

After Recording Return To: **PORT OF SKAGIT COUNTY**  
**P.O. BOX 348**  
**BURLINGTON, WA 98233**



**200802290176**  
**Skagit County Auditor**

**2/29/2008 Page 1 of 24 3:02PM**

Document Title(s): RESTATED LEASE AGREEMENT

Reference No. of Related Document(s): \_\_\_\_\_

Grantor(s): PORT OF SKAGIT COUNTY

Additional Grantor(s) on page \_\_\_\_\_ of Document: \_\_\_\_\_

Grantee(s): BAYVIEW EXECUTIVE HANGARS, LLC

Additional Grantee(s) on page \_\_\_\_\_ of Document: \_\_\_\_\_

Abbreviated Legal Description: Lots 4, 7, 8, 9 and 10 of Binding Site Plan PL06-0913

Additional Legal Descriptions(s) on page 5 of Document.

Assessor's Parcel/Tax ID Number: P123356/8012-000-080-0500;

P123359/8012-000-080-0800; P123360/8012-000-080-0900;

P123361/8012-000-080-1000; P123362/8012-000-080-1100

RESTATED LEASE AGREEMENT

BETWEEN

PORT OF SKAGIT COUNTY

and

BAYVIEW EXECUTIVE HANGARS, LLC

(with personal guarantee)

Commencement Date:

March 1, 2008

SKAGIT COUNTY WASHINGTON  
REAL ESTATE TAX

FEB 29 2008

America's Best  
Skagit County  
By *Sp* Dec.



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Lessor: Port of Skagit County  
Lessee: Bayview Executive Hangars, LLC

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PORT OF SKAGIT COUNTY

RESTATED LEASE AGREEMENT

THIS AGREEMENT is made as of March 1, 2008, by and between the PORT OF SKAGIT COUNTY, a Washington municipal corporation, ("Lessor,") and BAYVIEW EXECUTIVE HANGARS, LLC, a Washington limited liability company ("Lessee").

**RECITALS**

**WHEREAS**, the Lessor and Martyn Aviation, LLC, a Washington limited liability company ("Martyn") entered into a Lease Agreement, dated July 15, 2003 ("Initial Lease"), concerning property described as Lot 80 of the Amended Skagit Regional Airport Binding Site Plan, Phase 1, recorded under Skagit County Auditor's File Number 200303040030, initially consisting of 73,152 square feet of land; and

**WHEREAS**, the parties entered into an Assignment to Lease with Consent Thereto, First Amendment Thereof and Partial Personal Guarantee, dated June 22, 2004, assigning the Initial Lease to Lessee; and

**WHEREAS**, the Initial Lease was amended by a Second Amendment to Lease Agreement dated November 16, 2004; and

**WHEREAS**, the Initial Lease was amended by a Third Amendment to Lease Agreement dated February 21, 2006; and

**WHEREAS**, Lessee has caused a binding site plan identified as PL06-0913, to be recorded on the Premises under Skagit County Auditor's File Number 200706180136, in accordance with the Initial Lease and plans to construct and sell hangar units on the individual lots created by the binding site plan, whereupon such lots would be leased by the hangar unit purchasers ("Development Plans"); and

**WHEREAS**, Lessee has completed the construction of two (2) hangar units on lots created by the binding site plan which lot should no longer be subject to Lessee's lease with Lessor; and

**WHEREAS**, Lessor and Lessee have agreed to a new, restated lease that reflects the assignment and the amendments set forth above, recognizes the sale of a hangar units, and allows Lessee to carry out its Development Plans;



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Lessor: Port of Skagit County  
Lessee: Bayview Executive Hangars, LLC

**THEREFORE**, and in consideration of their mutual covenants, agreements and undertakings hereinafter contained, the parties hereto do mutually agree to that which is hereinafter set forth, upon and subject to the following terms, conditions, covenants and provisions:

**A. LEASE TERMINATION**

The Initial Lease as assigned and amended is hereby terminated and replaced with the following:

**B. RESTATED LEASE AGREEMENT**

**1. PROPERTY SUBJECT TO THIS LEASE AGREEMENT**

The following described property, which the parties agree is now 40,841 square feet (hereinafter referred to as the "Premises"), situated in Skagit County, State of Washington:

Lots 4, 7, 8, 9 and 10, of the Binding Site Plan entitled PL06-0913 dated June 18, 2007, recorded under Skagit County Auditor's File No. 200706180136, which is part of Lot 80 of the Amended Skagit Regional Airport Phase I Binding Site Plan dated February 28, 2003, recorded under Skagit County Auditor's File No. 200303040030.

Said property is depicted in Exhibit "A" attached hereto and by this reference incorporated herein.

**2. TERM / NEGOTIATED EXTENSION**

a. Term. The term of this Lease shall be for twenty-five (25) years and five (5) months, beginning March 1, 2008, (hereinafter referred to as the "Commencement Date"), and ending July 31, 2033, unless sooner terminated pursuant to any provision of this Lease.

b. Extension by Mutual Agreement: The term of the Lease may be extended by the mutual agreement of the parties at any time before expiration. In the event of an extension, the parties will negotiate a new lease payment reflecting current market conditions. All other terms of the Lease shall remain in full force and effect. Failure of the parties to mutually agree on such an extension or new lease payment shall not be deemed a default by either party.



