

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



200803130041  
Skagit County Auditor

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Document Title(s): 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: Lt 81 Amended Skagit Regional

Additional Legal Descriptions(s) on page \_\_\_\_\_ of Document. Airport BSP  
Phase 1

Assessor's Parcel/Tax ID Number: P120186

SKAGIT COUNTY WASHINGTON  
REAL ESTATE TAX

MAR 13 2008

Amount Due  
Skagit Co. Treasurer  
By MF

LEASE AGREEMENT

BETWEEN

PORT OF SKAGIT COUNTY

and

Bayview Executive Hangars, LLC

Commencement Date:  
December 1, 2004



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

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

## LESSOR OF SKAGIT COUNTY

### LEASE AGREEMENT

THIS LEASE AGREEMENT, hereinafter referred to as "this Lease," is made 11-12-04, by and between the PORT OF SKAGIT COUNTY, a Washington municipal corporation, hereinafter referred to as "Lessor," and BAYVIEW EXECUTIVE HANGARS, LLC, a Washington limited liability company, hereinafter referred to as "Lessee."

### WITNESSETH:

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:

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

The following described property (hereinafter referred to as the "Premises"):

Lot 81 of the Amended Skagit Regional Airport Binding Site Plan – Phase 1, as recorded on March 4, 2003, under Auditor's File No. 200303040030.

The Premises include approximately .84 acres (36,590 square feet) and is depicted in a drawing attached as Exhibit "A" and by this reference incorporated herein.

Situated in County of Skagit, State of Washington.

#### 2. TERM

The term of this Lease shall be for thirty (30) years, beginning December 1, 2004, (hereinafter referred to as the "Commencement Date"), and ending November 30, 2034, unless sooner terminated pursuant to any provision of this Lease. This Lease may be terminated without cause upon thirty (30) days written notice to Lessor until June 1, 2005, provided that Lessee does not make any physical changes to the Premises until after June 1, 2005.



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### 3. BUSINESS PURPOSE / BASE LINE ACTIVITY

a. **Business Purpose:** It is understood and agreed that Lessee intends to use the Premises for constructing a multiple unit aircraft hanger to be used for the storage of aircraft, 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 offices not to be used for commercial activities within the hangar buildings. 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 any disturbances or any unusual noise, vibration or other condition on or in the Premises.

b. **Baseline Activity:** Lessee currently employs zero (0) permanent full-time employees on-site, and will maintain at least that number during the term of this Lease.

### 4. RENT

Commencing on June 1, 2005 or when said building is substantially complete, whichever is sooner, 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 NINE HUNDRED THREE DOLLARS and THIRTY-TWO CENTS (\$903.32) per month, plus leasehold 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

Rent shall be adjusted on December 1 (Change Date) of every year during the lease term. The adjustment shall be according to the procedures set forth in the sections entitled PROCEDURE TO DETERMINE ADJUSTED RENT – CPI and PROCEDURE TO DETERMINE ADJUSTED RENT – MARKET RENT VALUE.



6. PROCEDURE TO DETERMINE ADJUSTED RENT - CPI

On December 1 (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 August most recently preceding the Change Date.

4) "Prior Year Index" means the Price Index for the month of August 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:

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

$$\diamond (\text{Change in Price Index}) \times (\text{Rent being adjusted}) = (\text{Adjusted Rent})$$

$$\diamond \text{The Price Index (1982-84} = 100) \text{ for August 2004 was 194.6.}$$

7. PROCEDURE TO DETERMINE ADJUSTED RENT - MARKET RENT VALUE

Commencing on December 1, 2007 and each third year thereafter, the rent shall be adjusted as follows:

a. Amount: The rent shall be adjusted to be the market rent value of the Premises. Lessor shall notify Lessee of the amount as determined by the Port Commission. If the rent amount is not acceptable to the Lessee, the market rent value shall be established by the procedure in the succeeding paragraph.

b. Procedure If Dispute Regarding Rent Amount: If the parties cannot agree on the market rent value, then the fair cash market value of the Premises shall be determined. For purposes of setting the fair cash market value of the land, 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, then a MAI appraiser shall be selected by the presiding judge of the Superior Court of Skagit County upon the petition of either party. 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 leased properties. The cost of the appraisal shall be borne equally by both parties.

