

C# 2804

CITY OF AVON PARK
MONTHLY T-HANGAR LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 7th day of January, 2020, by and between THE CITY OF AVON PARK, FLORIDA, Lessor and Frank Bagwell, Lessee, whose address is 420 Kelly Rd Frostproof FL 33843.

WITNESSETH:

That for and in consideration of the rents reserved and to be paid, and the terms and conditions hereinafter expressed and contained on behalf of the Lessee to be kept, performed and observed by him the Lessor does hereby grant, lease and let unto the said Lessee the following described premises located in Avon Park, Florida, to wit:

T-HANGAR NUMBER 59

TERM

The term of this lease shall be MONTHLY beginning January 7, 2020, unless sooner terminated in accordance with other provisions hereof. This lease is automatically renewed monthly unless written notice is received from Lessor at least 30 days prior that the Lease will not be renewed at the end of the month, or from the Lessee at least 30 days prior that the Lessee will be vacating at the end of the month and the deposit shall be refunded to lessee upon expiration of lease if there are no damages. A notice for any rent increase will be sent to the Lessee by January 1st, to be effective April 1st. This lease shall be subject to review and re-evaluation at the end of each one (1) year period, by the airport owner and the rent may be adjusted according to their action, not to exceed the Consumer Price Index rate during the twelve (12) month period.

PAYMENT:

Lessee agrees to pay as rent for the premises for the term hereof the sum of \$ 300.00, payable to Lessor at 110 East Main Street, Avon Park, Florida 33825, or at such other place as Lessor shall direct in writing. Rent shall be paid

monthly, including state sales tax payable on or before the 15th day of each and every month in advance, following effective date of this lease. The monthly rental payment shall be considered delinquent if it has not been received by the Lessor on or before the 25th day of the month it is due and an additional rent of five percent (5%) on the amount due will be charged as a late fee. The Lessee agrees to pay three (3) months rent as deposit, which is refunded when Lessee gives a 30-day written notice to Lessor to vacate. Less than 1 month's notice, the Lessor shall deduct 1 month's rent from the deposit.

CONDITIONS:

1. Lessee shall use the lease premises only for storage of complete airplanes with a current air worthy certificate, and no business or commercial enterprise of any nature or kind whatsoever shall be conducted on the premises. Lessee agrees that no gasoline, combustible materials will be stored in the leased premises. Lessee is specifically prohibited from spray painting, sanding or creating any powder or mist in or upon the premises. Lessee shall keep all of the subject premises reasonably free of all trash, debris and garbage so as not to allow any unsightly appearance or any unsanitary condition to exist on or around the leased premises. Lessee shall not carry on an activity in or about the premises, which, in the opinion of the Lessor, shall be detrimental or annoying in any way to the tenants of other units or to Lessor, nor shall Lessee carry on any activity, which shall damage the leased premises or other units in any way. Should Lessee violate any of the conditions of this paragraph, Lessor shall, without regard to any limitation set forth in any other paragraph, have the right to immediately terminate this agreement, re-enter and repossess the leased premises, all without notice to Lessee.

2. Lessee shall at all times protect, save and hold harmless, Lessor from any damage of any nature or character whatsoever from any injury or damage to any persons or property while in or on the leased premises. Lessor shall not be responsible in any manner for damages. Lessor shall not be responsible in any manner for damages to or theft of personal property stored on the leased premises, said responsibility being solely

that of Lessee. It is expressly agreed and understood by and between the parties to this agreement that Lessor shall not be liable for any damage or injury which may be sustained by Lessee or any other person, or for any other damage or injury resulting from the carelessness, negligence or improper conduct of any other tenant.

3. In the event the Lessee shall dispose of or damage the airplane stored within the T-Hangar leased to Lessee, then and in that event Lessee shall have ninety (90) days from the date of the sale of the airplane, or date of the damage, within which to purchase a new airplane or repair the damaged airplane, while continuing to make monthly rent payments. In the event no new airplane is purchased, or the damaged airplane is not repaired, this lease shall terminate and Lessee shall forthwith surrender possession of the premises to Lessor, and the deposit will be returned. Special considerations need to be approved by the City Manager.