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3. BUSINESS PURPOSE / USE RESTRICTIONS

It is understood and agreed that Lessee intends to use the Premises for constructing a multiple building/multiple unit leasehold aircraft hangar project and selling the units so created, and to conduct such other activities as are incidental and reasonably related thereto, including but not limited to the creation of aviation-related offices within the hangar buildings. Sublessees or owners of units may engage in commercial activities that are in full compliance with all applicable provisions of this Lease, laws and regulations and only after reaching written agreement with Lessor concerning the type of activity and manner by which it is conducted. It is further understood that the above activities are the only type of activities to be conducted upon the Premises. Failure to perform the above type of activities or cessation of such activities or the carrying on of other type(s) of unauthorized activities shall constitute a material default by Lessee of this Lease. Lessee shall at all times operate on the Premises in a manner which will assure the safe, lawful and healthful use of the Premises. Lessee agrees that it will not disturb the Lessor or any other tenant of the Lessor by making or permitting the construction of overnight accommodations, or use of the facility for overnight stays, nor any disturbances or any unusual noise, vibration or other condition on or in the Premises that is out of character with its use as an aircraft hangar and office facility.

4. RENT

Commencing on March 1, 2008, Lessee shall pay to Lessor, in lawful money of the United States, without any set-off or deduction, in addition to taxes, assessments, and other charges required to be paid hereunder by Lessee, an initial rent for the Premises of ONE THOUSAND TWO HUNDRED SEVENTY SIX DOLLARS AND TWENTY NINE CENTS (\$1,276.29), (hereinafter referred to as "Rent"), plus ONE HUNDRED SIXTY THREE DOLLARS AND EIGHTY EIGHT CENTS (\$163.88) leasehold excise tax, during the term of this Lease. The Rent for each month shall be paid to the Lessor in advance on or before the first day of each and every month of the term of this Lease, and shall be payable at such place as the Lessor may hereinafter designate. The Rent may be further adjusted by the addition of other sums and charges specified elsewhere in this Lease. The Lessor shall have all of the same rights and remedies with respect to any additional rent or charges in the event of nonpayment or late payment as are available to it in the event of nonpayment or late payment of the Rent. The Rent shall be adjusted as provided in the below section entitled "PERIODIC RENT ADJUSTMENTS."

5. PERIODIC RENT ADJUSTMENTS

The Rent shall be adjusted on August 1 ("Change Date") of every year during the lease term. No adjusted Rent shall be less than the Rent being adjusted. The adjustments shall be as follows:



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a. CPI ADJUSTMENT: Commencing on August 1, 2008 and annually on each anniversary of the Change Date, except as provided in the preceding paragraph, Rent shall be adjusted as set forth below in paragraph entitled "PROCEDURE TO DETERMINE ADJUSTED RENT - CPI."

b. MARKET RENT VALUE ADJUSTMENT: Commencing on August 1, 2010 and every third year thereafter, the Rent will be adjusted as set forth below in paragraph entitled "PROCEDURE TO DETERMINE ADJUSTED RENT - MARKET RENTAL VALUE."

6. PROCEDURE TO DETERMINE ADJUSTED RENT - CPI

On the Change Date of each year during the lease term, except as defined below in the paragraph entitled "PROCEDURE TO DETERMINE ADJUSTED RENT - MARKET RENT VALUE," Rent shall be adjusted according to the procedures set forth below in this paragraph:

a. Definitions: The adjusted Rent rate(s) shall be determined in accordance with the formula set forth below. In applying the formula, the following definitions apply:

1) "Bureau" means the U.S. Department of Labor, Bureau of Labor Statistics or any successor agency.

2) "Price Index" means the Consumer Price Index for all Urban Consumers (Seattle-Tacoma-Bremerton) issued from time to time by the Bureau, or any other measure hereafter employed by the Bureau in lieu of the price index that measures the cost of living or if said Bureau should cease to issue such indices and any other agency of the United States should perform substantially the same function, then the indices issued by such other agency.

3) "Current Index" means the Price Index for the month of April most recently preceding the Change Date.

4) "Prior Year Index" means the Price Index for the month of April one year prior to the Current Index.

b. Formula: The adjusted Rent shall be determined by multiplying the Rent rate(s) being adjusted by a multiplier equal to the change in the Price Index since the last adjustment computed as follows:

$$(\text{Current Index}) / (\text{Prior Year Index}) = (\text{Change in Price Index})$$



(Change in Price Index) x (Rent being adjusted) = (Adjusted Rent)

The Price Index (1982-84 = 100) for April, 2007 was 215.8.

Leasehold excise tax shall be adjusted for the amount of Adjusted Rent.

7. PROCEDURE TO DETERMINE ADJUSTED RENT - MARKET RENT VALUE

Commencing on August 1, 2010, and every third year thereafter ("Market Change Date"), the Rent shall be adjusted as follows:

a. Amount: The Rent shall be adjusted to be the market rent value of the Premises, plus applicable leasehold excise tax. Lessor shall notify Lessee, not later than one hundred twenty (120) days prior to the anniversary of the Market Change Date of the year in which market rent value is to be determined, of the amount of new market rent, as determined by the Port Commission. If Lessee does not accept the market rent value determined by Lessor, it shall so notify the Lessor, in writing, ("Notice of Non-Acceptance") within twenty one (21) days of the date it receives notice of the Lessor's determination or Lessee shall be preclusively deemed to have accepted the determination. Upon timely Notice of Non-Acceptance, market rent then shall be established by the procedure in the succeeding paragraph.

