNERSHIP, d/b/a Verizon Wireless, with its principal offices at 180 Washington Valley Road, Bedminster, New Jersey 07921, hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WITNESSETH

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

LEASE AGREEMENT

1. PREMISES. LESSOR hereby leases to LESSEE approximately 157.5 square feet of floor space as shown as Exhibit A attached hereto on a mezzanine level to be constructed by LESSEE as hereinafter provided in the garage portion of the police station building (the "Building") situated on the LESSOR's property at 39 Alfred Street, Biddeford, Maine, as shown on the Tax Map of the City of Biddeford as Map 38, Lot 404 and being further described in Book 8318 at Page 215 as recorded in the York County Registry of Deeds (the entirety of LESSOR's property is referred to hereinafter as the "Property"), together with space on the LESSOR's tower located on the roof of the Building as described in Exhibit B attached hereto and made a part hereof, and together with the non-exclusive right for ingress and egress, seven (7) days a week, twenty-four (24) hours a day for the purpose of installation and maintenance of the demised premises, which floor space, tower space and access are collectively referred to hereinafter as the "Premises".

LESSOR also grants to the LESSEE the right and sufficient space for the installation and maintenance of wires, cables, conduits and pipes running from the leased floor space to the leased tower space and between areas of the Premises to suitable utility connection points.

LESSOR currently operates a small tower on the roof of the Property (the "Tower). LESSEE shall have the right, at LESSEE's expense, to strengthen, enlarge, replace and/or relocate the Tower, subject to compliance with applicable zoning requirements and codes; provided, however, that as part of such tower reconstruction or replacement LESSEE shall insure that LESSOR's existing equipment remains installed at the current height above ground level. The Tower as reconstructed and/or relocated shall remain the property of LESSOR. LESSOR shall have the right to install additional equipment on the Tower in the future as long as the Tower is structurally capable of handling the additional load created by LESSOR's equipment, as well as the equipment which LESSEE is entitled to install on the Tower as set forth on Exhibit B, and so long as proper separation is maintained from LESSEE's equipment so as to avoid interference. If the Tower requires strengthening, LESSOR may perform such work at its expense, provided that LESSOR notifies LESSEE at least ninety (90) days in advance that it will be performing such work so that LESSEE can take steps to minimize disruption. LESSOR agrees to cooperate with LESSEE to minimize interruptions in wireless service during such Tower work, such as by allowing LESSEE, if necessary, to place mobile or temporary equipment on the Property during any period

of disruption.

LESSOR currently maintains a twenty (20) kilowatt emergency generator on the Property. LESSEE shall have the right, at LESSEE's expense, to replace the emergency generator with an eighty (80) kilowatt generator ("Emergency Generator"), and to connect its equipment thereto through suitable wires, cables and conduits, subject to compliance with applicable zoning requirements and codes. Such Emergency Generator, if installed by LESSEE, shall remain the property of LESSEE, subject to LESSOR's right at all times during the term of this Agreement to tie into the Emergency Generator. Maintenance of the Emergency Generator shall be performed by LESSEE at its expense. At the expiration of the term of this Agreement the Emergency Generator shall become the property of LESSOR.

LESSOR hereby grants permission to LESSEE to install, maintain and operate the radio communications equipment, antennas and appurtenances described in Exhibit "B" attached hereto. LESSEE reserves the right to replace the aforementioned equipment with similar and comparable equipment.

2. TERM; ELECTRICAL. This Agreement shall be effective as of the date of execution by both parties (the "Effective Date"), provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments will be due at an annual rental of Twelve Thousand Dollars ($12,000.00) to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR or to such other person, firm or place as the LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date. The Commencement Date is defined as the first (1st) day of the month following the date this Agreement is executed by the Parties or the first (1st) day of the month following the date LESSEE is granted a building permit by the governmental agency charged with issuing such permits, whichever event occurs last.

If permitted by the local utility company servicing the Premises, LESSEE shall furnish and install an electrical submeter at the Premises for the measurement of electrical power used by LESSEE's installation. LESSEE shall pay for its own power consumption used thirty (30) days after receipt of an invoice from LESSOR indicating the usage amount.

3. EXTENSIONS. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless the LESSEE terminates it at the end of the then current term by giving the LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

4. EXTENSION RENTALS. The annual rental for the first (1st) five (5) year extension term shall be increased to Thirteen Thousand Eight Hundred Dollars ($13,800.00); the second (2nd) five (5) year extension term shall be increased to Fifteen Thousand Eight Hundred Seventy Dollars ($15,870.00); the third (3rd) five (5) year extension term shall be increased to Eighteen Thousand Two Hundred Fifty Dollars and Fifty Cents ($18,250.50); and the fourth (4th) five (5) year extension term shall be increased to Twenty Thousand Nine Hundred Eighty-Eight Dollars and Eight Cents ($20,988.08).

5. ADDITIONAL EXTENSIONS. If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term. Annual rental for each such additional five (5) year term shall be equal to 115% of the annual rental payable with respect to the immediately preceding five (5) year term.

6. USE; GOVERNMENTAL APPROVALS. LESSEE shall use the Premises for the purpose of constructing, maintaining and operating a communications facility and uses incidental thereto. All improvements shall be at LESSEE's expense and the installation of all improvements shall be at the discretion and option of the LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its equipment or any portion thereof, whether the equipment is specified or not on any exhibit attached hereto, during the term of this Agreement. LESSEE will maintain the Premises in good condition, reasonable wear and tear excepted. LESSOR will maintain the Property, excluding the Premises, in good condition, reasonable wear and tear excepted. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as a satisfactory building structural analysis which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that any of such applications for such Governmental Approvals should be finally rejected or LESSEE determines that such Governmental Approvals may not be obtained in a timely manner or any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority or that the LESSEE determines that the site is no longer technically compatible for its use or that LESSEE, in its sole discretion, will be unable to use the Premises for its intended purposes, LESSEE shall have the right to terminate this Agreement. Notice of the LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by the LESSEE. All rentals paid to said termination date shall be retained by the LESSOR. Upon such termination, this Agreement shall become null and void and the Parties shall have no further obligations including the payment of money, to each other.

7. ACCESS TO TOWER. LESSOR agrees the LESSEE shall have free access to the Tower at all times for the purpose of installing and maintaining the said equipment. LESSOR shall furnish LESSEE with necessary means of access for the purpose of ingress and egress to the roof and Tower location. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of LESSEE or persons under their direct supervision will be permitted to enter said premises, and that LESSEE's access and activities shall be conducted in a manner which will minimize any interference with the police functions being performed in the Building.

8. TOWER COMPLIANCE. LESSEE covenants that it will keep the Tower in good repair as required by all federal, state, county and local laws. The LESSEE shall also comply with

all rules and regulations enforced by the Federal Communications Commission with regard to the lighting, marking and painting of towers. If the LESSEE fails to make such repairs including maintenance, the LESSOR may make the repairs and the costs thereof shall be payable to the LESSOR by the LESSEE on demand.

No materials may be used in the installation of the antennas or transmission lines that will cause corrosion or rust or deterioration of the Tower structure or its appurtenances.

All antenna(s) on the Tower must be identified by a marking fastened securely to its bracket on the Tower and all transmission lines are to be tagged at the conduit opening where it enters any user's equipment space.

9. LESSEE COMPLIANCE. All installations and operation in connection with this Agreement by LESSEE shall meet with all applicable Rules and Regulations of the Federal Communications Commission, Federal Aviation Administration and all applicable codes and regulations of the township, county and state concerned. Under this Agreement, the LESSOR assumes no responsibility for the licensing, operation, and/or maintenance of LESSEE's radio equipment.

10. INDEMNIFICATION. Each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the use and occupancy of the Premises or the Property by the Party, its servants or agents, excepting, however, such claims or damages as may be due to or caused by the acts or omissions of the other Party, or its servants or agents.

11. INSURANCE. The Parties hereby waive any and all rights of action for negligence against the other which may hereafter arise on account of damage to the premises or to property, resulting from any fire, or other casualty of the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, or either of them. LESSOR and LESSEE each agree that at its own cost and expense, each will maintain comprehensive general liability and property liability insurance with liability limits of not less than $1,000,000 for injury to or death of one or more persons in any one occurrence and $500,000 for damage or destruction to property in any one occurrence. Notwithstanding the foregoing, LESSOR shall not be required to maintain limits of liability insurance in excess of the limitation on damages applicable to LESSOR under the Maine Tort Claims Act (currently $400,000.00). LESSOR agrees that LESSEE may self insure against any loss or damage which could be covered by a comprehensive general public liability insurance policy.

12. ANNUAL TERMINATION. Notwithstanding anything to the contrary contained herein, provided LESSEE is not in default hereunder and shall have paid all rents and sums due and payable to the LESSOR by LESSEE, LESSEE shall have the right to terminate this Agreement upon the annual anniversary of this Agreement provided that three (3) months prior notice is given the LESSOR.

13. INTERFERENCE. LESSEE agrees to have installed radio equipment of the type

and frequency which will not cause measurable interference to the equipment existing as of the Effective Date of the LESSOR or other lessees of the Property. In the event LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE of such interference, LESSEE will take all steps necessary to correct and eliminate the interference. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such radio equipment that is of the type and frequency which will not cause measurable interference to the existing equipment of the LESSEE; provided, however, LESSEE agrees to cooperate with LESSOR to eliminate any interference caused by any future public safety equipment installed by LESSOR.

14. REMOVAL UPON TERMINATION. LESSEE, upon termination of the Agreement, shall, within ninety (90) days, remove its equipment, fixtures and all personal property (except for the Emergency Generator) and restore the Premises to its original condition, reasonable wear and tear excepted. LESSOR agrees and acknowledges that all of the equipment, fixtures and personal property of the LESSEE shall remain the personal property of the LESSEE and the LESSEE shall have the right to remove the same, whether or not said items are considered fixtures and attachments to real property under applicable law. If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

15. RIGHT OF FIRST REFUSAL. If the LESSOR during the lease term or any extension of the lease term elects to sell all or any portion of the Property, whether separately or as part of the larger parcel of which the Property are a part, the LESSEE shall have the right of first refusal to meet any bona fide offer of sale on the same terms and conditions of such offer. If LESSEE fails to meet such bona fide offer within thirty (30) days after notice thereof from LESSOR, LESSOR may sell the Property or portion thereof to such third person in accordance with the terms and conditions of his offer.

16. RIGHTS UPON SALE. Should the LESSOR, at any time during the term of this Agreement, decide to sell all or any part of the Property to a purchaser other than LESSEE, such sale shall be under and subject to this Agreement and LESSEE's rights hereunder.

17. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing covenants shall peaceably and quietly have, hold and enjoy the Premises.

18. TITLE. LESSOR covenants that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants that there are no other liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent the use of the Premises by the LESSEE as set forth above.

19. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between the LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either the LESSOR or LESSEE

in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not effect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity.

20. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State in which the Property is located.

21. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the Federal Communications Commission in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred without the written consent of the LESSOR, which such consent will not be unreasonably withheld or delayed

22. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: City of Biddeford
Attn: City Manager
205 Main Street, P.O. Box 586
Biddeford, Maine 04005-0586

LESSEE: Portland Cellular Partnership
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon mailing or delivering the same to a commercial courier, as permitted above.

23. SUCCESSORS. This Agreement shall extend to and bind the successors and assigns of the Parties hereto.

24. SUBORDINATION AND NON-DISTURBANCE. At LESSOR's option, this

Agreement shall be subordinate to any mortgage or other security interest by LESSOR which from time to time may encumber all or part of the Property or right-of-way; provided, however, every such mortgage or other security interest shall recognize the validity of this Agreement in the event of a foreclosure of LESSOR's interest and also LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond the applicable cure period. LESSEE shall execute whatever instruments may reasonably be required to evidence this subordination clause. In the event the Property is encumbered by a mortgage or other security interest, the LESSOR immediately after this Agreement is executed, will obtain and furnish to LESSEE, a non-disturbance agreement for each such mortgage or other security interest in recordable form. In the event the LESSOR defaults in the payment and/or other performance of any mortgage or other security interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or security interest and the LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

25. RECORDING. LESSOR agrees to execute a Memorandum of this Lease Agreement which LESSEE may record with the appropriate Registry of Deeds. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either term or rent payments.

26. DEFAULT. In the event there is a default by the LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, the LESSOR shall give LESSEE written notice of such default. After receipt of such written notice, the LESSEE shall have fifteen (15) days in which to cure any monetary default and thirty (30) days in which to cure any non-monetary default, provided the LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. The LESSOR may not maintain any action or effect any remedies for default against the LESSEE unless and until the LESSEE has failed to cure the same within the time periods provided in this paragraph.

27. ENVIRONMENTAL.

a. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Property, unless such conditions or concerns are caused by the activities of the LESSEE.

b. LESSOR shall hold LESSEE harmless and indemnify the LESSEE from and assume all duties, responsibility and liability at LESSOR's sole cost and expense, for all duties, responsibilities, and liability (for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive,

litigation, investigation or proceeding which is in any way related to: a) failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as may now or at any time hereafter be in effect, unless such compliance results from conditions caused by the LESSEE; and b) any environmental or industrial hygiene conditions arising out of or in any way related to the condition of the Property or activities conducted thereon, unless such environmental conditions are caused by the LESSEE.

28. CASUALTY. In the event of damage by fire or other casualty to the Premises that cannot reasonably be expected to be repaired within forth-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, all rental shall abate during the period of such fire or other casualty.

29. CONDEMNATION. In the event of any condemnation of the Property, LESSEE may terminate this Agreement upon fifteen (15) days written notice to LESSOR if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the antennas, equipment, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement.

30. SUBMISSION OF AGREEMENT. The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

31. APPLICABLE LAWS. LESSEE shall use the Premises as may be required or as permitted by applicable laws, rules and regulations. LESSOR agrees to keep the Property in conformance with all applicable, laws, rules and regulations and agrees to reasonably cooperate with the LESSEE regarding any compliance required by the LESSEE in respect to its use of the

Premises.

32. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

33. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

34. TAXES. LESSEE, upon presentation of sufficient and proper documentation, shall pay as additional rent an amount equal to any documented increase in real estate taxes levied against the Property which are directly attributable to Lessee's improvements to the Premises. LESSEE reserves the right to challenge the relevant taxing authority concerning any such assessment, and LESSOR agrees to cooperate with LESSEE in connection with any such challenge. LESSEE further agrees to pay all personal property taxes on its equipment.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written..

LESSOR:

CITY OF BIDDEFORD

By:
Print Name: Edward R. Clifford
Its: City Manager

WITNESS

LESSEE:

PORTLAND CELLULAR PARTNERSHIP
d/b/a Verizon Wireless

By: CELLCO PARTNERSHIP
Its General Partner

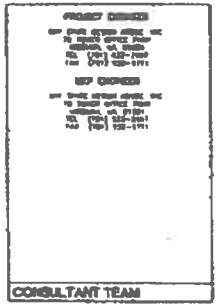
By:
David R. Heverling
Vice President, Network - Northeast Area

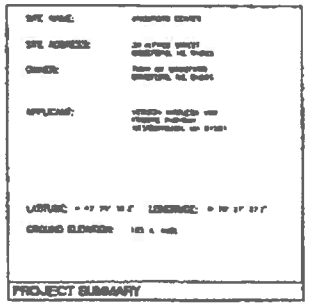
WITNESS

verizon wireless

BIDDEFORD CENTER, ME

Biddeford Police Department
39 Alfred Street
Biddeford, ME 04005





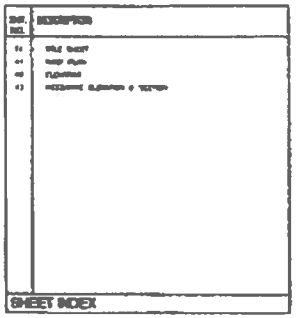
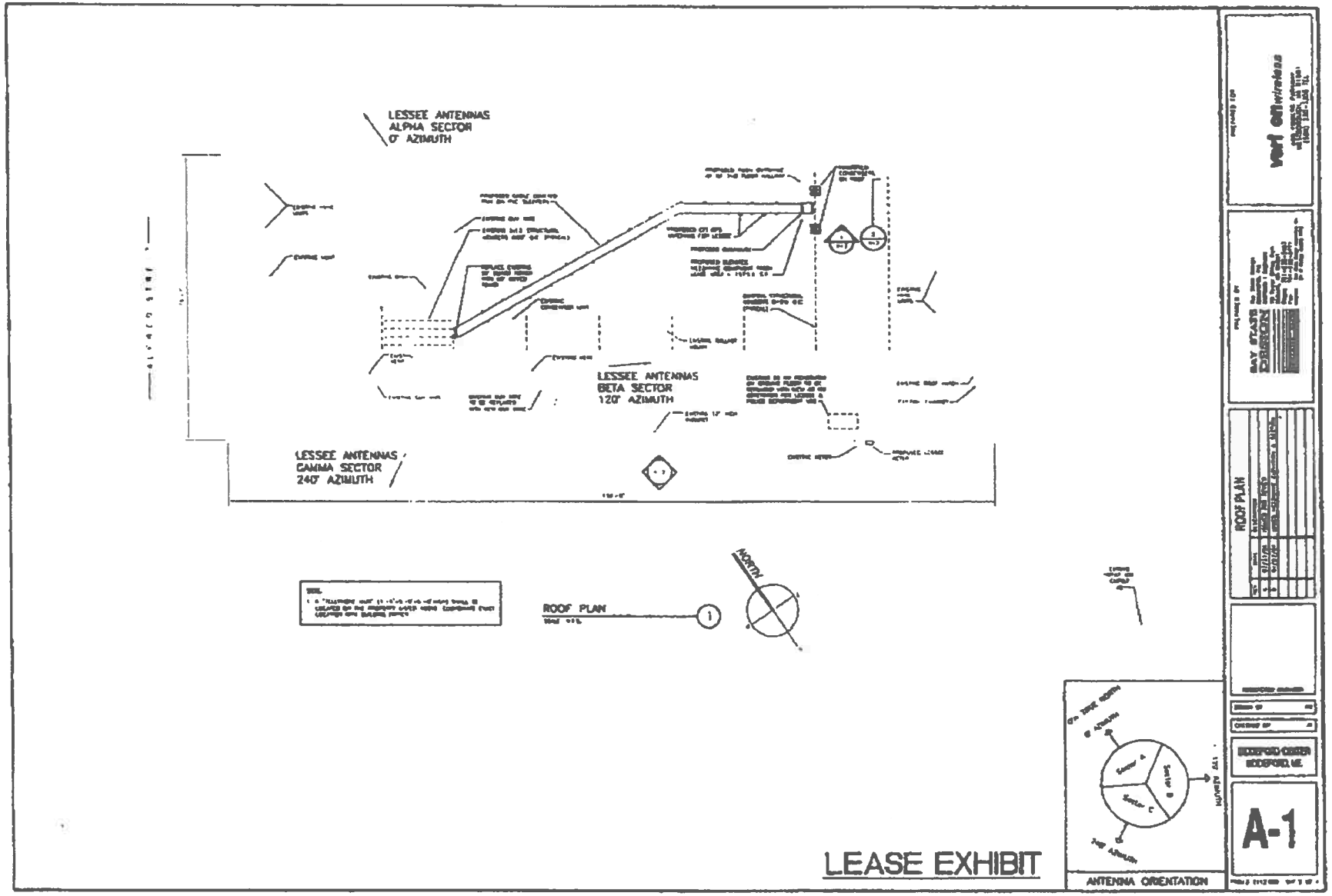


EXHIBIT A (4 pages)

LEASE EXHIBIT

ELEVATION
LEASE EXHIBIT
A-2
ELEVATION
BAY STATE
verizon wireless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NORTH
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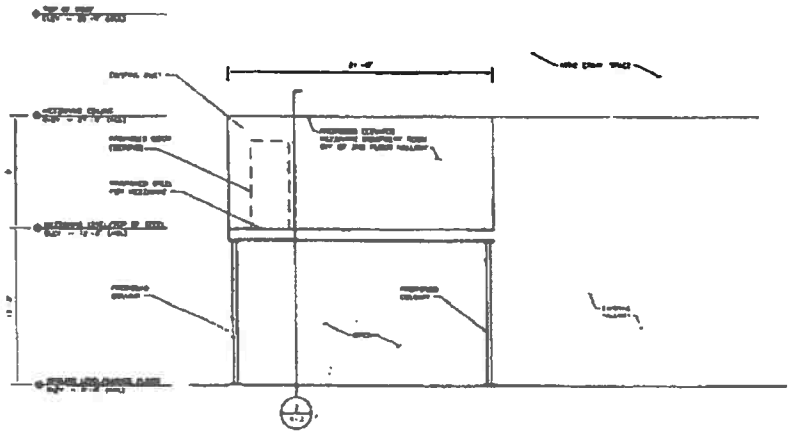
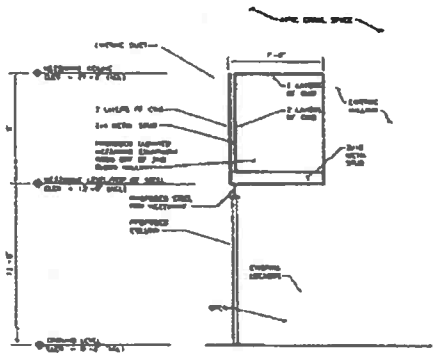
LEASE EXHIBIT
ROOF PLAN
A-1



PARTIAL
MEZZANINE ELEVATION 1



PARTIAL
MEZZANINE SECTION 2

LEASE EXHIBIT

verizon wireless

BAY STATE

MEZZANINE ELEVATION & SECTION

BIDDEFORD CENTER
BIDDEFORD, ME

A-3

EXHIBIT B

LESSEE may install and maintain the following equipment:

1. ANTENNAS:	12 antennas at the highest level of the Tower, including associated transmission lines. If LESSEE determines that a lower level is preferable based on its testing, LESSEE may install the antennas at a lower height. LESSEE may install a GPS antenna on the Tower, together with associated transmission line. In addition, if LESSEE determines necessary, LESSEE may install a microwave dish on the Tower, together with associated transmission line.
2. OTHER EQUIPMENT:	LESSEE's transmitters and receivers, batteries and related equipment will be housed within LESSEE's floor space shown on Exhibit A. LESSEE shall have the right to construct interior partitions and other improvements to segregate its space from other users and make the space compatible for LESSEE's use. LESSEE shall have the right to install the Emergency Generator.

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City Council

Meeting Date: February 11, 2026
Meeting Time: 6:00 PM
Agenda Item No: 5.a
Item Description: Verizon Lease Agreement
Submitted By: Mayor Liam LaFountain

Key Terms:

Executive Summary:
The City is evaluating a proposed agreement related to communications infrastructure located at the Biddeford Police Station. Concerns have been raised about entering into arrangements that resemble the sale or permanent encumbrance of public infrastructure, particularly given uncertainty about the future use of the building. This item is intended to caution against long-term commitments and lump-sum payment structures and to recommend shorter lease terms that better protect the City's long-term interests

Detailed Review:
Public buildings and infrastructure represent long-term investments made by residents over generations. Decisions involving these assets should prioritize flexibility, adaptability, and sustained public benefit rather than short-term financial gain.

The police station at 39 Alfred Street is a critical facility, but its long-term future, including reinvestment needs, potential renovation, or relocation, remains uncertain. The proposal under consideration is structured as a purchase and sale of rights associated with the property. Entering into such an arrangement could obligate the City well beyond the current or future use of the facility and may constrain decisions available to future Councils.

The structure of the proposed agreement also warrants careful consideration. The use of an upfront payment model, combined with provisions that contemplate the ability to sublease the infrastructure to third parties, suggests that the location holds ongoing financial value. These features indicate that caution is appropriate when considering arrangements that could limit the City's ability to benefit from that value over time or adjust terms as conditions change.

In addition, lump-sum payment structures warrant caution. While they may appear attractive in the short term, these arrangements can shift long-term financial value to private parties while leaving the City responsible for ongoing obligations and risk. Over time, this dynamic can reduce flexibility and place future Councils in the position of managing commitments made under very different circumstances.

Shorter lease terms provide a more responsible path forward in this context. Lease durations of fewer than five years allow the City to periodically reassess facility needs, respond to changes in public safety operations, and preserve flexibility without unnecessarily binding future Councils to long-term obligations tied to an uncertain use of the property.

This memo is not intended to halt discussion, but rather to frame it around long-term stewardship and the protection of public interests.

Funding Source:
Not applicable.

Mayor Recommendation:
It is recommended that the City avoid the long-term lease or sale of this public asset at 39 Alfred Street. If the Capital Projects Committee elects to proceed, consideration should be given to structuring any agreement as a short-term lease of fewer than five years, avoiding lump-sum payment provisions, and ensuring that any future renewal returns to the Council for review and approval

Next Steps:

Attachments:

Capital Projects / Operations Committee

Meeting Date:	February 11, 2026
Meeting Time:	6:00 PM
Agenda Item No:	5.b
Item Description:	Community Center Lease Agreements
Submitted By:	Lisa Thompson, CPRP, Recreation Director

Key Terms:

Executive Summary:
To discuss options regarding lease agreements at the J. Richard Martin Community Center.

Detailed Review:
In July 2025, the Capital Projects/Operations Committee discussed the future of lease agreements that are currently in place at the J. Richard Martin Community Center. Recreation Staff were directed to come up with a presentation and options for the future of the leases for discussion and further action by the committee. The leases for all user groups were approved to expire December 31, 2025. The CPO Committee has not met since July, 2025.

Funding Source:
N/A

Staff Recommendation:
Staff recommend a solution that allows removal of leases and inclusive use of space currently occupied by exclusive user groups.

Next Steps:
For the Capital Projects/ Operations Committee to provide guidance and recommendations for the future use of the leases and leased spaces for the J. Richard Martin Community Center.

Attachments:
1. Community Center Lease Agreements 2026

2. St. Louis Alumni - 2023 Lease
3. J Richard Martin Community Center - Lease Agreement 2024 La Kermesse
4. 50 + Club Lease agreement 4.8.2024
5. J Richard Martin Community Center - Lease Agreement 2024 Biddeford Cultural and Heritage Center
6. Meals on Wheels - signed user agreement 2024 - 2026

Community Center Lease Agreements 2026

Presentation Highlights

- To provide a comprehensive overview of how the space is currently utilized
- Examine the associated operational costs of the facility
- Outline potential strategies for future use of facility space.

Current Situation

- All six lease agreements expired as of December 31, 2025
- All lease holders are currently on a month-to-month lease option, awaiting decisions from city administration on next steps.
- Opportunity to realign usage with community priorities.

OVERVIEW

Location: 189 Alfred Street. The property takes up an entire block between Myrtle and Clark Streets.

Size: Approx. 35,000 square feet

Management: The Recreation Department oversees the management and operations of the Community Center, including heating, cooling, trash, cleaning and maintenance and scheduling of spaces.

Current Usage: The Recreation Department occupies approx. 55-60% of space in the building.

Six Other user groups occupy the remaining space in the building:

Biddeford Adult Education,

Meals on Wheels, the 50+ Club, St. Louis Alumni Association, Biddeford Cultural Heritage Center and Lakermesse.