4. Lessee shall not make any structural alterations or additions to the leased premises, nor construct any permanent improvements upon the leased premises without the written permission of Lessor. Nothing is to be mounted which requires puncturing the wall; free standing shelves are suggested. In the event Lessor shall grant such permission, such alterations, additions or improvements will be constructed according to plans and specifications approved by Lessor and in compliance with all building codes and regulations of the City of Avon Park, and Highlands County, Florida. All permits and licenses required for such construction shall be obtained by Lessee at his expense. Lessee agrees that all such improvements shall become the property of the City of Avon Park. It is specifically understood that Lessee shall hold Lessor harmless for any mechanic's liens, material men, or supplier's liens that may possibly be placed against the demised premises and shall be solely and totally responsible for the work done and the materials supplied.

5. Lessor may enter, inspect and make such repairs to the leased premises as Lessor may reasonably desire, at all reasonable times. Notice to Lessee will be made prior to entry if practicable.

6. If the leased premises should be damaged by fire or otherwise, to the extent that they are not available to Lessee for the uses and purposes contemplated by this lease, Lessor shall have the right and privilege, upon refunding to Lessee any unearned rents, of immediately canceling and terminating this lease and repossessing any remainder of the premises, as there shall be no obligation on the part of Lessor to repair or rebuild the leased premises.

7. Lessee shall make no assignment of this lease agreement or any re-renting or subleasing of the subject premises.

8. Should Lessee default in making any payment of rent, or default in the observance and performance of any of the terms, covenants and conditions of this lease that is capable of remedy or involves a violation of law, Lessor shall give Lessee ten (10) days notice in writing, in person or by U.S. Mail, of such default. If non-compliance or breach is not corrected or remedied within fifteen (15) days after the expiration of the said ten day notice, the Lessor may, at its option, consider Lessee as a tenant at sufferance and proceed in any court of competent jurisdiction for the recovery of rent or other sums due as provided herein, whether by distress or action at law. Lessee hereby pledges and assigns to Lessor all chattels of Lessee which shall be brought or may be put on the leased premises as security for the payment of the rent herein reserved, and Lessee agrees that said lien may be enforced by distress or otherwise at the election of Lessor. In addition, Lessor may cancel and terminate this lease, claim any monies paid in advance as provided herein, and immediately re-enter and repossess all of the leased premises without liability to Lessor for any action therefore. The mention of any particular remedy herein shall not preclude the pursuance of any other remedy, legal or equitable, by court of competent jurisdiction in the State of Florida. Waiver of default or of the violation of any covenant, condition of agreement contained in this lease and agreement and/or of the redress thereof, shall not be deemed in performance there of or relive Lessee of complying with all of the provisions hereof. Lessee agrees to pay the cost of collection and reasonable attorney's fees in the event Lessor shall retain an attorney to enforce any provisions of collect any amounts due under this lease, including appeals. City has sole discrimination and may utilize deposit to cover damages to property or structure leased or any legal cost associated with an eviction.

9. Lessee must use a city provided lock to secure the hangar, in hangar #'s 1 - 38; a refundable lock deposit will be charged in the amount of \$20.00. In hangar #'s 39 - 66, a key will be provided and a security card is required for the Bell St. or Hwy 64 entrances; a refundable deposit of \$10.00 will be charged.