b. Procedure If Dispute Regarding Rent Amount: If Lessee timely notifies the Lessor that it rejects the market rent value established by Lessor, then the fair cash value of the Premises shall be determined. For purposes of setting the fair cash market value of the land, each lot of the land shall be considered as a separate, vacant, identifiable tract of real property. Such determination shall be made by a MAI appraiser whose selection shall be by mutual agreement of the parties. If they are unable to agree on the selection within fourteen (14) of Lessee's Notice of Non-Acceptance, then a MAI appraiser shall be selected by the presiding judge of the Superior Court of Skagit County if the Lessee files an action therefore within twenty-eight (28) days of the Lessee's Notice of Non-Acceptance. If such action is not timely commenced, Rent shall be set as determined by Lessor per the first sentence of subsection (a.) of the section entitled "PROCEDURE TO DETERMINE ADJUSTED RENT - MARKET RENT VALUE." Once the fair cash market value of the Premises is determined, the rent amount shall be established based on the Lessor's then established rate of return for comparable leased properties. The cost of the appraisal shall be borne equally by both parties. No party shall be entitled to any statutory or contractual costs or attorney fees related to a petition to appoint an appraiser hereunder.

c. The market rent value adjustment shall be effective on each Market Change Date no matter when it is established pursuant to the above procedure, provided that for every day less than one hundred twenty (120) days prior to each Market



Change Date that the Lessor's notice of determination of market rent called for in subsection (a.) of the section entitled "PROCEDURE TO DETERMINE ADJUSTED RENT - MARKET RENT VALUE" above is provided to Lessee, the effective date of the increase, once established, shall be delayed for an equal number of days beyond each Market Change Date.

## 8. SECURITY FOR RENT

To secure the Rent hereunder, Lessee agrees to provide to Lessor, prior to the Commencement Date, one of the following:

- a. Cash deposit in an amount equal to two (2) months' Rent, plus leasehold tax; or
- b. Rent insurance, bond or other security acceptable to Lessor in an amount equal to one (1) years' Rent, plus leasehold tax; or
- c. Construction or ownership of improvements on the Premises, the value of which is equal to or in excess of one (1) year's Rent, plus leasehold tax, and where ownership of the improvements reverts to Lessor at termination of this Lease. The value of Lessee's improvements for purposes hereof shall be determined by (1) the improvement costs, as set forth in Lessee's building permit application(s); or (2) the value of its building, as determined by the Skagit County Assessor, as the assessed value for tax purposes.

Lessee shall provide security as set forth above by each anniversary of the Commencement Date. Lessor shall refund any security deposit still in its possession to Lessee within thirty (30) days of termination of this Lease, less any amounts owed to Lessor due to Lessee's failure to meet its obligations under this Lease.

## 9. LATE CHARGES

Lessee hereby acknowledges that late payment by Lessee to the Lessor of Rent, or any other sums due hereunder will cause the Lessor to incur costs not otherwise contemplated by this Lease. Accordingly, if any installment of Rent or any other sum due from Lessee shall not be received by the Lessor within ten (10) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay the Lessor a late charge equal to 5% of such overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs the Lessor will incur by reason of late payment by Lessee. Acceptance of such late charge by the Lessor shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent the Lessor from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable in this Lease or otherwise, whether or not collected, for three (3) installments of Rent in any 12 month period, then Rent shall automatically

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become due and payable quarterly in advance, rather than monthly notwithstanding the above section entitled "RENT" or any other provision of this Lease to the contrary. In addition to the late charges provided for in this section, interest shall accrue on Rent, or any other sums due hereunder, at the rate of one and one-half percent (1 1/2%) per month from the date due until paid.

10. CONSTRUCTION OF IMPROVEMENTS / AMENDMENT OF LEASE TO REFLECT HANGAR SALES

a. Lessee intends to construct, in phases, six (6) aircraft hangar buildings on the Premises. The estimated value of all the buildings is expected to exceed ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000), computed on a basis of FORTY DOLLARS (\$40.00) per square foot of building area and assuming the construction of six (6) five thousand (5,000) square foot buildings. Prior to commencement of any construction under this Lease, Lessee and Guarantors shall guarantee the completion of all hangar buildings for which Lessee commences construction. Such guarantee shall include but will not be limited to Lessor's expenses, fees and costs it may incur to complete any building for which a certificate of occupancy is not obtained within six (6) months of the commencement of any construction activity on the Premises.

Lessee shall complete the "rough-in" plumbing in each unit of the hangar buildings to allow each unit owner the ability to complete a finished restroom.

b. Construction of the sixth hangar shall be substantially complete by December 24, 2006. These improvements and any others Lessee intends to construct on the Premises shall be at Lessee's cost. Lessee shall not commence construction of any improvements or alterations (alterations include, but are not limited to structural changes, painting of the exteriors of structures, changes to wiring and plumbing) or install any fixtures (other than fixtures and trade fixtures which can be removed without injury to the Premises) without prior written consent of Lessor and subject to any and all conditions in such approval. Lessee shall submit to Lessor all plans and specifications relating to such construction of improvements, alterations or installation of any fixtures (other than fixtures and trade fixtures which can be removed without injury to the Premises), in accordance with development standards from time to time adopted by the Port Commission. The construction of all improvements, alterations and/or installation of fixtures shall be carried out by Lessee in a first-class manner at its sole cost and expense, and in full compliance with all federal, state, county and other governmental statutory and regulatory requirements. Until the expiration or sooner termination of this Lease, and subject to the provisions of the section entitled, "DISPOSITION OF IMPROVEMENTS AT END OF LEASE," hereof, title to any improvements situated and constructed by Lessee on the Premises and any alteration, change or addition thereto, as well as title to fixtures and articles of personal property attached to or



used in connection with the Premises by Lessee, shall remain solely in Lessee. All other provisions of the Lease shall remain in full force and effect.

c. Upon completion of construction of a hangar unit, its sale to a third person or entity ("Buyer") shall be conditioned upon the Buyer qualifying for and entering into a ground lease with the Lessor on such terms and conditions as are agreeable to Lessor and Buyer. Immediately upon such sale and execution of a ground lease by Lessor and Buyer, this Restated Lease Agreement shall be automatically amended to delete from the Premises that binding site plan lot upon which the hangar unit so sold is located and to adjust the Rent due hereunder in an amount equal to the result of the following equation:

rental rate immediately prior to amendment – (Per Square foot rental rate before amendment x number of square feet deleted) = new rental rate

Such amendment shall become effective on the date that the Buyer's lease with Lessor commences and such amendment shall be evidenced by a written amendment executed by Lessor and Lessee. Buyer's lease with Lessor shall not commence unless and until such amendment is executed by Lessor and Lessee.