Meals On Wheels

Use: 20 hours per week, 52 weeks per year
300 people served 2 X per week
Food Storage and distribution plus office space

50+ Club

Use: 20 hours per week, 50 weeks per year
Approx. 187 members
Social activities and office space

St. Louis Alumni Association

Use: 10 hours a week, monthly meetings
347 members
Office space, meetings (monthly) one annual public event

Biddeford Cultural Heritage Center

Use: 2-10 hours per week, monthly meetings
15 members
Storage and historical archives

Lakermesse

Use: 2 hours per week, monthly meetings
17 members
Meetings and storage

RENTAL AGREEMENT

Each lease group has an individual lease agreement, signed by a City representative and a representative from each group.

All leases have a $0 annual cost

All leases have expired as of 12/31/2025

Biddeford Recreation Department

65-90 hours per week, 51 weeks per year

Serves approx. 14,000 people per year

Recreation programs including summer camps, after school programs, youth and adult sports and camps, special events and family programs.

BIDDEFORD RECREATION

An Experience For All Ages

SPACE CONCERNS

- Recreation department growth:
- The Community Center currently has a FT staff of 12 and PT staff of 30- 50, depending on the season. Our Cub Care after school program and Safari Summer Camp program takes place in the building year-round. These programs accommodate 125- 140 children daily.
- There is a need for more children to be in this program, but we do not have the space to expand.

- **Community Space Needs**
- While there is some community meeting space available to our city and school groups, there is a growing need for meeting space for clubs, organizations and other city resources that we struggle to accommodate.

Building Maintenance Operational Costs FY26

Wages: PT custodial staff	$91,944
Wages: FT Facilities Coordinator 50%	$32,500
Service Contracts	$18,800
Electricity	$18,000
Sewer Fees	$1500
Heating Fuel	$65,683
Building Repairs & Maintenance	$55,000
Cleaning Supplies	$5100
Total	$288,527

Options for the future:

1

Option #1: Keep the $0 lease arrangement as is, revisit yearly.

2

Option # 2: Charge leases monthly rent for their space.

3

Option # 3: Provide lease users a timeline to move out of their spaces so that the space can be utilized for future Recreation Programs, community meetings and event space.

Option 1: Execute yearly $0 lease agreements, revisit annually to see if any changes should be made.

Pros:

- Groups can stay where they are and continue to utilize the space.
- No rent charged, which saves groups money.

Cons:

- Some spaces are not utilized except for monthly meetings and storage.
- There is no revenue coming in for use of these spaces.
- Recreation Department continues to pay for operational expenses.

Option # 2: Charge rental fees for lease groups.

Included in the yearly lease agreement would be a monthly fee charged for utilizing the space. Based on other area community centers who charge rent for their lease groups, here is an example based on charging .50 per square foot.

Group	Square Ft.	Monthly cost	Annual cost
MOW	812	$406	$4872
50+ Club	870	$435	$5220
Lakermesse	1587	$793.50	$9522
St. Louis Alumni	667	$333.50	$4002
BCHC	470	$235	$2820
Total revenues			$26,436

Option # 3: Transition into community spaces

Transition Plan for User Groups
To ensure a smooth transition, all current user groups will be provided with a reasonable timeline to vacate their existing spaces. This timeline will allow adequate time for planning and relocation without disruption to their activities.

Future Meeting Accommodations
Once the current storage areas are repurposed into community spaces, all user groups will be offered **monthly meeting time at no charge**. These spaces will be designed to support community engagement and provide flexible scheduling options.

Questions/ Discussion

Lisa Thompson, CPRP
Recreation Director
City of Biddeford

LEASE

BETWEEN ST. LOUIS ALUMNI ASSOCIATION AND THE CITY OF BIDDEFORD, MAINE

Lease made as of this 1st day of June, 2023, by and between St. Louis Alumni Association, a Maine non-profit corporation, with a mailing address of PO Box 493 Biddeford, ME 04005 (hereinafter "Tenant") and the City of Biddeford, a Maine body corporate and politic, with a mailing address of 205 Main Street, Biddeford, ME 04005 (hereinafter "Landlord"), as follows:

WHEREAS, Landlord owns property at 189 Alfred Street in the City of Biddeford that is commonly and publicly known as the J. Richard Martin Community Center; and

WHEREAS, space located in the Community Center formerly used as a classroom is available with alterations; and

WHEREAS, Tenant wishes to establish an office to support the benevolent work of the Association; and

WHEREAS, Tenant requires office space for volunteers to manage their work Biddeford, Maine;

NOW, THEREFORE, in consideration of the mutual promises herein, the parties do hereby agree:

1. **Premises: The leases premises comprise approximately 280 square feet of space in the Community Center.**
2. **Term: The initial term was from July 1, 2021 to June 30, 2023. The term of this Agreement shall be for two year is beginning on July 1, 2023, and ending on June 30, 2025. Tenant shall have the option to renew the lease for additional periods of one year and upon mutual agreement with Landlord.**
3. **Rent: By mutual consent and agreement, there is no rent due and payable from the Tenant to the Landlord for the term of the Lease. If the Lease is to be renewed beyond the termination date of this Agreement, then the parties agree that these rent terms may be renegotiated.**
4. **Utilities: Landlord agrees to provide heat and utilities (water, sewer, electricity) for the term of the Lease. Tenant will be responsible for office cleaning and general maintenance of the property and facility. Tenant will also be responsible for own internet and phone service.**
5. **Use of Premises: Tenant agrees that it will use the premises for its programmatic work in the City of Biddeford. Tenant will have adequate supervision on site to ensure that the space is managed according to this lease and will not create undo interference, noise, or other nuisances that interfere with the comforts and convenience of other occupants or neighbors of the facility.**
6. **At the end of the lease term, or at whatever future date the lease is terminated, the Tenant shall deliver up the leased premises in good, clean, and leasable order and condition, reasonable wear and tear excepted, to the Landlord. During the term of this agreement, the Tenant shall keep the premises in clean and sanitary condition. Tenant shall be responsible**

for costs of repairs or service charges resulting from improper use and any damage caused by its staff or clients using the premises.

7. Insurance: Landlord agrees to provide overall property and casualty insurance to the property that it owns and manages. Tenant agrees to provide insurance coverage for the acts and responsibilities of its employees and clients and to insure its own personal property stored or used on site. The Landlord agrees to keep premises equipped with safety appliances or devices required by law or any public authority (including the City of Biddeford) required for the use being made of the premises by the Tenant.
8. Right of Entry: The Landlord may enter the leased premises at reasonable times to make repairs, make improvements, or for emergency purposes. The Landlord retains the right to enter the premises in order to show the property to prospective tenants with reasonable notice to Tenant.
9. Assignment and Subletting: The Tenant shall not assign or sublet any part of the leased premises.

Termination by Either Party: Either party may terminate this Lease upon ninety (90) days written notice to the other party.

10. Entire Agreement: This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not expressly contained in this instrument shall have any force or effect. This Lease shall not be modified in any way, except in writing and executed by both parties.

AGREED TO:

Dated _____

City of Biddeford

By: _____

James Bennett, City Manager

Dated _____

St. Louis Alumni Association

By: _____

Paul Therrien, President

J. RICHARD MARTIN COMMUNITY CENTER LEASE

BETWEEN LA KERMESSE

AND THE CITY OF BIDDEFORD RECREATION DEPARTMENT

Lease made as of this 7 day of March, 2024, by and between La Kermesse, a Maine non-profit corporation, with a mailing address of 189 Alfred St, Biddeford Maine (hereinafter "Tenant") and the City of Biddeford's Recreation Department, a Maine body corporate and politic, with a mailing address of 205 Main Street, Biddeford, ME 04005 (hereinafter "Landlord"), as follows:

WHEREAS, Landlord owns property at 189 Alfred Street in the City of Biddeford that is commonly and publicly known as the J. Richard Martin Community Center; and

WHEREAS, space located in the Community Center formerly used as a classroom is available with alterations; and

WHEREAS, Tenant wishes to establish an office to support the benevolent work of La Kermesse; and

WHEREAS, Tenant requires office space for volunteers to manage their work Biddeford, Maine;

NOW, THEREFORE, in consideration of the mutual promises herein, the parties do hereby agree:

1. **Premises: The leases premises comprise approximately 1,160 square feet of space in the Community Center.**
2. **Term: The term of this Agreement shall be for two year is beginning on January 1, 2024, and ending on December 31, 2025. Tenant shall have the option to renew the lease for additional periods of one year and upon mutual agreement with Landlord.**
3. **Rent: By mutual consent and agreement, there is no rent due and payable from the Tenant to the Landlord for the term of the Lease. If the Lease is to be renewed beyond the termination date of this Agreement, then the parties agree that these rent terms may be renegotiated.**
4. **Utilities: Landlord agrees to provide heat and utilities (water, sewer, electricity) for the term of the Lease. Tenant will be responsible for office cleaning and general maintenance of the property and facility. Tenant will also be responsible for own internet and phone service.**
5. **Use of Premises: Tenant agrees that it will use the premises for its programmatic work in the City of Biddeford. Tenant will have adequate supervision on site to ensure that the space is managed according to this lease and will not create undo interference, noise, or other nuisances that interfere with the comforts and convenience of other occupants or neighbors of the facility.**
6. **At the end of the lease term, or at whatever future date the lease is terminated, the Tenant shall deliver up the leased premises in good, clean, and leasable order and condition, reasonable wear and tear excepted, to the Landlord. During the term of this agreement, the Tenant shall keep the premises in clean and sanitary condition. Tenant shall be responsible**

for costs of repairs or service charges resulting from improper use and any damage caused by its staff or clients using the premises.

7. Insurance: Landlord agrees to provide overall property and casualty insurance to the property that it owns and manages. Tenant agrees to provide insurance coverage for the acts and responsibilities of its employees and clients and to insure its own personal property stored or used on site. The Landlord agrees to keep premises equipped with safety appliances or devices required by law or any public authority (including the City of Biddeford) required for the use being made of the premises by the Tenant.
8. Right of Entry: The Landlord may enter the leased premises at reasonable times to make repairs, make improvements, or for emergency purposes. The Landlord retains the right to enter the premises in order to show the property to prospective tenants with reasonable notice to Tenant.
9. Assignment and Subletting: The Tenant shall not assign or sublet any part of the leased premises.

Termination by Either Party: Either party may terminate this Lease upon ninety (90) days written notice to the other party.

10. Entire Agreement: This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not expressly contained in this instrument shall have any force or effect. This Lease shall not be modified in any way, except in writing and executed by both parties.

AGREED TO:

Dated 3-7-24

Recreation Department

By: Catherine Ellis

Catherine Ellis, Recreation Director

Dated 3-7-24

La Kermesse Representative

By: Paul M. Gagne

Paul Gagne

J. RICHARD MARTIN COMMUNITY CENTER LEASE

BETWEEN THE BIDDEFORD/ ROSS CENTER 50 PLUS CLUB

AND THE CITY OF BIDDEFORD RECREATION DEPARTMENT

Lease made as of this 8th day of April, 2024, by and between the Biddeford/Ross Center 50 plus Club, with a mailing address of 189 Alfred Street, Biddeford, ME 04005 (hereinafter "Tenant") and the City of Biddeford's Recreation Department, a Maine body corporate and politic, with a mailing address of P.O. Box 586, Biddeford, ME 04005 (hereinafter "Landlord"), as follows:

WHEREAS, Landlord owns property at 189 Alfred Street in the City of Biddeford that is commonly and publicly known as the J. Richard Martin Community Center; and

WHEREAS, space located in the Community Center formerly used as a classroom is available with alterations; and

WHEREAS, Tenant wishes to establish program space to support the benevolent work of the Biddeford/ Ross Center 50 plus Senior Club; and

WHEREAS, Tenant requires office space for volunteers to manage their work Biddeford, Maine;

NOW, THEREFORE, in consideration of the mutual promises herein, the parties do hereby agree:

1. **Premises: The leases premises comprise the following spaces in the Community Center:**
    a. **Sole use of the Ross Center**
    b. **Sole use of the Ross Center front office**
    c. **Sole use of the storage closet directly across the hall from the Ross Center**
    d. **525 room rental hours, annually (January – December), for classrooms 5-7 not previously listed as sole use, limited to:**
        Every Monday 8am-12pm for knitting.
        Every Wednesday, 9am-3pm for bingo.
    e. **100 bus rental hours, annually (January – December), for use on senior trips.**
    f. **100 hours of use, annually (January- December) for additional classroom space not previously listed. Must be reserved through the Recreation Department at least 2 weeks in advance.**
2. **Term: The term of this Agreement shall end on December 31, 2025. Tenant shall have the option to renew the lease for additional periods of one year and upon mutual agreement with Landlord.**
3. **Rent: By mutual consent and agreement, there is no rent due and payable from the Tenant to the Landlord for the term of the Lease. If the Lease is to be renewed beyond the termination date of this Agreement, then the parties agree that these rent terms may be renegotiated.**

4. Utilities: Landlord agrees to provide heat and utilities (water, sewer, electricity) for the term of the Lease. Tenant will be responsible for office cleaning and general maintenance of the property and facility. Tenant will also be responsible for own internet and phone service.
5. Use of Premises: Tenant agrees that it will use the premises for its programmatic work in the City of Biddeford. Tenant will have adequate supervision on site to ensure that the space is managed according to this lease and will not create undo interference, noise, or other nuisances that interfere with the comforts and convenience of other occupants or neighbors of the facility.
6. At the end of the lease term, or at whatever future date the lease is terminated, the Tenant shall deliver up the leased premises in good, clean, and leasable order and condition, reasonable wear and tear excepted, to the Landlord. During the term of this agreement, the Tenant shall keep the premises in clean and sanitary condition. Tenant shall be responsible for costs of repairs or service charges resulting from improper use and any damage caused by its staff or clients using the premises.
7. Insurance: Landlord agrees to provide overall property and casualty insurance to the property that it owns and manages. Tenant agrees to provide insurance coverage for the acts and responsibilities of its employees and clients and to insure its own personal property stored or used on site. The Landlord agrees to keep premises equipped with safety appliances or devices required by law or any public authority (including the City of Biddeford) required for the use being made of the premises by the Tenant.
8. Right of Entry: The Landlord may enter the leased premises at reasonable times to make repairs, make improvements, or for emergency purposes. The Landlord retains the right to enter the premises in order to show the property to prospective tenants with reasonable notice to Tenant.
9. Assignment and Subletting: The Tenant shall not assign or sublet any part of the leased premises.