#### 8. SECURITY FOR RENT

To secure the rent hereunder, Lessee agrees to furnish to Lessor a cash deposit in an amount equal to two (2) months' rent or other security approved by Lessor prior the Commencement Date; *provided*, that Lessee may receive a full refund of its deposit at such time as it provides Lessor with documentation that its expenses on improvements constructed on the Premises total TWELVE THOUSAND TWO HUNDRED THIRTY-ONE DOLLARS and SEVENTY-TWO CENTS (\$12,231.72). The 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 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

Lessee intends to construct a multiple unit aircraft hanger on the Premises. Each unit shall include rough-in plumbing restroom facilities to serve the users of the building. Construction of the building shall be substantially complete by May 31, 2005. Appropriate landscaping to be approved by the Lessor shall be necessary part of any improvements. 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, 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.

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

Lessee shall have the right to remove all equipment, personal property, improvements 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, improvements 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; 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; and 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 the 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, occasioned 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.

#### 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. OFF STREET PARKING

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 on a month-to-month tenancy, 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 month-to-month tenancy 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.

## 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 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. 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, 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.

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, 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

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.

The foregoing notwithstanding, Lessee represents that it may subject the Premises to a single condominium regime under the provisions of the Washington Condominium Act, and that it intends to comply fully with the provisions of RCW 64.34.220. Any such Condominium Declaration ("Declaration") shall be subordinate to this Lease, apply to all buildings and units constructed by Lessee and shall provide for a single condominium association to include all buildings, units and unit owners. Lessee shall provide to Lessor for its approval a true copy of the proposed Declaration not less than twenty (20) days after mutual acceptance of this Lease. Pursuant to RCW 64.34.220(2) and (3), the Declaration shall provide that the condominium association shall collect from unit owners rent and that it shall, in any event, pay rent hereunder for all the condominium owners and act as the owners' exclusive representative. Further, the Declaration shall provide that no unit owner shall: (1) have standing to intervene in any judicial proceeding between Lessor and Lessee; (2) be entitled to partially cure any default by Lessee; or (3) be entitled to engage in commercial activity on the premises. The Declaration shall not be recorded nor any portion of the improvements sold unless and until the Declaration is approved by Lessor, which approval shall not be unreasonably withheld.



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Lessee: Bayview Executive Hangars, LLC

Following the creation of any condominium, Lessee may assign its rights and obligations hereunder to the unit owners association of the condominium which will become the Lessee under this Lease for all purposes, from the moment of its incorporation; *provided* that the Initial Lessee shall nonetheless remain liable for all of Lessee's obligations hereunder until all units are sold by the Initial Lessee. Written notice of such assignment and a copy of any document carrying out the assignment shall be provided to Lessor within seven (7) days of assignment. Claims based on acts or omissions during the Initial Lessee's tenancy, and based on the provisions in the Lease Agreement, shall survive after all units are sold against the Initial Lessee to the extent allowed by law.

### 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.



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Lessee understands that the property here in before described 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 property here in before described. 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.

### 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 property hereinbefore described, together with the right to cause in said airspace such noise, exhaust, fumes, disturbance, and invasion of privacy 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. SUBDIVISION / ASSIGNMENT OF PORTIONS OF PREMISES

It is expressly understood and agreed that Lessee may elect to develop two or more separate buildings on the premises rather than one building spanning the entire premises, and that Lessee may elect to obtain a division of the Premises into two or more lots through legal subdivision, binding site plan or any other lawful means as may be approved by the Skagit County Planning Department ("Subdivision"). Such Subdivision, if in compliance with the terms herein set forth, is acknowledged hereby as an enhancement to the usefulness of the Premises. Any such Subdivision shall be at Lessee's option and expense, subject to the approval of Lessor, which shall not be unreasonably denied.

Lessee shall submit to Lessor for approval, within fourteen (14) days of submittal, any proposed binding site plan prior to submission to Skagit County. Said proposed binding site plan shall be consistent with Lessor's existing binding site plan and not interfere with access to or uses upon other properties within the existing binding site plan. Any Subdivision shall comply with all federal, state and local regulations. Lessee shall provide to Lessor one copy of the preliminary and final binding site plan as approved by Skagit County.

Upon the approval and completion of such Subdivision, Lessee may assign its leasehold in individual divided lots, subject to the approval of Lessor. Any lots so divided shall thereafter be separate leaseholds, and all of the terms of this lease shall be in force the same as if the divided lots had each been leased originally under identical terms as those hereunder, except that the divided lots may not be further divided. The adjusted rent for such segregated leaseholds shall be in direct proportion to that divided lot's respective share of the total area originally leased hereunder. Upon approval of such division, Lessor





shall prepare and execute a restated or amended lease for the newly-divided leasehold(s), incorporating the terms of this Lease as a master form, and setting forth the readjusted rent thereafter applicable to such divided lots.