#### 11. DISPOSITION OF IMPROVEMENTS AT END OF LEASE

Lessee shall have the right to remove all equipment, personal property and trade fixtures which may have been placed upon the Premises by Lessee during the period of this Lease, provided that the same are removed upon conclusion of the Lease and that the Lease is in good standing. Any such equipment, personal property and trade fixtures not removed from the Premises by the conclusion of the Lease shall revert to Lessor. All other improvements shall become the property of the Lessor. If Lessee does not remove all equipment, personal property and trade fixtures which have been placed on the Premises by Lessee during the period of this Lease and Lessor wants the property removed, then the same shall be removed and stored at Lessee's expense and Lessor shall recover any costs and expenses from the Lessee resulting from the removal. Following removal of said described property, the Premises shall then be restored by Lessee to a condition requiring Lessor to only undertake normal excavation for construction of a new building, or to such other condition approved by Lessor prior to termination of this Lease.

#### 12. CONDITION OF THE PREMISES

Lessee has inspected the property and the sub-surface conditions, and accepts the property in its present condition. Lessee is not relying upon any covenants, warranties or representations of Lessor as to its condition or usability, except Lessor's right to grant a lease of the property. Lessee agrees to make any changes in the Premises necessary to conform to federal, state and local law applicable to Lessee's use of the Premises.



13. LESSEE WILL OBTAIN PERMITS

Lessee shall be solely responsible for obtaining and complying with all permits, approvals or licenses required for the operation and conduct of Lessee's business activities and any approved construction, installation, erection and/or operation of any structures, facilities or equipment, including but not limited to, items constituting alterations or defined as trade fixtures on the Premises. If Lessee fails to obtain and comply with such permits, then Lessee accepts full responsibility for any and all costs incurred by the Lessor, including actual attorney's fees, incurred by Lessor pursuing Lessee's default for its failure to obtain and/or comply with such permits. Lessee agrees to hold the Lessor harmless from any liability and to fully reimburse expenses of the Lessor for Lessee's failure to obtain and/or fully comply with any necessary permit.

14. INSURANCE COVERAGE

a. *Casualty Insurance:* Lessee shall at Lessee's expense maintain on all improvements belonging to Lessor and on all of Lessee's personal property and leasehold improvements and alterations on the Premises, casualty insurance, with extended coverage in the amount of their replacement value.

b. *Liability Insurance:* Lessee shall, at its own expense, maintain throughout the term of this lease, proper liability insurance with a reputable insurance company or companies satisfactory to the Lessor in the minimum of \$1,000,000 single limit liability, and a comprehensive general liability broadening endorsement (and hereafter in such increased amounts to be comparable and consistent with the going or standard coverage in the area for comparable business operations).

c. *Certificates:* The Lessor shall be named as one of the insured, and shall be furnished a copy of such policy or policies or certificate(s) of coverage, or both, at the Lessor's election. Each certificate of insurance shall provide that the insurance policy or policies are not subject to cancellation without at least thirty (30) days advance written notice of such cancellation having been first given to the Lessor.

15. WAIVER OF SUBROGATION

The Lessor and Lessee hereby mutually release each other, and their respective successors or assigns, from any liability and waive all right of recovery against each other from any loss from perils insured against under their respective fire insurance contracts, including any extended coverage endorsements thereto. Provided, that this section shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of Lessor or Lessee.



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16. HOLD HARMLESS PROVISIONS, LIABILITY AND INDEMNITY

The Lessor, its officers, employees and agents, shall not be liable for any injury (including death) or damage to any persons or to any property sustained or alleged to have been sustained by the Lessee or by others as a result of any condition (including existing or future defects in the Premises), or occurrence whatsoever related in any way to the Premises or related in any way to the Lessee's use of the Premises or Lessee's performance under this Lease, except to the extent of such damage caused solely by negligence of the Lessor. Lessee agrees to defend and hold and save the Lessor, its officers, employees and agents, harmless from any and all liability or expense (including expense of litigation) in connection with any such items of actual or alleged injury or damage.

17. PARKING

Lessee shall bear all responsibility to assure that Lessee's leased parking area is available only for Lessee, the hangar owners or sublessees and their guests. Lessee agrees not to use any public streets, rights of way or other properties not included in this Lease for the parking of vehicles.

18. ADVERTISING AND SIGNS

No signs or other advertising matter, symbols, canopies or awnings shall be installed, attached to or painted on the Premises without the prior written approval of the Lessor's executive director, or the executive director's designee.

19. EQUAL OPPORTUNITY

The Lessee covenants and agrees that in the performance of this Lease, the Lessee shall conduct its activities in a manner that will assure fair, equal and nondiscriminatory treatment of all persons regardless of race, creed, sex, marital status or ethnic origin. Notwithstanding any exemption contained in the State or Federal law, the Lessee shall comply with all Federal and State laws, rules or regulations concerning hiring and employment and assuring the service of all patrons, customers, members or invitees without discrimination as to any person's race, creed, sex, marital status or ethnic origin.