Termination by Either Party: Either party may terminate this Lease upon ninety (90) days written notice to the other party.

10. Entire Agreement: This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not expressly contained in this instrument shall have any force or effect. This Lease shall not be modified in any way, except in writing and executed by both parties.

AGREED TO:

Dated 4/8/24

Recreation Department

By: _____

Lisa Thompson, Recreation Director

Dated 4-8-24

Biddeford/ Ross Center 50 Plus Club

By: Deb Godbout

Deb Godbout, President

* lock for folding door
* move into closet by April 30th
* Key- kitchen, closet, Ross center, office

J. RICHARD MARTIN COMMUNITY CENTER LEASE

BETWEEN BIDDEFORD CULTURAL AND HERITAGE CENTER

AND THE CITY OF BIDDEFORD RECREATION DEPARTMENT

Lease made as of this 29 day of January, 2024, by and between Biddeford Cultural and Heritage Center, a Maine non-profit corporation, with a mailing address of PO Box 896 Biddeford, ME. 04005 (hereinafter "Tenant") and the City of Biddeford's Recreation Department, a Maine body corporate and politic, with a mailing address of 205 Main Street, Biddeford, ME 04005 (hereinafter "Landlord"), as follows:

WHEREAS, Landlord owns property at 189 Alfred Street in the City of Biddeford that is commonly and publicly known as the J. Richard Martin Community Center; and

WHEREAS, space located in the Community Center formerly used as a classroom is available with alterations; and

WHEREAS, Tenant wishes to establish an office to support the benevolent work of Biddeford Cultural and Heritage Center; and

WHEREAS, Tenant requires office space for volunteers to manage their work Biddeford, Maine;

NOW, THEREFORE, in consideration of the mutual promises herein, the parties do hereby agree:

1. **Premises: The leases premises comprise approximately 476 square feet of space in the Community Center.**
2. **Term: The term of this Agreement shall be for two year is beginning on January 1, 2024, and ending on December 31, 2025. Tenant shall have the option to renew the lease for additional periods of one year and upon mutual agreement with Landlord.**
3. **Rent: By mutual consent and agreement, there is no rent due and payable from the Tenant to the Landlord for the term of the Lease. If the Lease is to be renewed beyond the termination date of this Agreement, then the parties agree that these rent terms may be renegotiated.**
4. **Utilities: Landlord agrees to provide heat and utilities (water, sewer, electricity) for the term of the Lease. Tenant will be responsible for office cleaning and general maintenance of the property and facility. Tenant will also be responsible for own internet and phone service.**
5. **Use of Premises: Tenant agrees that it will use the premises for its programmatic work in the City of Biddeford. Tenant will have adequate supervision on site to ensure that the space is managed according to this lease and will not create undo interference, noise, or other nuisances that interfere with the comforts and convenience of other occupants or neighbors of the facility.**
6. **At the end of the lease term, or at whatever future date the lease is terminated, the Tenant shall deliver up the leased premises in good, clean, and leasable order and condition, reasonable wear and tear excepted, to the Landlord. During the term of this agreement, the**

Tenant shall keep the premises in clean and sanitary condition. Tenant shall be responsible for costs of repairs or service charges resulting from improper use and any damage caused by its staff or clients using the premises.

7. Insurance: Landlord agrees to provide overall property and casualty insurance to the property that it owns and manages. Tenant agrees to provide insurance coverage for the acts and responsibilities of its employees and clients and to insure its own personal property stored or used on site. The Landlord agrees to keep premises equipped with safety appliances or devices required by law or any public authority (including the City of Biddeford) required for the use being made of the premises by the Tenant.
8. Right of Entry: The Landlord may enter the leased premises at reasonable times to make repairs, make improvements, or for emergency purposes. The Landlord retains the right to enter the premises in order to show the property to prospective tenants with reasonable notice to Tenant.
9. Assignment and Subletting: The Tenant shall not assign or sublet any part of the leased premises.

Termination by Either Party: Either party may terminate this Lease upon ninety (90) days written notice to the other party.

10. Entire Agreement: This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not expressly contained in this instrument shall have any force or effect. This Lease shall not be modified in any way, except in writing and executed by both parties.

AGREED TO:

Dated 1/29/2024

Recreation Department

By: Catherine Ellis

Catherine Ellis, Recreation Director

Dated 1/29/2024

Biddeford Cultural Heritage Center

By: Diane P. Cyr

Diane P. Cyr, President of the Board

J. RICHARD MARTIN COMMUNITY CENTER LEASE

BETWEEN SOUTHERN MAINE AGENCY on AGING

AND THE CITY OF BIDDEFORD RECREATION DEPARTMENT

Lease made as of this 6th day of February, 2024, by and between Southern Maine Agency On Aging, a Maine non-profit corporation, with a mailing address of 30 Barra Road, Biddeford, ME 04005 (hereinafter "Tenant") and the City of Biddeford's Recreation Department, a Maine body corporate and politic, with a mailing address of 205 Main Street, Biddeford, ME 04005 (hereinafter "Landlord"), as follows:

WHEREAS, Landlord owns property at 189 Alfred Street in the City of Biddeford that is commonly and publicly known as the J. Richard Martin Community Center; and

WHEREAS, space located in the Community Center formerly used as a classroom is available with alterations; and

WHEREAS, Tenant wishes to establish an office to support the benevolent work of Southern Maine Agency On Aging; and

WHEREAS, Tenant requires office space to manage their work Biddeford, Maine;

NOW, THEREFORE, in consideration of the mutual promises herein, the parties do hereby agree:

1. **Premises: The leases premises comprise approximately 490 square feet of space in the Community Center.**
2. **Term: The term of this Agreement shall be for two year is beginning on January 1, 2024, and ending on December 31, 2025. Tenant shall have the option to renew the lease for additional periods of one year and upon mutual agreement with Landlord.**
3. **Rent: By mutual consent and agreement, there is no rent due and payable from the Tenant to the Landlord for the term of the Lease. If the Lease is to be renewed beyond the termination date of this Agreement, then the parties agree that these rent terms may be renegotiated.**
4. **Utilities: Landlord agrees to provide heat and utilities (water, sewer, electricity) for the term of the Lease. Tenant will be responsible for office cleaning and general maintenance of the property and facility. Tenant will also be responsible for own internet and phone service.**
5. **Use of Premises: Tenant agrees that it will use the premises for its programmatic work in the City of Biddeford. Tenant will have adequate supervision on site to ensure that the space is managed according to this lease and will not create undo interference, noise, or other nuisances that interfere with the comforts and convenience of other occupants or neighbors of the facility.**
6. **At the end of the lease term, or at whatever future date the lease is terminated, the Tenant shall deliver up the leased premises in good, clean, and leasable order and condition, reasonable wear and tear excepted, to the Landlord. During the term of this agreement, the Tenant shall keep the premises in clean and sanitary condition. Tenant shall be responsible**

for costs of repairs or service charges resulting from improper use and any damage caused by its staff or clients using the premises.

7. Insurance: Landlord agrees to provide overall property and casualty insurance to the property that it owns and manages. Tenant agrees to provide insurance coverage for the acts and responsibilities of its employees and clients and to insure its own personal property stored or used on site. The Landlord agrees to keep premises equipped with safety appliances or devices required by law or any public authority (including the City of Biddeford) required for the use being made of the premises by the Tenant.
8. Right of Entry: The Landlord may enter the leased premises at reasonable times to make repairs, make improvements, or for emergency purposes. The Landlord retains the right to enter the premises in order to show the property to prospective tenants with reasonable notice to Tenant.
9. Assignment and Subletting: The Tenant shall not assign or sublet any part of the leased premises.

Termination by Either Party: Either party may terminate this Lease upon ninety (90) days written notice to the other party.

10. Entire Agreement: This instrument contains the entire and only agreement between the parties, and no oral statements or representations or prior written matter not expressly contained in this instrument shall have any force or effect. This Lease shall not be modified in any way, except in writing and executed by both parties.

AGREED TO:

Dated February 6, 2024

Recreation Department

By: Catherine Ellis

Catherine Ellis, Recreation Director

Dated __February 6, 2024_____

Southern Maine Agency on Aging

By: Margaret Callan

Margaret Callan, CFO

Capital Projects / Operations Committee

Meeting Date:	February 11, 2026
Meeting Time:	6:00 PM
Agenda Item No:	5.c
Item Description:	Skatepark Feasibility Bid
Submitted By:	Lisa Thompson,CPRP, Recreation Director

Key Terms:

Executive Summary:
To present a proposal and initiate discussion and next steps for a Skatepark Feasibility Study for the City of Biddeford from Pillar Design Studios, LLC,

Detailed Review:
CIP funding was granted to the Recreation Department to seek bids for a Feasibility Study for location and design for a future skatepark in the City of Biddeford. The RFP was published July 15, 2025 and bids were due on August 14, 2025. The City received one proposal from Pillar Design Studios, LLC. The costs of the study are broken down into segments based on what the City would like to accomplish within the study. The total price for all services provided, less on-site visits for meetings and presentations, totaled $56,500. On-site visits are $4,500 for each trip; it is not determined how many on-site visits would be needed outside the final presentation to Council. The CIP funding allocated is $35,000.00

Funding Source:
TBD by CIP Committee. The CIP funding allocated is $35,000.00. Account 21201-60900

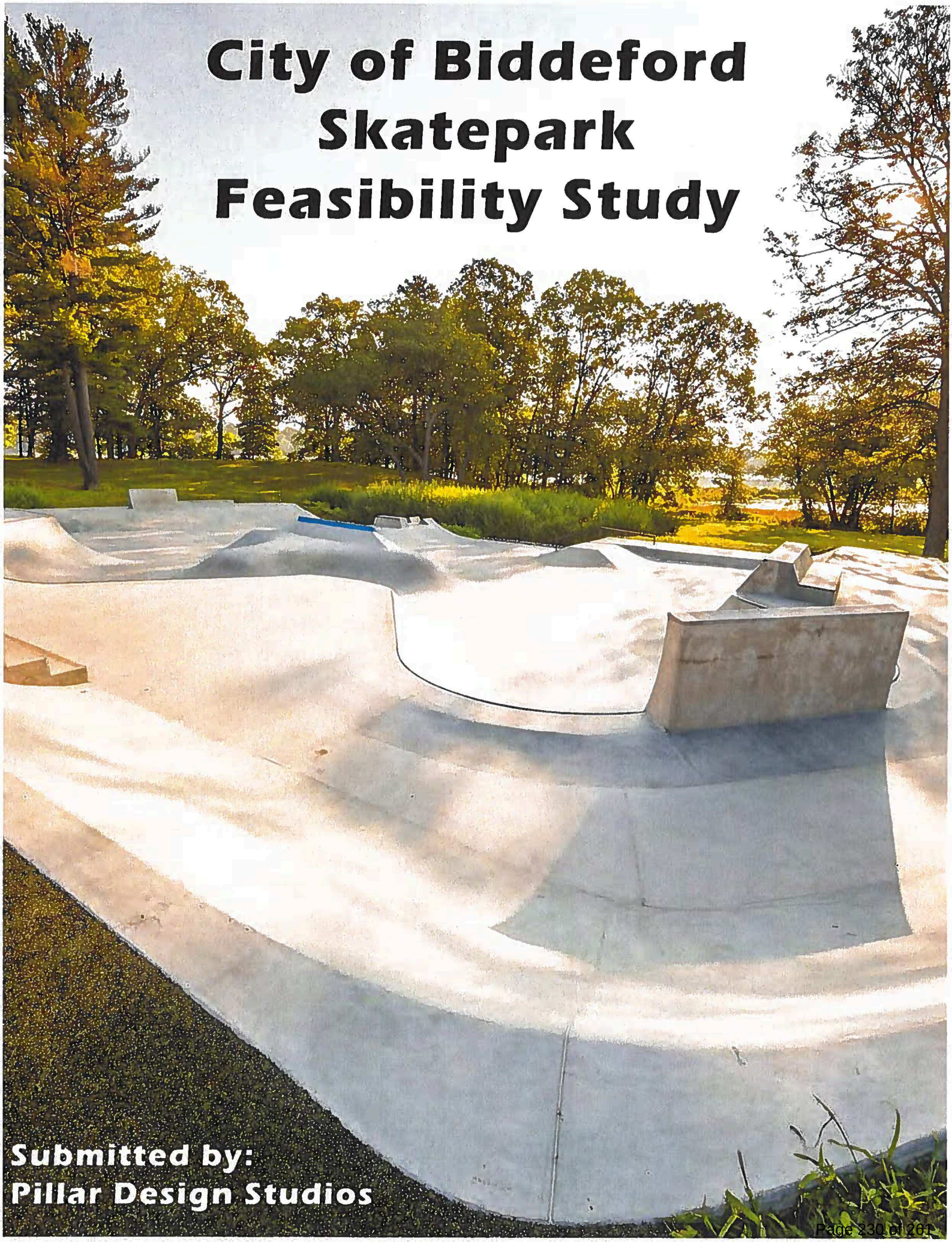
Staff Recommendation:
Staff is neutral on the feasibility study.

Next Steps:
The Capital Projects Operations Committee will review the proposal and provide guidance on next steps. The current bid is at least $21,500 over the budgeted amount.