**34. FEDERAL AVIATION ADMINISTRATION REQUIREMENTS**

Lessee agrees:

- a. To prevent any operation on the Premises which would produce electromagnetic radiation's 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

**BALANCE OF PAGE INTENTIONALLY LEFT BLANK**



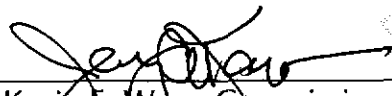
35. TIME IS OF THE ESSENCE

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.

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

LESSOR:  
PORT OF SKAGIT COUNTY

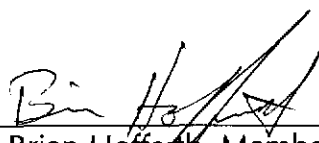
LESSEE:  
BAYVIEW EXECUTIVE HANGARS, LLC

  
\_\_\_\_\_  
Kevin E. Ware, Commission President  
Jerry Kaufman, Vice Pres.  
11-16-04


Date

  
\_\_\_\_\_  
Glenn B. Allen, Commission Secretary  
11-16-04

Date

  
\_\_\_\_\_  
Brian Hoffert, Member / Manager  
11-12-04

Date

  
\_\_\_\_\_  
James Martyn, Member  
11/12/04

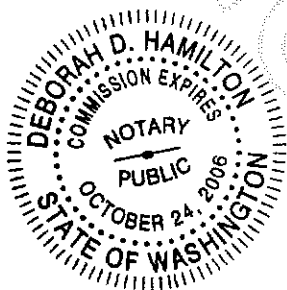
Date



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 16<sup>th</sup> day of November 2004 before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared Kevin E. Ware and Glenn B. Allen, to me known to be the president and secretary, respectively, of the Port Commission of the Port of Skagit County, a municipal corporation, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they/he/she is/are authorized to execute the said instrument,

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

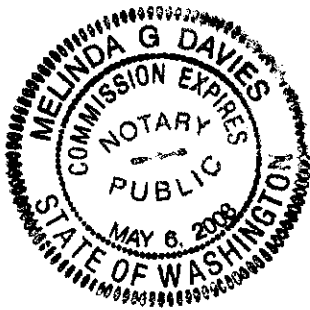


Deborah D. Hamilton  
Notary Public in and for the state of  
Washington, residing at Burlington  
My commission expires: 10-24-06  
Printed Name: Deborah D. Hamilton

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 17<sup>th</sup> day of November 2004 before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared Brian Hofferth and James Martyn, to me known to be members of the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they/he/she is/are authorized to execute the said instrument,

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



Melinda G. Davies  
Notary Public in and for the state of  
Washington, residing at Burlington  
My commission expires: 5/6/08  
Printed Name: Melinda G. Davies



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Skagit County Auditor

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

36. PERSONAL GUARANTEE

BRIAN KENT HOFFERTH and ELIZABETH JANE RAY, husband and wife, and the marital community thereof, as "Guarantor," hereby personally guarantee Lessee's obligations to complete improvements as set forth in Paragraph 10 of the Lease Agreement, "CONSTRUCTION OF IMPROVEMENTS," and hereby agree unconditionally to indemnify and hold harmless the Lessor for any cost, expense or fee incurred by the Lessor in the event Lessee fails to complete improvements as required in said Paragraph 10. This personal guarantee is in addition to any other remedies available to the Lessor.

**GUARANTOR:**

Brian Kent Hofferth  
Brian Kent Hofferth

11-12-04  
Date

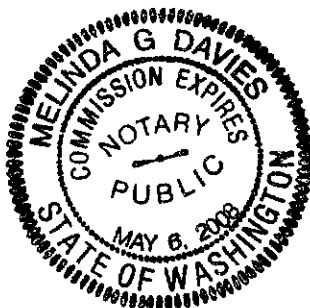
Elizabeth Jane Ray  
Elizabeth Jane Ray

11-12-04  
Date

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

On this 12<sup>th</sup> day of November, 2004, before me, personally appeared Brian Kent Hofferth and Elizabeth Jane Ray, husband and wife, to me known to be the individuals 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.