INDEMNITY

(a) Lessee indemnifies City against, and holds City harmless from any and all costs (including reasonable attorney's fees and costs, including appeals) claims, actions, damages, obligations, liabilities and liens which arise out of Lessee's use and occupancy of the Premises, or the use or occupancy of the Premises by any Subleasee, agent, employee or invitee. Notwithstanding anything contained in this Lease to the contrary, Lessee shall additionally reimburse, defend, indemnify and hold City, and its officers, directors, shareholders, employees, and agents, free and harmless from and against any and all Claims, Response costs, losses, liabilities, damages, costs, and expenses, including, without limitation, loss of rental income, loss due to business interruption, and reasonable attorneys' fees and costs including through appeals, arising out of or in any way connected with any or all of the following: (i) any Hazardous Materials which, at any time during the Term, as extended, if applicable, are or were actually or allegedly managed, released or disposed of on or from the Premises (regardless of the location at which such Hazardous Material are now or may in the future be located or disposed of), including but not limited to, any and all (1) liabilities under any common law theory of tort, nuisance, strict liability, ultra hazardous activity, negligence or otherwise based upon, resulting from or in connection with any Hazardous Material; (2) obligations to take response, removal, cleanup or other corrective action pursuant to any investigation or remediation in connection with the decontamination, removal, management, transportation, incineration, or disposal of any of the foregoing; (ii) any actual or alleged illness, disability, injury, or death of any person; in any manner arising out of or allegedly arisen out of exposure to Hazardous Materials Managed or Released on or from the Premises during the Term, as extended, if applicable, regardless of when any such illness, disability, injury, or death shall have occurred or been incurred or manifested itself; and (iii) any actual or alleged failure of Lessee or the Premises at any time during the Term, as extended, if applicable, to comply with all applicable Environmental Laws as required

under this Article; and (iv) any failure by Lessee to comply with its obligations under this Article.

(b) Environmental Assessment Requirement. Lessee shall timely provide an environmental site assessment report of reasonable scope, form and depth (including, where appropriate, invasive soil or groundwater sampling) by a qualified environmental consultant reasonably approved by City, as to: (1) any recognized environmental condition(s), to the extent such recognized environmental condition(s) is/are attributable to events or conditions which arise during the Term, as extended, if applicable, and, (2) the general environmental condition of the Premises (the "Environmental Assessment"), within 60 days prior to termination or expiration of the Lease. If the Environmental Assessment is not delivered prior to such 60th day, then City may arrange for completion of same. The reasonable cost of any Environmental Assessment completed by City or Lessee pursuant to this provision shall be paid by Lessee or reimbursable to City by Lessee (if completed by City) promptly upon City's furnishing Lessee with evidence of costs incurred therefore.

(c) The foregoing indemnification obligations of Lessee under this Lease shall expressly exclude any obligation for the pre-existing environmental condition or release from the Premises prior to the Commencement Date of this Lease. In the event any Claims or other assertion of liability shall be made against City for which City is entitled to indemnity hereunder, City shall notify Lessee of such Claim or assertion of liability and thereupon Lessee shall, at its sole cost and expense, assume the defense of such Claim or assertion of liability and continue such defense at all times thereafter until completion.

The obligations of Lessee under this Article shall survive any termination or expiration of this Lease.

HAZARDOUS MATERIALS.

(a) "Claim" shall mean and include any demand, cause of action, proceeding, or suit for any one or more of the following: (i) actual or punitive damages, losses, injuries to person or property, damages to natural resources, fines, penalties, interest, contribution or settlement, (ii) the costs and expenses of site investigations, feasibility studies, information requests, health or risk assessments, or response (as hereinafter defined)

actions, and (iii) the costs and expenses of enforcing insurance, contribution or indemnification agreements.

(b) "Environmental Laws" shall mean and include all federal, state and local statutes, ordinances, regulations and rules in effect and as amended from time to time relating to environmental quality, health, safety, contamination and cleanup, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq., and the Water Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. Section 136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 et seq.; the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act ("TSCA"), 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and state and local super lien and environmental statutes and ordinances, with implementing regulations, rules and guidelines, as any of the foregoing may be amended from time to time. Environmental Laws shall also include all state, regional, county, municipal, and other local laws, regulations, and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials (as hereinafter defined).