Attachments:

1. Pillar Studios Skatepark Feasibility Study - PROPOSAL

City of Biddeford Skatepark Feasibility Study



Submitted by:
Pillar Design Studios

August 11, 2025

Lisa Thompson, CPRP
Recreation Director
City of Biddeford
P.O. Box 586
Biddeford, ME 04005

Dear Ms. Thompson,

I am excited to submit our proposal for the Biddeford Skatepark Feasibility Study. As a nationally recognized firm specializing in skatepark design and planning, we bring over two decades of experience creating high-quality, community-driven skate spaces across the country. Our work is grounded in collaboration, innovation, and a deep understanding of the unique role skateparks play in fostering youth engagement, active lifestyles, and inclusive public spaces.

I'm especially excited about the opportunity to revisit this project, as I personally visited Biddeford in the past to assess the old skatepark site and offer preliminary recommendations. That earlier engagement gives us a unique advantage in understanding the local context, user needs, and challenges surrounding the current initiative. My expertise, paired with our team's proven track record, positions us to guide Biddeford through a thoughtful and impactful feasibility study that leads seamlessly into the design of a new, modern skatepark.

We understand that the City seeks a consultant who can deliver a complete feasibility analysis, identify an ideal site, lead a collaborative design process, and produce final conceptual designs. Pillar Design Studios has successfully delivered these services in communities of all sizes, and we excel in building consensus through outreach that includes skaters, parents, city officials, and other stakeholders. Our feasibility process will evaluate multiple potential sites through data collection and community input. We will provide detailed site comparisons and a clear, professionally backed recommendation that balances usability, cost, accessibility, and community impact.

Our team will lead an inclusive design process informed by Biddeford's vision and public input. We will provide concept plans and cost estimates, that are tailored to the City's budget. We are confident we can meet all expectations, and we are fully committed to completing this work by December 1, 2025.

We are enthusiastic about the opportunity to partner with Biddeford and help bring a much-needed, permanent skatepark to the community. Thank you for considering our proposal—we look forward to the possibility of working together.

Sincerely,

Brad Siedlecki, President
Pillar Design Studios, LLC

Pillar Design Studios, LLC (Pillar) is an Action Sports Development firm that specializes in planning, construction, and process services. Founded in 2006 in Tempe, Arizona - Pillar is owned and operated by action sports enthusiast and avid skateboarder, Brad Siedlecki.

Pillar came as a result of a need for appropriate design methodology pertaining to action-sport facility development. At the time, clients were simply too unfamiliar with the proper design method and construction practices needed to create successful facilities of this nature. Users were literally walking the involved municipalities through the design and building processes without the technical knowledge needed. This created the ultimate goal of Pillar Design Studios, to provide quality, professional design, and construction services from the knowledgeable view of a landscape architect and action sports enthusiast.

Pillar Design Studios takes a different approach and style to design and implementation of Skateparks, one unlike any other "skatepark company" in the current market. The objective is to create facilities that offer distinctive site-specific designs, which are sensitive to both the client's wants and the user's needs. The idea is to create an aesthetically pleasing park that all community members can enjoy. Pillar understands that many factors determine a successful park - and just like any planning process, time must be put forth during the initial development process for it to be evident in the final product.

Our mission is to create quality Skateparks regardless of available space or proposed budget. From concept to completion, planning through construction -- our dedicated, professional staff work hard to ensure success for your Skatepark. Our business is to create custom, high-quality Skateparks that truly adhere to the needs of your community, culture, and values. At Pillar Design Studios, we want to share our knowledge and expertise not only as leading designers in this industry but also as enthusiasts for all action sports.

You can find us at www.pillardesignstudios.com, also feel free to check us out at www.facebook/pillardesignstudios or www.instagram.com/pillardesignstudios.

Pillar Design Studios, 1960 W. Hawk Ct., Chandler, AZ 85286
P] 888.880.5112

OUR PROCESS

At Pillar Design Studios, we understand that a successful skatepark begins long before concrete is poured. It starts with thoughtful community engagement, data-driven feasibility analysis, and a design process grounded in site specificity, accessibility, and authenticity. Our approach for the City of Biddeford reflects our experience leading dozens of similar projects across the country and honors your community's unique history and goals.

Key Skatepark Design Factors

- ✓ **Designs that consider all ages, styles , and abilities**
- ✓ **Overall fit within the park complex; integration, accessibility, and aesthetics**
- ✓ **Site-Specific Designs – Creating a Skatepark that best uses the site given**
- ✓ **Structural and Safety Standards, GREEN Methods, ADA Compliant**
- ✓ **Quality over Quantity, Designers consider flow, traffic patterns, and various users**
- ✓ **Creating a recreational space for all community members**
- ✓ **Incorporating the local heritage, color, and artistic elements**

Our design team collaborates closely with clients, offering expert insights and recommendations on factors crucial to long-term success: viability, maintenance, skate-ability, location, integration, visibility, and aesthetics. We are fully equipped to meet any deadline set by the city. Our focus is on creating destination facilities and recreational spaces that cater to all community members, accommodating users of all skill levels. The end result is a skatepark that exceeds expectations and enhances community enjoyment.

COMMITMENT TO COMMUNICATION

We are here to cultivate and progress your local users' ideas into a fully functioning one of a kind Skatepark. This is why each and every Pillar Skatepark is different and we believe the key to our success.

City Staff Roundtables

We will kick off the project with a roundtable discussion with key team members, dictated by the client. At this time, we will discuss project milestones, schedules, and objectives. Set the tone for the project and begin the necessary steps towards success. Meetings will be held throughout the life of the project to ensure all necessary team members are apprised of project details.

Community Groups

An open line of communication with community members will ensure a well-rounded design that can be enjoyed by all, users and non-users alike. These meetings will identify important design criteria, regarding aesthetics, artistic elements, and amenities, while circumventing any potential issues and or concerns. This group can include Business Owners, Community Members, Organizations, Artist, Advocates, and Developers.

Public Workshops and Focus Groups

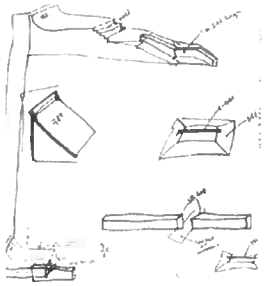
By conducting Public Meetings, we are able to involve the local community in creating their very own Skatepark. We employ an interactive approach, where we provide visual aids to help illustrate the different types of Skateparks. We then break out into groups and have members participate with sketching, discussions and draw on the local user's style, creativity, needs, and wants.

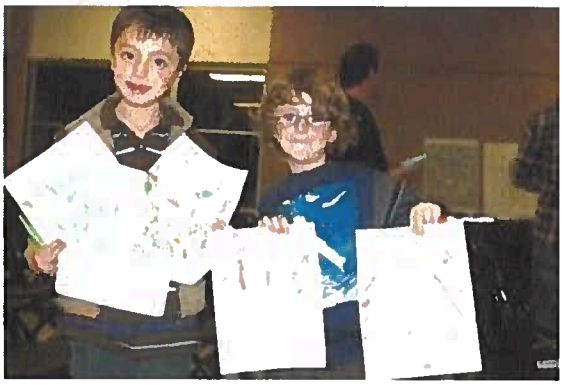
Virtual Activities

Facebook is a great media tool used by our design team, it allows community members and or users to discuss design content, upload requested elements, complete surveys, and stay up to date on activities and deadlines. If a dedicated FB page has not been created for the Chandler Skatepark project, Pillar is happy to use our FB page as the hub.

Twitter: Our Twitter account will provide updates on the status of the project and keep users informed regarding project status, and upcoming meetings.

Instagram: We will use our Instagram page to not only keep the local users apprised of the project but also to advertise and ensure the proper influencers are engaged. We will create a dedicated hashtag (#) for your project, which will be given out at the first public input meeting.

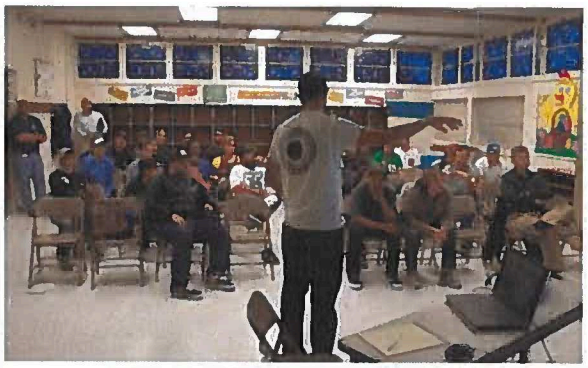




COMMUNITY INVOLVEMENT

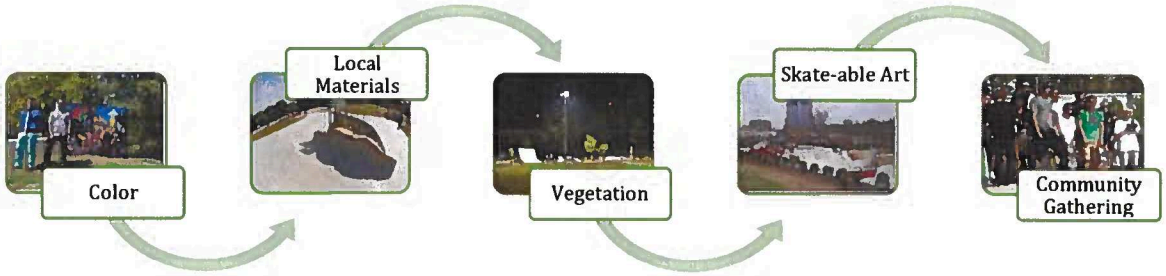
Active participation is the cornerstone of our Community Involvement process. Over the past twelve years, we have refined and created a successful approach to allow users to freely speak their minds while cultivating ideas and depicting the Skatepark design process. We have developed tools to aid in our processes, such as the design criteria sheet and Skatepark questionnaire. Your dedicated Project Manager and Lead Designer will not only provide the social media channels for the design team but also direct numbers and emails for users to use freely during the design stage. Every stage of the design process will be documented on social media, open to suggestions and comments.

As professional Landscape Architects and Engineers, we go beyond Skatepark design and discuss all aspects of the masterplan design, such as amenities (lighting, parking, access walkways), GREEN drainage, custom artistic elements, safety, landscaping, etc. Everything discussed will be provided visually, to help steer a productive discussion and ensure all aspects are clear and understood. Color renderings, 3D graphics, and animations will be provided.

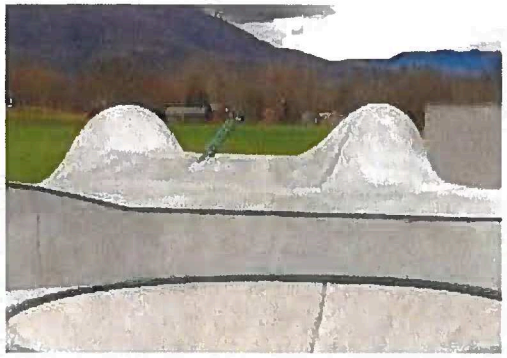


DIVERSE FUNCTIONAL DESIGNS

Rather than emphasizing specific styles like street or transition, our approach centers on designing inclusive skateparks that cater to users of all abilities. We prioritize creating spaces with a seamless flow and opportunities for progression. Our seasoned design team excels in crafting visually appealing parks that enhance community engagement. We integrate versatile features that serve the diverse needs of our communities, fostering unity and shared experiences. For instance, our design for the Rodanthe Skatepark incorporates a large vertical flat wall that serves dual purposes as an outdoor movie screen. In Phoenix, our open plaza-style skatepark not only provides a dynamic skating environment but also serves as a venue for community events such as Farmers Markets, fostering a vibrant communal atmosphere.

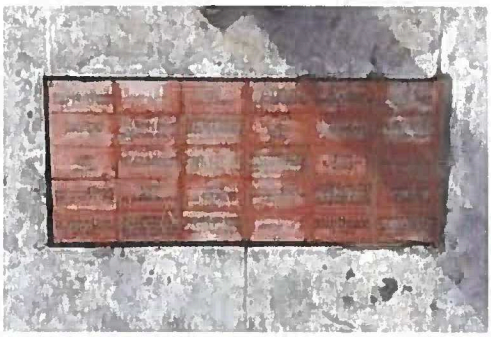


Our design team eagerly anticipates collaborating with local skaters, community members, and artists to craft a distinctive signature piece that reflects the area's unique heritage. Skaters are inherently artistic and creative individuals, and we aim to harness that creativity to create skate-able architecture. Every community has its cherished spots where local skaters congregate. Successful skate-able architecture seamlessly integrates elements of public sculpture and site amenities into skate-able art, providing stimulating works that enrich the community aesthetic. Our custom-designed skate-able architecture elements are tailored to resonate with and celebrate local culture and history.



A pole jump, replicating a civil war canyon

A graffiti wall, for a local artist.

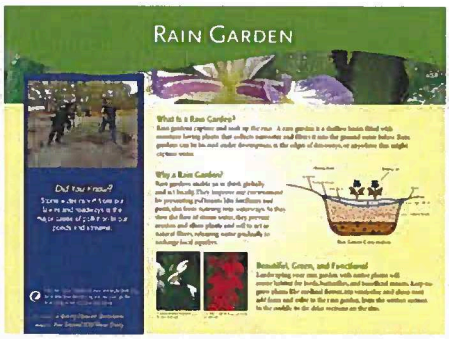


Donor recognition walkway

SUSTAINABLE DESIGNS

Since our inception, we have been dedicated to green design and construction practices, successfully implementing environmentally friendly designs that reduce our carbon footprint. Our approach integrates natural drainage systems, recycled materials, site-specific designs, and energy-efficient services, ensuring our projects are both sustainable and responsible.

One of our hallmark projects, the Marsh Creek Skatepark in Raleigh, NC, completed in 2009, holds the distinction of being the first green skatepark in the United States. This innovative design utilized recycled materials, rain gardens, and bioswales. Our unwavering commitment to green design and construction practices continues to guide our work, as we strive to create environmentally friendly designs that positively impact our world.