20. LAWS AND REGULATIONS

The Lessee agrees, at its sole cost and expense, to conform to, comply with and abide by all lawful rules, codes, ordinances, requirements, orders, directions, laws and regulations of the United States, the State of Washington, and any municipality or agency of any of said entities, including rules and regulations of Lessor, including without limitation those relating to environmental matters, now in existence or hereafter



promulgated, applicable to the Lessee's use and operation of said Premises, including the construction of any improvements thereon, and not to permit said Premises to be used in violation of any of said rules, codes, laws or regulations. Any fees for inspection of the Premises during or for the term of this Lease by any federal, state or municipal officer shall be paid by Lessee. Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of the failure of Lessee to comply with the covenants of this section.

21. **HOLDOVER**

a. **Holdover as Month-to-Month Tenancy.** If Lessee shall, without the written consent of the Lessor, hold over after the expiration of the term of this Lease, such tenancy shall be for an indefinite period of time tenant of suffrage, which tenancy may be terminated as then provided by the laws of the state of Washington. All provisions of this Lease, except those inconsistent with a tenancy at suffrage and Subsection (b), entitled "Rent and Terms," hereof shall remain in effect during such hold over period.

b. **Rent and Terms.** During such tenancy, the Lessee agrees to pay to Lessor a monthly rent equal to one and one-quarter (1-1/4) times the most recently required monthly rent amount applicable for the month in which the term hereof expired or was terminated (which the parties acknowledge is reasonable) plus leasehold excise tax.

22. **ENVIRONMENTAL PROVISIONS**

This section delineates the Lessor's and the Lessee's rights and obligations with respect to the release, spillage, storage, transportation or any other aspect of handling hazardous or toxic materials of any nature ("Hazardous Material") regulated by federal and/or state law ("Hazardous Material Regulation")

a. Lessee covenants to defend, indemnify, and hold Lessor harmless ("Indemnify") from any imposition or attempted imposition by any person upon Lessor of any obligation or cost ("liability") of whatever form, including, without limitation, damages; claims; governmental investigations, proceedings or requirements; attorney fees in investigation, at trial or administrative proceeding, or on appeal; witness or consultant costs; or any other liability to the extent that such liability arises from a violation, or alleged violation, or from the failure to satisfy a requirement, or alleged requirement, of any Hazardous Material Regulation and/or any environmental or land use law or regulation or arising from the release, spillage, or any other mishandling or misuse of any Hazardous Material causing damage to the property of, or resulting in injury to, any third any person, and proximately resulting from use of the Premises during the term of this Lease, and without regard



to when the liability is asserted.

b. In like manner as in subsection (a.) above, so Lessor shall Indemnify Lessee solely for liability proximately resulting from use of the Premises prior to the commencement of this Lease, or from conditions caused by Lessor subsequent to the Commencement Date.

c. Lessor represents and Lessee acknowledges that Lessor has visually inspected the Premises for legally impermissible Hazardous Material contamination and that none was apparent on the surface of the Premises from a visual inspection as of the date of this Lease. Without waiving its right to enforce the Lessor's duties set forth in subparagraph (b) above, Lessee releases any and all claims against Lessor for the costs to remediate, or pay damages or penalties to any third party due to, any Hazardous Material Contamination which henceforth may be discovered on the Premises, including payment of all attorney fees and claims of loss of, or interference with, use of the Premises.

d. Any other provision of this Lease to the contrary notwithstanding, Lessee's breach of any covenant contained in this section shall be an event of default empowering Lessor, in addition to exercising any remedy available at law or in equity, to terminate this Lease and to evict Lessee from the Premises forthwith in the manner provided by law and herein.

e. Lessee shall notify Lessor within twenty-four (24) hours of its discovery of any release of a reportable quantity of any Hazardous Material, or of the receipt by Lessee of any notices, orders or communications of any kind from any governmental entity which relate to the existence of or potential for Hazardous Material or environmental pollution of any kind existing on or resulting from the use of the Premises or any activity conducted thereon. If Lessee fails to comply with any of the requirements of this section, Lessor may undertake, without cost or expense to Lessor, any actions necessary to protect Lessor's interest including steps to comply with such laws.

#### 23. MAINTENANCE / COMMIT NO WASTE

The Lessee shall at all times during the term of this Lease maintain the Premises in good condition and shall, at its sole cost and expense, keep the Premises and the adjoining driveways, walkways and landscaping neat, clean and in a safe and sanitary condition. Lessee agrees not to allow conditions of waste and refuse to exist on the Premises.

#### 24. UTILITIES

Lessee agrees to contract with the appropriate provider and pay for all public utilities which shall be used in or charged against the Premises, and to hold the Lessor



harmless from such charges. With regard to utilities provided by the Lessor including drainage, Lessee will pay to Lessor according to the Lessor's or Skagit County Drainage Utility/Drainage District 19's established rate.

25. LIENS AND INSOLVENCY

Lessee shall keep the Premises free from any liens arising out of work performed, materials furnished, or obligations incurred by Lessee. In the event Lessee becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of the Lessee, then the Lessor may cancel this Lease at Lessor's option.

26. TAXES

Lessee shall pay any taxes on the Premises and/or on the leasehold interest created by this lease and/or any activity arising under this Lease.