(c) "Hazardous Materials" shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under CERCLA; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos-containing materials, PCBs, and other substances regulated under TSCA; source material, special nuclear material, by-product material and any other radioactive materials or radioactive wastes, however produced, regulated under

the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. § 1910.1200 et seq.; and industrial process and pollution control wastes whether or not hazardous within the meaning of RCRA, and any other hazardous substance, pollutant or contaminant regulated under any other Environmental Laws.

(d) "Manage" or "Management" means to generate, manufacture, process, treat, store, use, re-use, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of or abandon Hazardous Materials.

(e) "Release" or "Released" shall mean any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Hazardous Materials into the environment, as "environment" is defined in CERCLA.

(f) "Response" or "Respond" shall mean action taken to correct, remove, remediate, clean up, prevent, mitigate, monitor, evaluate, investigate, assess or abate the Release of a Hazardous Material.

(g) Lessee's Obligations with Respect to Environmental Matters. During the Term of this Lease as extended, if applicable: (i) Lessee shall comply at its sole cost and expense with all applicable Environmental Laws; (ii) Lessee shall not Manage, or authorize the Management of, any Hazardous Materials, except Hazardous Materials used by Lessee in the ordinary course of its business in compliance with applicable Environmental Laws on the Premises, including installation of any underground storage tanks, without prior written disclosure to and prior written approval by City; (iii) Lessee shall not take any action that would subject the Premises to the permit requirements under RCRA for storage, treatment or disposal of Hazardous Materials; (iv) excepting *de minimis* quantities not in violation of Environmental Laws, Lessee shall not dispose of Hazardous Materials in dumpsters provided by City for Lessee use; (v) Lessee shall not discharge Hazardous Materials into drains or sewers serving the Premises; (vi) Lessee shall not cause or allow the Release of any Hazardous Materials on, to or from the Premises or surrounding land and (vii) Lessee shall arrange at its sole cost and expense for the lawful transportation and off-site disposal in accordance with all applicable Environmental Laws, of all Hazardous Materials that it generates. Notwithstanding the foregoing, Lessee

shall be responsible only for compliance with Environmental Laws during the Term of this Lease, as extended, if applicable, which responsibility expressly excludes compliance or causing the compliance of the Premises with Environmental Laws which are or which are allegedly violated (i) as a result of conditions in existence prior to the commencement of the Term of this Lease; or (ii) as a result of a Release of Hazardous Materials from other sites onto the Premises by City or third parties not related, contracted, or Subleased to Lessee.

(h) Copies of Notices. During the Term of this Lease, as extended, if applicable, Lessee shall provide City promptly with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, Claims, complaints, investigations, judgments, letters, notices of environmental liens or Response actions in progress, and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, Occupational Safety and Health Administration, Florida Department of Environmental Protection, or other federal, state, or local agency or authority, or any other entity or individual, concerning (i) any actual or alleged Release of a Hazardous Material on, to or from the Premises; (ii) the imposition of any lien on the Premises; (iii) any actual or alleged violation of, or responsibility under, any Environmental Laws; or (iv) any actual or alleged liability under any theory of common law tort or toxic tort, including without limitation, negligence, trespass, nuisance, strict liability, or ultra hazardous activity. In addition, Lessee shall provide City promptly with copies of all environmental studies and reports conducted in connection with the Premises.

(i) City's Right to Inspect. City and City's employees shall have the right to enter the Premises upon at least 24 hours prior notice to Lessee (except in an emergency, in which event no prior notice is required) and conduct appropriate inspections or tests, which inspections and tests shall be carried out in such a manner as will cause the least practicable interference with Lessee's business in the Premises, for the purpose of (i) determining Lessee's compliance with Environmental Laws, and (ii) determining the type, kind and quantity of all products, materials and substances brought onto the Premises, or made or produced thereon. City and its agents and representatives shall have the right to take samples in quantities sufficient for analysis of all products, materials and substances present on the Premises including, but not limited to, samples,

products, materials or substances brought onto or made or produced on the Premises by Lessee or its agents, employees, contractors or invitees. Lessee agrees to cooperate with such investigations by providing any relevant information requested by City, including, but not limited to, information City requests to comply with applicable state or local laws concerning or affecting real property transfers. Lessee may not perform any sampling, testing, or drilling to locate Hazardous Materials without the City's prior written consent.