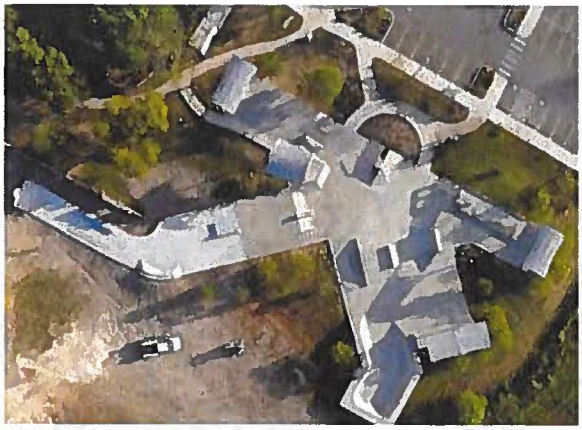


A few examples:

Raingardens: Framingham, MA, Dubuque, IA, Loganville, GA Raleigh, NC, and Waynesville, NC
Recycled Materials: Annapolis, MD, Enfield, NC, Raleigh, NC and Scottsdale, AZ
Developing on Difficult/ Brownfield sites: San Antonio, TX, Atlantic Beach, NC & Bar Harbor, ME

Pearsall Park Skatepark is a remarkable example of transforming an unused plot of land into a vibrant community asset. Originally a landfill, this site now proudly holds the Texas Recreation and Parks Society's Parks Design Excellence Award. It has been revitalized into a highly desirable family and community gathering place.

Spanning 505 acres, Pearsall Park is designed to offer dynamic open spaces with a variety of fitness and recreational amenities. The skatepark, integrated seamlessly with the overall park layout, caters to the flow of other park features and addresses the needs of local skaters while considering nearby skateparks. The result is a 13,000 sq. ft. skatepark, the largest in the City of San Antonio.

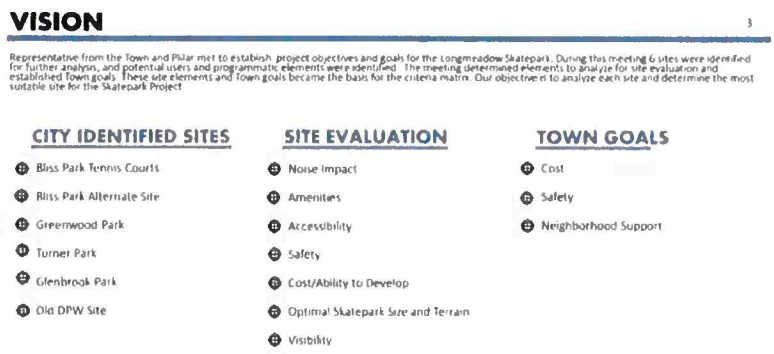


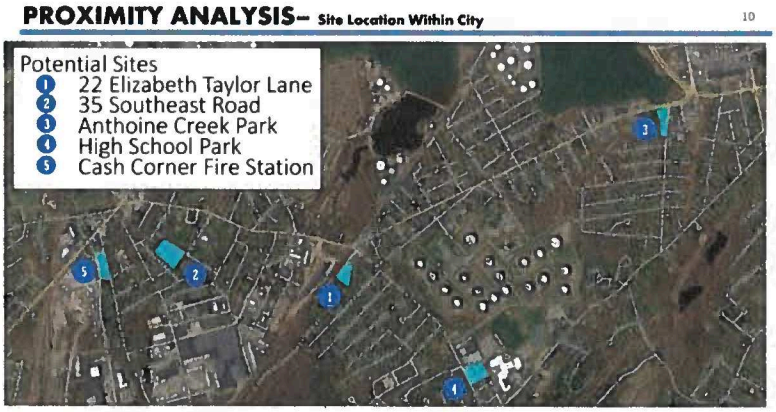
FEASIBILITY SERVICES

Feasibility and site selection are critical first steps in the successful development of any skatepark. The long-term success, usability, and community support of the facility are all closely tied to selecting the right location. Factors such as visibility, accessibility, environmental impact, noise sensitivity, parking, and long-term maintenance must all be carefully evaluated. Our team brings extensive experience conducting skatepark feasibility studies across a wide range of communities and climates, giving us a deep understanding of how to balance technical requirements with community needs.

We approach each potential site with a holistic lens—engaging stakeholders, assessing real-world conditions, and identifying both opportunities and challenges early in the process. This ensures that final recommendations are not only technically sound but also publicly supported and aligned with the City's long-term vision. With the right site, the design can thrive—and the skatepark can become a lasting, valued part of the community.

We have completed similar feasibility studies in; Dubuque, IA, Longmeadow, MA, Raleigh, NC, South Portland, ME.





Feasibility and Site Selection – Evaluation Criteria

When evaluating potential sites for a skatepark, our team considers a comprehensive set of criteria to ensure long-term success, functionality, and community compatibility. Key areas of evaluation include:

- Accessibility
  - Proximity to neighborhoods, schools, transit, and pedestrian/bike networks
  - ADA compliance and ease of access for all users

- Visibility and Safety
  - Sightlines from surrounding streets or public spaces
  - Opportunities for passive supervision and safe circulation
  - Minimizing blind spots and secluded areas

- Noise and Neighbor Impact
  - Distance from residential zones or sensitive land uses
  - Natural buffers or landscape features to mitigate sound

- Site Constraints and Opportunities
  - Topography, size, shape, and terrain suitability for skatepark design
  - Drainage conditions, vegetation, and existing infrastructure
  - Utility locations and easements

- Parking and Access
  - Availability of adjacent parking or potential for shared use
  - Safe drop-off zones and connection to existing trail systems

- Long-Term Maintenance and Sustainability
  - Durability of materials and site exposure
  - Ease of maintenance access and service routing
  - Opportunities for environmentally sensitive design

- Community Context and Alignment
  - Fit within the larger park system or urban fabric
  - Potential to activate underused spaces or catalyze nearby improvements
  - Compatibility with City goals and community vision

PROJECT UNDERSTANDING

The City of Biddeford is not only seeking a modern, inclusive skatepark but also a clear, data-driven path to achieve it. With the former Rotary Park facility dismantled due to safety concerns, the City now requires a comprehensive feasibility study to evaluate potential new locations and determine the most suitable site for a next-generation facility that serves skateboarders, BMX riders, and scooter users alike. In addition to functionality, the City has expressed interest in a concept that reflects Biddeford's unique identity and values—offering a space that is both sustainable and community-centered. This process will involve thorough site analysis, meaningful community engagement, and close coordination with multiple City departments, ultimately culminating in public presentations to City Council by November 2025.

Our team is already familiar with Biddeford and the history of the former Rotary Park skatepark. Brad Siedlecki, our Lead Designer and Owner, conducted an on-site evaluation of the former facility and recommended the removal of the aging equipment due to safety concerns. He also identified potential site challenges—such as environmental or structural conditions—that could increase future remediation costs and impact overall project feasibility. This prior experience positions us well to lead the City through a thoughtful and efficient site selection and design process.

Phase I: Feasibility Study – Site Evaluation & Community Engagement

Our first priority is to identify the best possible site for Biddeford's new skatepark—one that is functional, accessible, community-supported, and sustainable.
Key Tasks:

- Project Kickoff & Scope Alignment: Conduct a roundtable with the Recreation Department, Public Works, and any key stakeholders to define scope, timelines, and expectations.
- Site Visits & Analysis: Visit and evaluate up to 5 potential locations. Each site will be assessed using our multi-criteria matrix that includes accessibility, visibility, safety, parking, infrastructure, neighborhood compatibility, and long-term maintenance implications.
- Community Listening Session: Facilitate a community input session to collect thoughts, concerns, and ideas about potential locations. We use visuals and interactive exercises to make the session productive and inclusive.
- Site Documentation & Recommendations: Deliver a comprehensive comparative analysis of each site, supported with annotated maps, photos, and metrics. We will recommend a preferred site and back it with objective findings.
- Present our findings and recommendation, clearly explaining our rationale, methodology, and how public input was integrated.

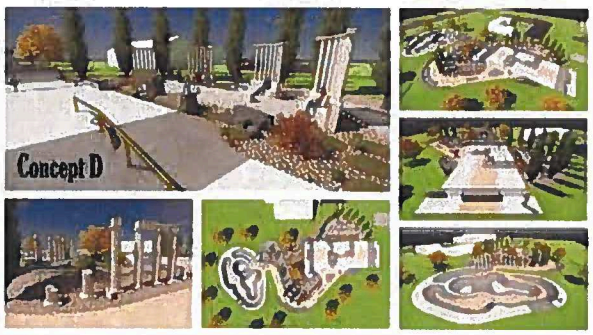
Phase II: Schmatic Design

Design Principles:

- Inclusive Design: Every feature will accommodate a range of skill levels, user types (skateboard, BMX, scooter), and age groups.
- Local Character: We'll incorporate references to Biddeford's history and culture through materials, forms, or potential skate-able art installations.
- Flexible & Functional: Designs consider not only skate-ability, but also traffic flow, safety, shade, seating, event adaptability, and integration into the broader park context.
- Sustainability: Our design will incorporate GREEN elements such as natural drainage, native landscaping, and potentially reused or recycled materials.

Engagement & Design Refinement:

- Public Workshops & Online Feedback: We will host up to two in-person design workshops and maintain an online feedback portal using our social media channels. These forums allow residents to sketch, comment, and suggest features directly.
- Preliminary Design Package: Includes conceptual plans, 3D renderings, budget estimate, and environmental considerations.
- Final Design Presentation: Present to City Council and the public for approval, integrating feedback from stakeholders and residents.



EXPERIENCE

South Portland Skatepark – Project Summary

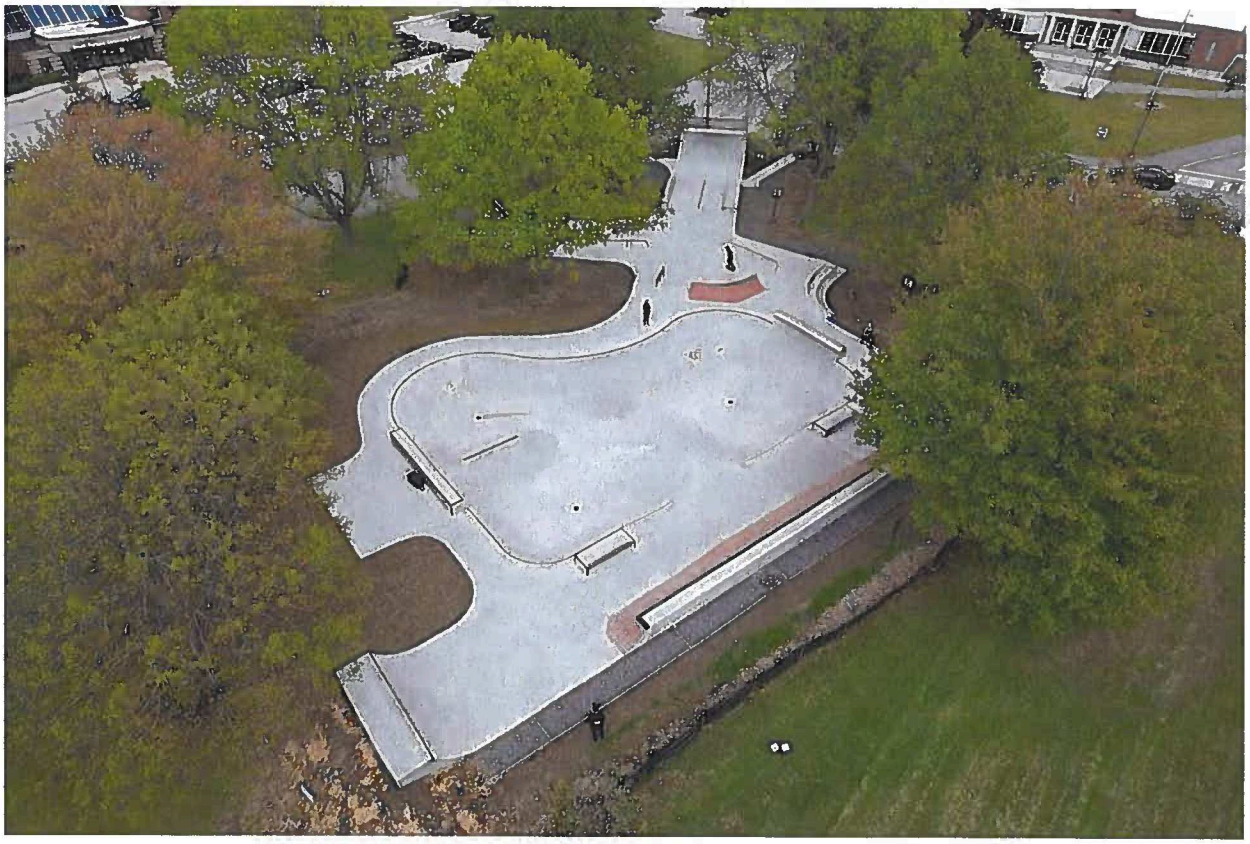
Our Role & Project Overview

We were honored to partner with the City of South Portland and its dedicated Skatepark Committee to bring this long-anticipated project to life. From early feasibility and site selection through final design, our team worked closely with local stakeholders, users, and city staff to create a public skatepark that is both functional and welcoming — a reflection of South Portland's community spirit.

Planning & Process

Our involvement began with a thorough site feasibility analysis, helping the Committee evaluate multiple potential locations based on visibility, accessibility, topography, and neighborhood impact. Ultimately, the site adjacent to the South Portland Community Center was selected — a central, highly visible location that met all the criteria for safety, access, and long-term viability.

From the start, we prioritized community engagement. We led design workshops and attended public forums to understand the needs of local skaters, families, and residents. These sessions shaped the vision: a multi-user facility that serves not just skateboards, but also scooters, BMX bikes, and inline users, with spaces for observers and families to safely enjoy the environment.