Melinda G. Davies  
Notary Public in and for the state of  
Washington, residing at Burlington  
My commission expires: 5/6/08

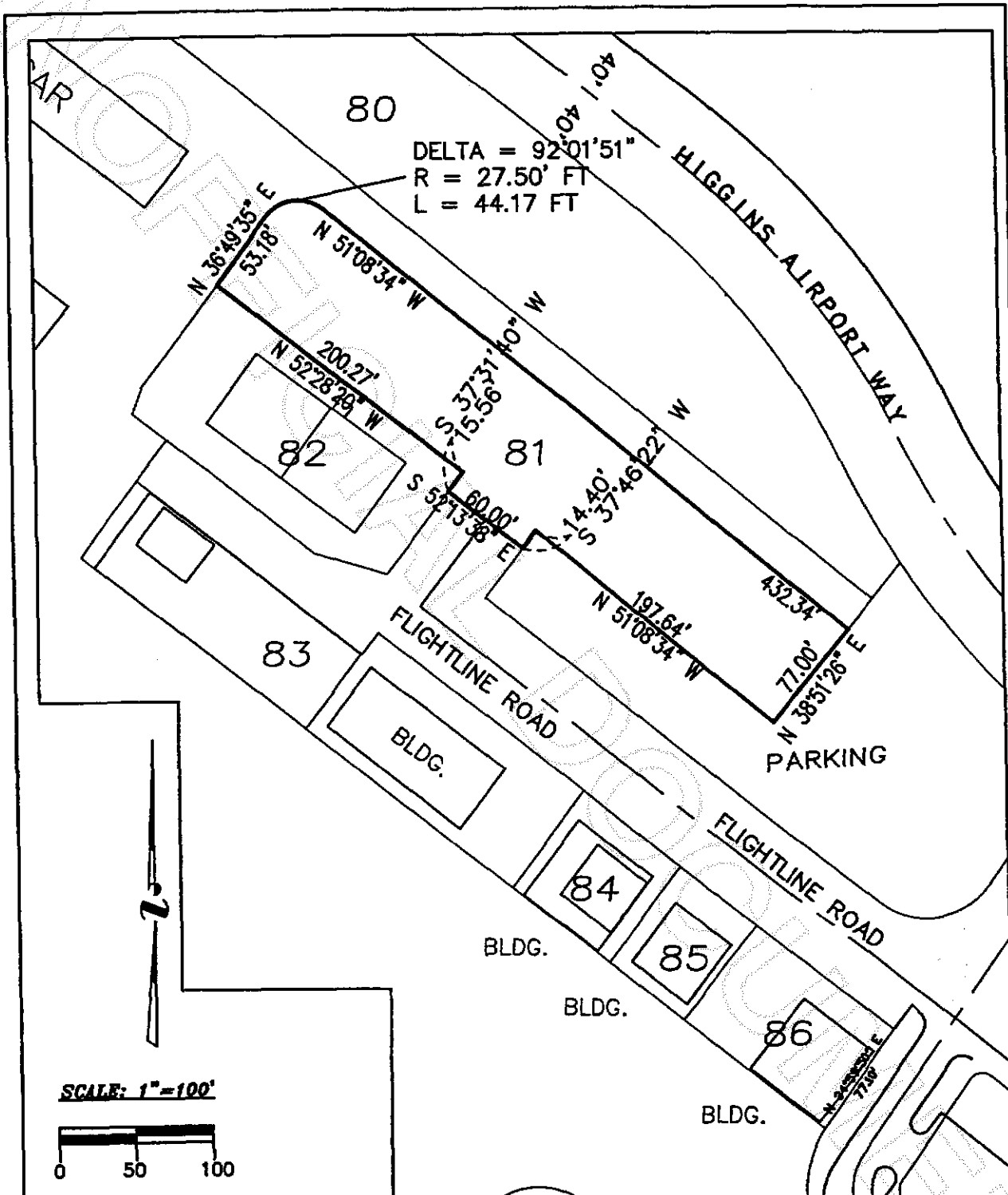
Printed Name: Melinda G. Davies

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



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Skagit County Auditor

# Exhibit "A"



NOTE:  
REFER TO AMENDED SKAGIT REGIONAL  
AIRPORT BINDING SITE PLAN, PHASE 1  
FOR EASEMENTS THAT MAY AFFECT THIS PROPERTY

LOT 81  
15263 FLIGHTLINE ROAD  
36,562 SQ. FT. (0.84 AC.)



**Leonard, Boudinot & Skodje Inc.**  
PROFESSIONAL ENGINEERS & LAND SURVEYORS  
803 South First Street, P.O. Box 1228  
Mount Vernon, WA 98273  
Tel: 360-338-5751 Fax: 360-338-3981

PROJECT

EXHIBIT MAP  
FOR  
LOT NO. 81

DRAWING NO.  
81  
JOB #



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Skagit County Auditor