27. COSTS AND ATTORNEYS' FEES

If by reason of default on the part of either party to this Lease agreement it becomes necessary to employ an attorney to recover any payments due hereunder or to enforce any provision of this Lease, the prevailing party, whether such party be the successful claimant or the party who successfully defended against the claim of the other party, shall be entitled to recover a reasonable attorney's fee and to be reimbursed for such costs and expenses as may have been incurred by such prevailing party, including those incurred on appeal.

28. TERMINATION

Upon termination of this Lease or any extension thereof, whether by expiration of the stated term or sooner termination thereon as herein provided, Lessee shall surrender to Lessor said Premises peaceably and quietly and in the condition required under the paragraphs entitled "MAINTENANCE/COMMIT NO WASTE" and "DISPOSITION OF IMPROVEMENTS AT END OF LEASE."

29. DEFAULT AND RE-ENTRY

Time is of the essence of this agreement. (i) If (a) any Rent or other payment due from Lessee hereunder remains unpaid for more than ten (10) days after the date it is due; (b) Lessee files a voluntary petition in bankruptcy or makes a general assignment to the benefit of, or a general arrangement with, creditors; (c) there is an involuntary bankruptcy filed against Lessee that has not been dismissed within thirty (30) days of filing; (d) Lessee becomes insolvent; or (e) a receiver, trustee, or liquidating officer is appointed for Lessee's business; or (ii) If Lessee violates or breaches any of the other covenants, agreements,



stipulations or conditions herein, and such violation of breach shall continue for a period of thirty (30) days after written notice of such violation or breach is sent to Lessee, or upon Lessor's discovery that Lessee made any misrepresentation (including omissions) of any fact or circumstance material to the Lessor's initial determination of the Lessee's suitability to become a tenant of the Lessor, then Lessor may at its option, declare this Lease forfeited and the term hereof ended, or without terminating this Lease elect to re-enter and attempt to relet, in which event Lessee authorizes Lessor to relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rent or rents and upon such other terms and conditions as Lessor in its sole discretion deems advisable. Upon each such reletting, all rents received by Lessor from such reletting shall be applied, first, to the payment of any amounts other than Rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting and renovation, including brokerage fees and attorneys' fees; third, to the payment of Rent due and unpaid hereunder, and the residue, if any shall be held by Lessor and applied to payment of future Rent as the same may become due and payable hereunder. If rent received from such reletting during any month are less than that to be paid during that month by Lessee hereunder, Lessee shall pay any such deficiency to Lessor, and Lessee covenants and agrees to pay Lessor for all other expenses resulting from its default, including, but not limited to, brokerage commissions, attorneys fees and the reasonable cost of converting the premises for the benefit of the next lessee. Delinquent Rent and other payments shall bear interest at the rate of eighteen percent (18%) per annum from the date due until paid. In the event of any default hereunder and entry in, or taking possession of, the Premises, Lessor shall have the right, but not the obligation, to remove from the Premises all personal property located therein, and may store the same in any place selected by Lessor, including but not limited to a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, with the proceeds of such sale to be applied to the cost of such sale and to the payment of charges for storage, and to the payment of any other sums of money which may then be due from Lessee to Lessor under any of the terms hereof.

### 30. ASSIGNMENT AND SUBLEASE

Subject to the provisions of the section entitled "CONSTRUCTION OF IMPROVEMENTS / AMENDMENT OF LEASE TO REFLECT HANGAR SALES," Lessee shall not, by operation of law or otherwise, assign or sublease any portion of the Premises without Lessor's prior written consent. The consent of Lessor to any assignment or sublease shall not in any manner be construed to relieve Lessee from: (1) the requirement to obtain Lessor's express written consent to any other or further assignment or sublease; (2) its duties and obligations under the Lease. As a condition to any assignment or sublease, Lessor may revise the rent to be consistent with its then current rent policy. The sale or transfer (whether in a single transaction or cumulatively) of fifty percent (50%) or more of the equity in Lessee shall be considered an assignment.



31. LESSOR'S RIGHT TO ENTER PREMISES

Lessor and/or its authorized representatives shall have the right to enter the Premises at all reasonable times for any of the following purposes:

- a. To determine whether or not the Premises are in good condition or whether the Lessee is complying with its obligations under this Lease;
- b. To do any necessary maintenance and to make any restoration to the Premises that the Lessor has the right or obligation to perform;
- c. To post "For Rent" or "For Lease" signs during any period that the Lessee is in default;
- d. To repair, maintain or improve the Premises; and
- e. To do any other act or thing necessary for the safety or preservation of the Premises.

Except in the event of bona fide emergencies, Lessor shall provide notice to Lessee not less than twenty-four (24) hours in advance of any such inspection.

Lessor shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of the Lessor's entry onto the premises as provided in this section. Lessor shall conduct its activities on the Premises as provided herein in a manner that will cause the least inconvenience, annoyance or disturbance to the Lessee.

Lessee understands that the Premises is within the Lessor's Bayview Business and Industrial Park, situated in Industrial Development District No. 1. Lessor has or may promulgate and adopt resolutions, regulations and covenants for the orderly development, maintenance, care and control of all property within said district. The same effect Lessee's use of the Premises. Lessee agrees to comply with such resolutions, regulations and covenants in force as of the date of this Lease and all other resolutions, regulations and covenants which may be promulgated by Lessor and which shall not discriminate against Lessee and which do not prevent the conduct of Lessee's business operations.

32. RETENTION OF AIRSPACE RIGHTS BY LESSOR

Lessor retains the public and private 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 airspace such noise as may be inherent in the operation of aircraft, now known or as hereinafter used, for navigation of or flight in said airspace and for use of said airspace for taking off from, landing on or operating at Skagit Regional Airport.