Design Highlights

The South Portland Skatepark spans approximately 10,000 sq ft, designed to flow naturally across the site while offering progression opportunities for all skill levels. Rather than a single open plaza, we introduced "nooks"—small, segmented zones that allow skaters to navigate independently, enhancing safety and flow. Features include:

- A flowing bowl section
- Quarter pipes, rails, manual pads, and flat ledges
- Spacious street-style elements
- Clear lines of sight for safety and supervision
- A layout that encourages both solo use and community events

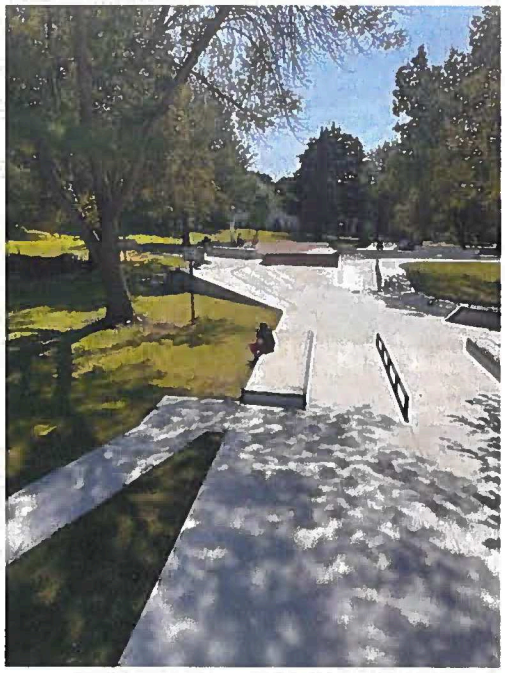
Community Impact

We are proud to have helped deliver what many have described as one of the best skateparks in Maine. The park officially opened on June 21, 2023, in celebration of Go Skateboarding Day. Hundreds of local residents turned out for the event, which featured a ribbon cutting, live demos, and music — a testament to the park's role as a true community hub.

From the beginning, South Portland's skaters, advocates, and city staff were instrumental in shaping this project. Their input, energy, and persistence over several years inspired our team to deliver a design worthy of their passion.

In Our Words

"We approach every skatepark as a community space first. Our mission is to create parks that aren't just fun to skate — they're welcoming, safe, and deeply rooted in local culture. South Portland exemplifies what can happen when a community rallies behind a shared vision."



PROJECT SIZE: 10,000 sq. ft.
PROJECT BUDGET: $512,000
PROJECT COMPLETED: 2023

This was a design bid build project; Pillar assisted the City with bidding process as well as conduct construction administration services. The City received numerous bids, all under the estimated construction budget.

Client: City of South Portland
Project Contact: Anthony Johnson, CPRP Deputy Director
P] 207.767.7650 x 7512, ajohnson@southportland.org

Gurdon Bill Park Skate and Bike Park – Project Summary

Our Role & Project Overview

We collaborated with the City of Springfield to design a modern, inclusive skate and bike park within Gurdon Bill Park. We were tasked with designing all wheeled sport elements, ensuring maximum accessibility and user diversity.

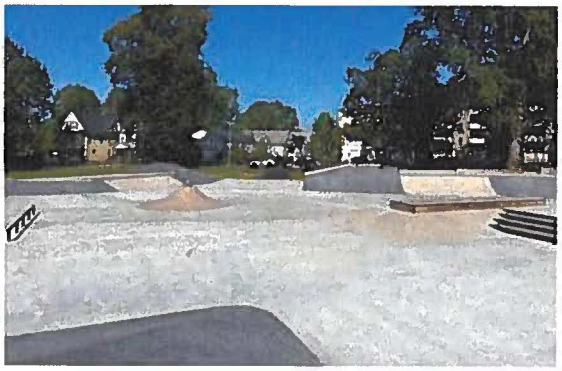
Planning & Process

As part of a larger $2M redevelopment plan for Gurdon Bill Park, we worked closely with city planners, engineering teams, and local community advocates. The design process incorporated inclusive community input and aligned with the City's commitment to sustainable, accessible recreation spaces. We drew on our experience in feasibility studies, adaptive-use planning, and site-specific layout design.

Design Highlights

Key design features include:

- A 12,000 sq. ft. multi-use wheeled sports area for skateboarders, BMX, scooters, inline skaters, and adaptive riders
- Flow and street zones designed to support skill progression
- Integration into broader park improvements: splash pad, swings, arboretum
- Emphasis on safety, flow, and site-specific terrain response



Community Impact

The Gurdon Bill Park Skate and Bike Park has become a major community hub for Springfield's Lower Liberty Heights neighborhood. It reflects a successful collaboration between city leaders and local residents to promote wellness, youth engagement, and active recreation.

In Our Words

"This project represents what Pillar Design Studios is all about—blending creative skateable environments with community vision and purpose. Springfield's new skate and bike park is a safe, dynamic public space built to evolve with its users."

PROJECT SIZE:	12,000 sq. ft.
PROJECT BUDGET:	$900,000
PROJECT COMPLETED:	2025

This was a design-bid-build project; Pillar Design Studios led all design, layout, and stakeholder engagement phases. Sealed final drawings and assisted with bidding as well as construction administration.

Client: City of Springfield
Project Contact: Laura Walsh, Senior Parks Project Manager
P] 413.886.5186, lwalsh@springfieldcityhall.com

Crompton Park Skatepark – Project Summary

Our Role & Project Overview

We partnered with the City of Worcester and Weston & Sampson to design a contemporary, community-oriented skatepark at Crompton Park. Our team focused on user accessibility, durability, and functional diversity.

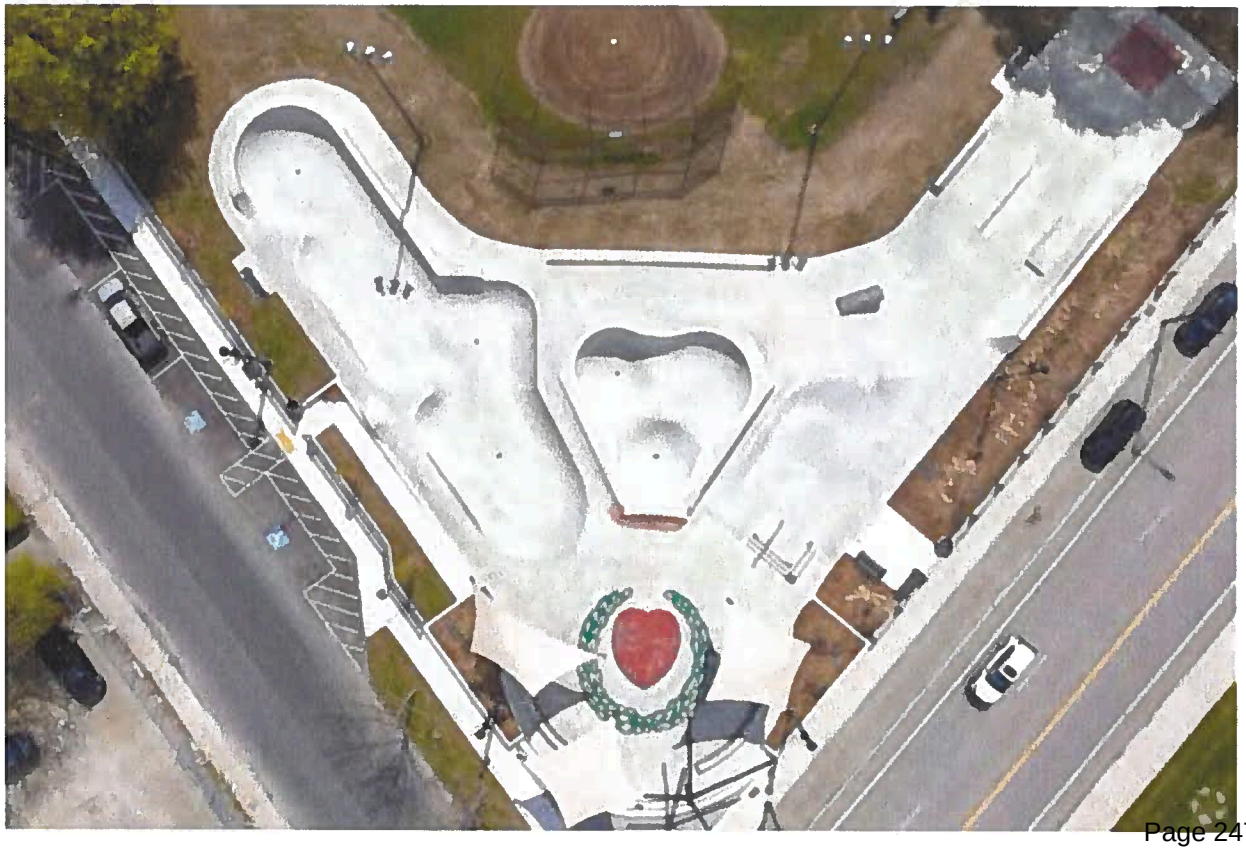
Planning & Process

As part of the Crompton Park master plan, we worked closely with city planners and recreation staff to align our design with long-term community goals. We evaluated safety, adjacency to other amenities, and park usage patterns to deliver a skatepark that complements the surrounding green space.

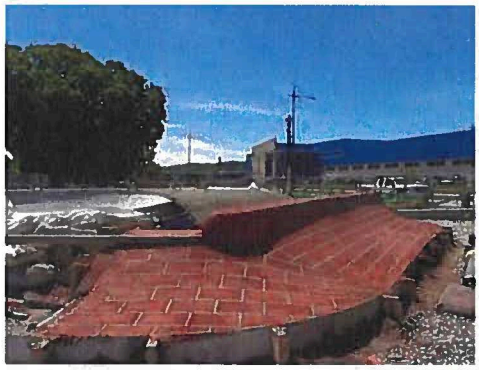
Design Highlights

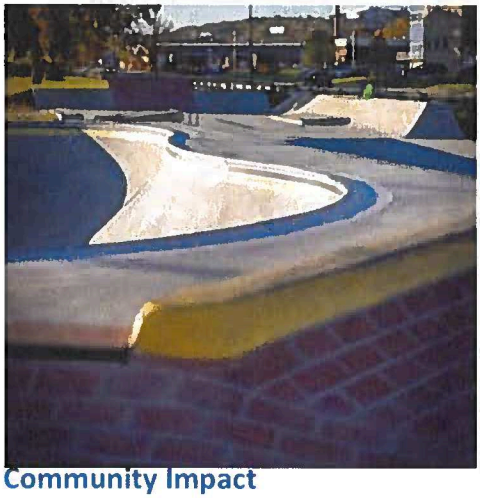
Key design features include:

- Compact yet high-function flow and street zones
- Integrated ledges, rails, and manual pads
- ADA Compliant
- Artistic elements include: City seal painted by a local artist, incorporation of old bricks from the old DIY non-sanctioned Skatepark the City removed. The DIY spot was important to the local skaters and we wanted to show homage to their creativity and dedication to the skate scene in Worcester.








Community Impact

The Crompton Skatepark quickly became a community staple, offering accessible recreation in a central neighborhood park. Local skaters and youth organizations have praised the design for its thoughtful layout and safe environment.

In Our Words

"Crompton Park allowed us to create a focused, community-driven skate space within a broader park environment. Our goal was to ensure it became a neighborhood asset that welcomes all."

You can see a fly-through video of the design here, or by typing https://youtu.be/y6JT4X346yE into your favorite browser.

PROJECT SIZE:	15,000 sq. ft.
PROJECT BUDGET:	2M
PROJECT COMPLETED:	2022

This was a design bid build project, Pillar handled design–bidding. Please note the budget includes landscaping, shade structures, stormwater management, rain gardens and sidewalks. To see the park in action click here.

Client: Weston & Sampson
Project Contact: Michael Easler, RLA
P] 857-415-3888, easlerm@wseinc.com

Portsmouth Skatepark – Project Summary

Our Role & Project Overview

WE were was selected to lead the master plan and skatepark design for a new multi-recreation facility in Portsmouth, NH. Our team focused on the development of a high-functioning, 20,000 sq. ft. concrete skatepark that anchors Phase I of a broader plan including a pump track, nature playground, soccer field, and parking lot. The skatepark serves as a central feature of this evolving public space.

Planning & Process

The design process required intensive planning and collaboration with city officials, engineers, and the community. The site—formerly a 'stump dump'—required extensive soil stabilization and ground repair to support the skatepark's concrete and steel structure. Our work included master planning, and a phased development approach aligned with city budgets and community priorities.

Design Highlights

Key design features include:

- 20,000 sq. ft. of diverse terrain for all rider types and skill levels
- A standalone kidney-shaped bowl
- A continuous-flow "ledge alley" with wall features and ledges
- Integrated lighting, landscaping, and infrastructure to support future phases

Community Impact

The Portsmouth Skatepark has become a regional draw for action sports participants. Its thoughtful integration into a broader recreational plan ensures long-term community use and youth engagement.

In Our Words

"This site challenged us technically, but the result is a high-quality, dynamic skatepark that sets the foundation for a multi-recreation campus. Portsmouth's leadership showed commitment to active public spaces, and we were proud to help bring that vision to life."

PROJECT SIZE:	20,000 sq. ft.
PROJECT BUDGET:	$2,500,000
	$1,400,000 Skatepark Only
PROJECT COMPLETED:	2024

This was a design-bid-build project; Pillar Design Studios led skatepark design and planning phases. The project budget of 2.5M included the parking lot, lights, landscaping and soil remediation.

Client: City of Portsmouth
Project Contact: Todd Henley, Recreation Director
P] 603.953.3145, tahenley@cityofportsmouth.com

QUALIFICATION OF PERSONELL

BRAD SIEDLECKI - Project Manager & Lead Designer

Skater-owned and operated design leader with 20+ years in the Action Sports industry and involvement in 300+ Skate, BMX, and Bike park developments. President of Pillar Design Studios since founding (2006), Brad combines professional Landscape Architecture training with lived skate experience to deliver community-driven, modern skateparks that integrate seamlessly with park systems, include donor recognition features, and reflect local culture.