(j) Tests and Reports. Within ten (10) days of Lessee's receipt of a written request by City, but in no event more often than semi-annually, unless Hazardous Materials are discovered on, in or under the Premises in violation of this Article or there is a violation of Environmental Laws, in which event City hereby reserves the right to request the following described documents more often, Lessee shall provide City with (i) copies of all environmental reports and tests obtained by Lessee; (ii) copies of transportation and disposal contracts (and related manifests, schedules, reports, and other information) entered into or obtained by Lessee with respect to any Hazardous Materials; (iii) copies of any permits issued to Lessee under Environmental Laws with respect to the Premises; (iv) copies of any and all reports, notifications, and other filings made by Lessee to any federal, state, or local environmental authorities or agencies; and (v) any other applicable documents and information with respect to environmental matters relating to the premises. Lessee shall provide City with the results of appropriate reports and tests, with transportation and disposal contracts for Hazardous Materials, with any permits issued under Environmental Laws, and with any other documents necessary to demonstrate that Lessee complies with all Environmental Laws relating to the Premises.

(k) Lessee's Obligation to Respond. If Lessee's Management of Hazardous Materials at the Premises (i) gives rise to liability or to a Claim under any Environmental Law, or any common law theory of tort or otherwise; (ii) causes a threat to, or endangers, the public health; or (iii) creates a nuisance or trespass, Lessee shall, at its sole cost and expense, promptly take all applicable action in response so as to comply with all applicable Environmental Laws and eliminate or avoid any liability claim with respect thereto.

(l) City's Right to Act. In the event that Lessee shall fail to comply with any of its obligations under this Article as and when required hereunder, City shall have the right (but not the obligation) to take such action as is required to be taken by Lessee hereunder and in such event, Lessee shall be liable and responsible to City for all costs, expenses,

liabilities, claims and other obligations paid, suffered, or incurred by City in connection with such matters. Lessee shall reimburse City immediately upon demand for all such amounts for which Lessee is liable.

(m) City represents that City has no knowledge of any substance, chemical, or waste on the Premises that is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Lessee accepts the Premises "AS-IS" after its own inspections of City's Property.

NONDISCRIMINATION

The tenant for himself, his personal representatives, successors interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that the tenant shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. That in the event of breach of any of the above nondiscrimination covenants, Airport Owner shall have the right to terminate the lease and to re-enter and as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

AIRPORT PROTECTION

It shall be a condition of this lease, that the lessor reserves unto 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 real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the airport. That the Tenant expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Federal Aviation Regulations, Part 77. That the Lessee expressly agrees for itself, its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

PROPERTY RIGHTS RESERVED

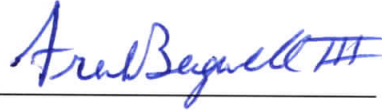
This lease and all provisions hereof are subject and subordinate to the terms and conditions of the instruments and documents under which the Airport Owner acquired the subject property from the United States of America and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the lease of said lands from the Airport Owner, and any existing or subsequent amendments thereto, and are subject to any ordinances, rules or regulations which have been, or may hereafter be adopted by the Airport Owner pertaining to the Avon Park Executive Airport.

EXCLUSIVE RIGHTS

Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this agreement are non-exclusive and the Lessor herein reserves the right to grant similar privileges to another Lessee or other Lessees on other parts of the airport.



Lessor Signature



Lessee Signature

Lessee Information (please print):

Aircraft Description: # Piper Seneca N21382

Name: Frank Bagwell III

Billing Address: 420 Kelly Rd
Frostproof, FL 33843

Email Address: bags1010@gmail.com

PHONE: Cell 863-528-2393 **Other** _____

Emergency Contact

Name Judy Bagwell **Phone** 863-528-1721

Access Card # 01278

Date Revised 7/27/2012