33. FEDERAL AVIATION ADMINISTRATION REQUIREMENTS

Lessee agrees:

a. To prevent any operation on the Premises which would produce electromagnetic radiation of a nature which would cause interference with any existing or future navigational aid or communication aid serving Skagit Regional Airport, or which would create any interfering or confusing light or in any way restrict visibility at the Airport; and

b. To prevent any use of the Premises which would interfere with landing or taking off of aircraft at Skagit Regional Airport, or otherwise constitute an aviation hazard.

34. NOTICES

All notices or payment hereunder may be delivered or mailed. Below are the addresses of the parties:

LESSOR: Port of Skagit County  
15400 Airport Drive  
P. O. Box 348  
Burlington, WA 98233

Phone: (360) 757-0011  
FAX: (360) 757-0014

LESSEE: Bayview Executive Hangars, LLC  
5503 Vale Street  
Anacortes, WA 98221

Phone: (360) 293-3654  
FAX: (360) 293-4369

35. TIME IS OF THE ESSENCE

It is mutually agreed and understood that time is of the essence of this Lease and that a waiver of any default of Lessee shall not be construed as a waiver of any subsequent default, and that any notice required to be given under this lease may be given by United States Mail addressed to the party identified in the paragraph entitled "NOTICES" of this Lease, or to such other address(es) that either may hereafter provide in writing to the other party for such purpose.



IN WITNESS WHEREOF, Lessor has caused this instrument to be signed by its executive director, on the date and year first above written.

**LESSOR:**  
PORT OF SKAGIT COUNTY

Patricia Botsford Martin  
Patricia Botsford Martin, Executive Director

2/28/08  
Date

IN WITNESS WHEREOF, Lessee has caused this instrument to be signed by a member of Bayview Executive Hangars, LLC on the date and year set forth below.

**LESSEE:**  
BAYVIEW EXECUTIVE HANGARS, LLC

By Brian Hoffarth  
Member

Brian Hoffarth  
Print Name

2-28-08  
Date

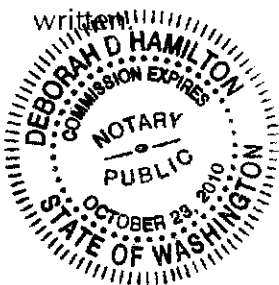




STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 28<sup>th</sup> day of February 2008, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brian K. Hofferth, to me known to be a member of Bayview Executive Hangars, LLC, a Washington limited liability company, the company that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute the same and that the seal affixed is the corporate seal of said company.

Witness my hand and official seal hereto affixed the day and year first above

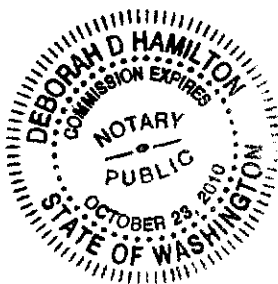


Deborah D. Hamilton  
Notary Public in and for the state of  
Washington, residing at Burlington, WA  
My commission expires: 10-23-10  
Printed Name: Deborah D. Hamilton

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 28<sup>th</sup> day of February, 2008, before me, personally appeared Brian Kent Hofferth, to me known to be the individual described in and who executed the within instrument and acknowledged he signed and sealed the same as his free and voluntary act and deed for the uses and purposes herein mentioned.

Witness my hand and official seal hereto affixed the day and year first above written.



Deborah D. Hamilton  
Notary Public in and for the state of  
Washington, residing at Burlington WA  
My commission expires: 10-23-10  
Printed Name: Deborah D Hamilton

Lessor: Port of Skagit County  
Lessee: Bayview Executive Hangars, LLC

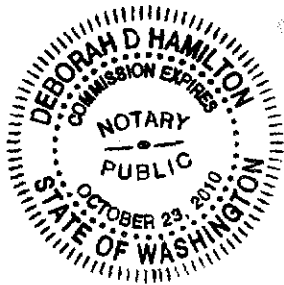


200802290176  
Skagit County Auditor

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 28<sup>th</sup> day of February, 2008, before me, personally appeared Elizabeth Jane Ray, to me known to be the individual described in and who executed the within instrument and acknowledged she signed and sealed the same as her free and voluntary act and deed for the uses and purposes herein mentioned.

Witness my hand and official seal hereto affixed the day and year first above written.



Deborah D. Hamilton  
Notary Public in and for the state of  
Washington, residing at Burlington WA  
My commission expires: 10-23-10

Printed Name: Deborah D. Hamilton



200802290176  
Skagit County Auditor

Lessor: Port of Skagit County  
Lessee: Bayview Executive Hangars, LLC

**Skagit Surveyors & Engineers**  
 306 Melcott St., Sedro-Woolley, WA 98284 Phone: (360) 955-2121 FAX: (360) 955-1558  
 LICENSE NO. 17851 EXPIRES 8/24/2007



**SURVEYOR'S CERTIFICATE**  
 This map correctly represents a survey made by me or under my direction in conformance with the 2006 of the request of Governor including Hangars LLC.

Date: 5/15/08  
 John L. Abbott, CERT#17851

**ADULTOR'S CERTIFICATE**  
 I, \_\_\_\_\_, Auditor of Skagit County, do hereby certify that this map is a true and correct copy of the original on file in my office.

Date: 5/15/08  
 \_\_\_\_\_, Auditor of Skagit County

Binding Site Plan No. **PL06-0913**

Survey in the SE1/4 of the SW1/4 and in the SW1/4 of the Section 34, Twp. 35 N., Rng. 3 E., W.M.