CORE COMPETENCIES

- Skatepark feasibility, master planning, design & public engagement (concept through construction).
- Integration of skateparks within multi-use park & waterfront settings.
- Donor recognition & sponsor branding strategies within skate elements.
- GREEN & sustainable design practices (rain gardens, recycled materials).
- Cost estimating, phasing strategies & bid support.
- Construction administration & quality review.

EDUCATION & CREDENTIALS

- B.S., Landscape Architecture – Arizona State University.
- A.S., Architectural Engineering – Alfred State College.
- 20+ years skateboarding; frequent speaker for Parks & Recreation and LA programs.

BARRETT CROOK, PE, LEED AP - Professional Engineer

Professional Engineer & LEED AP with 20+ years of structural and civil engineering experience, including specialty structures and water/wastewater infrastructure. Joined Pillar in 2013; provides in-house structural review, grading & drainage, GREEN infrastructure strategies, and seals final drawings for skatepark projects.

CORE COMPETENCIES

- Structural review from deck-in for cast-in-place concrete skate terrain.
- Grading, drainage, & erosion control engineering.
- GREEN infrastructure integration (bioswales, rain gardens).
- Value engineering & constructability review.
- Multi-state professional engineering licensure; LEED Accredited Professional.

EDUCATION & CREDENTIALS

- B.S., Civil Engineering – Santa Clara University.
- Registered PE: AZ, FL, GA, ID, IA, MA, ME, MS, NE, NC, ND, NV, OR, SC, VA, WA.
- LEED Accredited Professional – USGBC. Member: ASCE, ACI, USGBC.

SCOTT MATTHEWS - Production Manager

Production Manager with 13+ years of drafting, 3D visualization, construction documentation, and cost estimating experience for 100+ public and private skatepark projects. At Pillar since 2006; converts design vision into clear bid-ready plans, specs, and quantities; supports phasing and budget alignment.

CORE COMPETENCIES

- Construction documentation (plans, details, specs).
- 3D graphics & visualization for public outreach.
- Quantity takeoffs & cost estimating.
- Horizontal control, grading translation & digital terrain modeling.
- Bid package assembly & addenda support.

EDUCATION & CREDENTIALS

- Technical A.A.S., Mechanical Drafting – High Tech Institute.
- A.A.S., Structural & Drainage Systems – High Tech Institute.
- Certified: AutoCAD, AutoLisp, Visual Basic, SketchUp.

NICOLE LICARI ROBERTSON - Fundraising Specialist & Administration –

Fundraising Specialist & Administration lead with 20+ years in the skate industry (since 2004) and an original member of the Pillar team. Guides communities through funding strategy, grant submissions, donor recognition planning, and administrative compliance (insurance, contracting, billing). Developed toolkits that help local skaters navigate the skatepark development process.

CORE COMPETENCIES

- Fundraising strategy & grant writing for skatepark initiatives.
- Donor recognition wall, tiered sponsorship & branding coordination.
- Government contracting & insurance compliance.
- Community advocacy materials & public education resources.
- Project administration: billing, travel, documentation, social media updates.

EDUCATION & CREDENTIALS

- B.S., Technical Management – DeVry University.
- A.S., Business Administration – Rock Valley College.
- Affiliations: International Association for Sports & Leisure Facilities; Parks Make Life Better; Friends of the International Play Association.

WORK PLAN

PHASE I – Feasibility Study

The feasibility study phase is designed to lay a strong foundation for the project through a comprehensive and collaborative process. Our team will begin by establishing clear goals, timelines, and communication protocols with City staff to ensure alignment from day one. We will conduct a focused site evaluation trip, assessing up to five potential locations for their suitability—analyzing factors such as accessibility, visibility, safety, environmental impact, and long-term sustainability. Community involvement is a key part of our process, and we will lead an inclusive public meeting to gather input and address concerns, supported by online tools to maximize engagement. The results of our technical evaluations and community feedback will be integrated into a professional, visually compelling feasibility report. This document will include our expert recommendations for the most viable site(s) and skatepark typology, and will be presented to City Council to support confident, informed decision-making.

1. Project Kick-Off & Coordination
    - Establish project schedule, scope, and key points of contact.
    - Review all existing studies, concepts, data, and applicable planning documents provided by the City.
    - Host a virtual kick-off meeting with City staff to align on goals, process, and communication protocols.
2. Site Visits & Evaluation
    - Conduct one (1) site visit to evaluate a maximum of five (5) potential locations for the skatepark.
    - Document sites with photographs, sketches, and field notes.
    - Evaluate each site based on:
        - Accessibility and visibility
        - Noise and safety considerations
        - Site constraints and impact
        - Parking, maintenance, and long-term sustainability
        - Optimal park size, layout opportunities, and terrain suitability
3. Community Engagement – Site Selection Input
    - Facilitate one (1) community meeting to gather feedback and concerns regarding site selection and skatepark development.
    - Supplement with online engagement tools (social media, survey links, etc.) to broaden participation.
4. Final Feasibility Report
    - Compile site analysis findings with visual documentation.
    - Make final site recommendations with justification.
    - Present top site(s) and feasibility conclusions to City Council in a concise presentation.

Please note that Pillar will conduct one on-site visit throughout Phase I, this visit will include the potential site locations as well as Community Engagement. All other meetings and presentations will be held virtually.

PHASE II – Schematic Design

Once the final site in Biddeford has been selected, our focus will shift to developing a design that reflects the city's unique identity, responds to the needs of local skaters, and supports the broader goals of the community. Before initiating design work, we will recommend that a **topographical survey and a geotechnical report** be conducted. These critical site investigations will provide essential information about grading, drainage, and subsurface conditions—ensuring that our design is grounded in real-world data, allows for accurate construction cost estimating, and helps minimize potential issues or change orders during construction. Simultaneously, we will begin evaluating site-specific regulatory considerations, such as **stormwater management** and other permitting or environmental requirements. If these services are determined necessary, we will coordinate with a qualified local sub-consultant to complete the work. While not included in our base design fee, we are happy to assist the City in identifying and securing the appropriate professionals, with any associated costs to be the responsibility of the City.

Following completion of site assessments and preliminary coordination, we will begin the schematic design phase, using this feedback provided in the feasibility phase, we will develop up to three schematic design concepts, presented in 3D formats, that reflect community needs and local character. Two in-person meetings—one with City staff and one with the public will be completed. These meetings are designed to further gather input on layout preferences, terrain styles, and overall design vision. The concepts will be refined through continued collaboration, including digital outreach and social media engagement, ensuring inclusive participation. The result will be a final schematic design, complete with a 3D fly-through animation and a preliminary construction cost estimate, ready to transition smoothly into final design.

1. Conceptual Design
    - Based on the information obtained from the Feasibility Phase, Pillar will develop three (3) initial design concepts, showing scale, terrain type, and amenities.
    - Utilize social media platforms and project hashtag to gather feedback and engage the public in real time.
2. Community Input and City Council Presentation
    - Pillar will meet with the local users as well as any community members to discuss the three conceptual design. Participants will also have opportunity to ask any questions and provide any input on the proposed Skatepark design.
    - The designs will be presented to City Council for feedback and direction.
3. Final Design Development
    - Incorporate community and City feedback into a final conceptual skatepark plan.
    - Provide 3D views and a fly-through video of the final concept.
    - Deliver preliminary estimate of probable construction costs using national averages and/or local info provided by City.
4. Final Presentation & Deliverables
    - Conduct a final presentation of the conceptual design to City Council and stakeholders.

- Submit all deliverables including:
    - Final conceptual plan and supporting graphics
    - Construction cost estimate
    - Community engagement summary
    - Presentation materials
    - Digital files (CAD, PDF, and 3D renderings)

Assumptions & Notes

- City will provide any available survey data, geotechnical info, and relevant CAD base files.
- Pillar will assist in scoping any additional data needs (e.g., geo-report) but will not procure these services directly.
- Additional meetings or design revisions beyond those listed will be billed at standard hourly rates, pending prior City approval.
- Completed schematic design will represent approximately 30% of the design development (DD) level. Our current scope does not include full design development or construction documentation. These additional phases will be necessary prior putting the project out to bid.

TIMETABLE

A preliminary project timeline has been included below for reference. While this is not a finalize schedule, it reflects the typical progression of a project of this scale and scope. Final dates may adjust slightly based on public meeting schedules, review periods, and community engagement milestones. That said, Pillar is confident in our ability to meet all deadlines established by the City of Biddeford.

PHASE	SEPT	OCT		NOV
Feasibility Study				
Schematic Design				

COST PROPOSAL

The fees outlined below are based on the scope of work as described in this proposal. Should the scope of work change during the course of the project, we reserve the right to adjust our fees accordingly. We remain flexible and open to discussing any modifications to ensure alignment with the City's evolving needs and project objectives.

Reimbursable expenses are included in the fee. The fees listed include preparation of plans one time only. We have included two on-sites visits within our scope, one during feasibility and one during schematic.

SKATEPARK FEASIBILITY STUDY	
Phase I - Feasibility Study	$15,500.00
Phase 2 - Schematic Design	$18,000.00

As previously noted within our response, we recommend conducting both a topographical survey and a geotechnical report prior to commencing any design work. This approach allows us to deliver a site-specific design that mitigates potential issues during the bidding process and minimizes the likelihood of change orders during construction. We will review all relevant studies and reports completed to date for the selected site. If we can utilize this existing information in place of one of these services, we will provide that feedback before Phase II – Schematic Design Phase begins.

POSSIBLE ADDITIONAL EXPENSES	
On-Site Visits, per trip fee	$4,500.00
SUB-CONSULTANTS	
Topographical Survey *Company TBD*	$9,000.00
Geo-Technical Report *Company TBD*	$14,000.00

At this stage, our team has not include an environmental or civil engineer; however, based on the selected site, these services may be required and can be incorporated prior to progressing into the design phase.

Please note that the sub-consultant fees are estimated based on previous experience and scope of work. If we are selected to move forward, we will request three quotes from local firms for each service. If the City has a preferred vendor list or a company, they would like us to contact, we are happy to do so.

CITY OF BIDDEFORD
AFFIDAVIT OF NON-COLLUSION

I swear (or affirm) under the penalty of perjury

1. That I am the Responder (if the Responder is an individual), a partner in the company (if the Responder is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Responder is a corporation)

2. That the attached proposal submitted in response to the Skatepark Feasibility Study Request for Proposal has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition.

3. That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and

4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name: Pillar Design Studios LLC

Authorized Signature: bradley siedlecki

Date: 08/06/2025

Subscribed and sworn to me this 06 day of 08, 2025

Notary Public: _____

My commission expires: 10/07/2029

JOANNE M LAWSON
Commission # 50226622
Notary Public, State of New Jersey
My Commission Expires
October 7, 2029

Performed by means of audio-video communication with NotaryLive.com

Notarized by: Joanne M Lawson
Time: 2025-08-06 15:17:11 UTC
URL: https://notarylive.com/tu/cdp/989F8T
Access ID: 989F8T
Pin: KAC4HW

BID – CONTRACT PROJECT IDENTIFICATION:
Feasibility Study for
Location and Design for Biddeford Skatepark

THIS BID SUBMITTED TO: City of Biddeford, Maine

1. The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Contract Documents, to complete all work as specified or indicated in the Contract Documents for the Contract Price, and within the Contract Time indicated in this Bid and in accordance with the Contract Documents.

2. BIDDER accepts all of the terms and conditions of the RFP's, including without limitations those dealing with the disposition of performance and payment bonds. This Bid will remain open for a minimum of four months after the Bid opening. BIDDER will sign the Agreement and submit the contract security and other documents required by the contract Documents no later than fifteen (15) days after the date of OWNER'S Notice of Award.

3. In submitting this Bid, BIDDER represents, as more fully set forth in the Agreement, that

   (a) BIDDER has examined copies of all the Contract Documents and the following addenda:

   Date Number

   (receipt of all which is hereby acknowledged) and also copies of the Invitation to Bid and the Instructions for Bidders;

   (b) BIDDER has examined the site and locality where the work is to be performed, the legal requirements (federal, state, and local laws, ordinances, rules, and regulations) and the conditions affecting cost, progress, or performance of the work and has made such independent investigation as BIDDER deems necessary;

   (c) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; BIDDER has not directly or indirectly induced or solicited any other BIDDER to submit a false or sham Bid; BIDDER has not solicited or induced any person, firm, or a corporation to refrain from bidding; and BIDDER has not sought by collusion to obtain for himself any advantage over any other BIDDER or over OWNER.

4. BIDDER agrees that the work will be completed by December 1, 2025
   Respectfully submitted,

   By: (Name and Title) Brad Siedlecki, President
   For:(Seal if by a corporation) Pillar Design Studios, LLC
   Address: 1960 W. Hawk Ct., Chandler, AZ 85286

BID FORM and PROJECT SUMMARY- City of Biddeford

We herewith submit our bid in accordance with the requirements and specifications herein acknowledged as follows:

i. We carry general liability (including products liability) insurance, which is in force and shall remain in force during the term of this contract.

ii. We carry workers' compensation insurance, which is in force and shall remain in force during the term of this contract.

iii. We agree to comply with the general specifications listed in the RFP.

iv. We acknowledge having the opportunity to inspect each installation and confirm that site conditions are reflected in the bid submittal.

Company Name: Pillar Design Studios, LLC

Company Address: 1960 W. Hawk Ct., Chandler, AZ 85286

Company Telephone: 888.880.5112

Authorized Representative's Name: Brad Siedlecki

Authorized Representative's Signature:

Representative's Email: brad@pillardesignstudios.com

PROJECT SUMMARY:

Total Project Cost $33,500