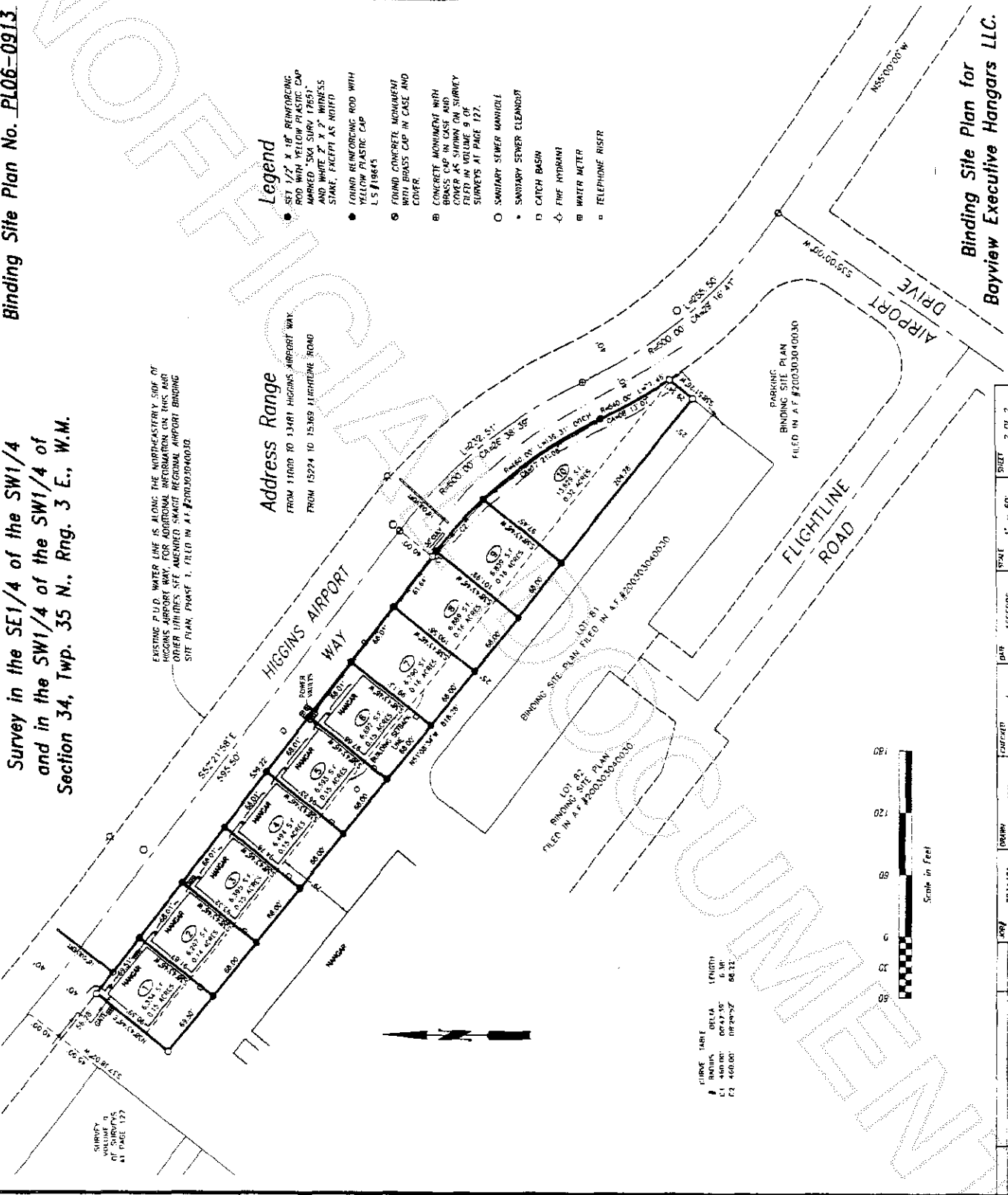
EXISTING P.U.D. WATER LINE IS ALONG THE INTERSECTION CORNER OF HIGGINS AIRPORT WAY AND THE INTERSECTION CORNER OF HIGGINS AIRPORT WAY AND THE INTERSECTION CORNER OF HIGGINS AIRPORT WAY AND THE INTERSECTION CORNER OF HIGGINS AIRPORT WAY.

**Address Range**  
 FROM 11800 TO 13181 HIGGINS AIRPORT WAY  
 FROM 15294 TO 15169 HIGHWAY ROAD

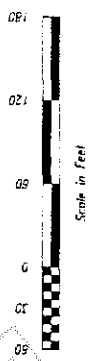
**Legend**

- SET 1/2" x 18" REINFORCING ROD WITH YELLOW PLASTIC CAP MARKED "SKA SURV 17851" AND WHITE "Z, Y, Z" MINUS SIGN, ACCEPT AS NOTED
- FOUND REINFORCING ROD WITH YELLOW PLASTIC CAP L.S. #19845
- FOUND CONCRETE MONUMENT WITH BRASS CAP IN CASE AND COVER
- CONCRETE MONUMENT WITH BRASS CAP IN CASE AND COVER AS SHOWN ON SURVEY FILED IN VOLUME 9 OF SURVEYS AT PAGE 127.
- SANITARY SEWER MANHOLE
- SANITARY SEWER CLEANSOUT
- CATCH BASIN
- FIVE INCH DIAM
- WATER METER
- TELEPHONE RISER

Binding Site Plan for Bayview Executive Hangars LLC.



MARK	HGT	BEHA	LENGTH
1	400.00'	0043.95'	6.00'
2	400.00'	0043.95'	6.00'



TITLE	DATE	REVISION	BY	CHKD	APP'D	DATE	DESCRIPTION



200802290176  
 Skagit County Auditor