

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

ORDINANCE NO. 2015-1343

AN ORDINANCE

TO APPROVE THE LEASE OF CERTAIN LAND AT THE LANCASTER COUNTY AIRPORT TO MILLER AVIATION, LLC; AND TO AUTHORIZE COUNTY OFFICIALS TO TAKE SUCH ACTIONS AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS ORDINANCE.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings.

The Lancaster County Council finds that:

(a) the County owns the land and improvements where the Lancaster County Airport is located;

(b) Miller Aviation, LLC (the "Company") proposes to lease from the County at the Lancaster County Airport two maintenance hangars and an adjacent apron area, including two shade ports and three tie-down spaces (the "Property") and to use the Property for aircraft maintenance and repair; and

(c) the public benefits to be received by the County for the lease of the Property to the Company are fair and reasonable compensation.

Section 2. Approval of Lease; Authority to Execute.

A. The County Administrator is authorized, empowered and directed, in the name of and on behalf of Lancaster County, to execute, acknowledge, and deliver a lease by and between the Company and Lancaster County, providing for the lease of the Property to the Company (the "Lease"). The form of the Lease is attached hereto as Exhibit A and all terms, provisions and conditions of the Lease are incorporated herein by reference as if the Lease were set out in this ordinance in its entirety. By adoption of this ordinance, County Council approves the Lease and all of its terms, provisions and conditions. The Lease is to be in substantially the form as

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attached to this ordinance and hereby approved, or with such minor changes therein as shall be approved by the officials of Lancaster County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Lease attached to this ordinance.

B. County Council authorizes and approves the lease of the Property to the Company.

Section 3. Authority to Act.

The Council Chair, Secretary and Clerk, the County Administrator and County Attorney, each are authorized to take such actions and to execute such documents as may be necessary to effectuate the purposes of this ordinance.

Section 4. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 5. Conflicting Provisions.

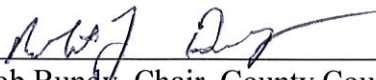
To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 6. Effective Date. This ordinance is effective upon Third Reading.

AND IT IS SO ORDSINED

Dated , this 23rd day of March, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

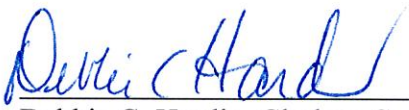


Bob Bundy, Chair, County Council



Steve Harper, Secretary, County Council

ATTEST:



Debbie C. Hardin, Clerk to Council

First Reading: February 23, 2015
Second Reading: March 9, 2015
Public Hearing: March 23, 2015
Third Reading: March 23, 2015

Exhibit A to Ordinance No. 2015-1343

**Lease
Lancaster County and Miller Aviation, LLC
Certain Maintenance Hangars and Apron Area at the Lancaster County Airport**

See attached.

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THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE UNIFORM ARBITRATION ACT, SECTION 15-48-10, ET SEQ., CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED.

LAND LEASE, USE AND OPERATING AGREEMENT
BETWEEN
LANCASTER COUNTY, SOUTH CAROLINA
AND
Miller Aviation, LLC

THIS AGREEMENT ("Agreement"), made and entered into this _____ day of _____ 2015, by and between **COUNTY OF LANCASTER**("Lessor"), and **Miller Aviation, LLC**, a South Carolina limited liability corporation ("Lessee").

WITNESSETH

WHEREAS, The County is the owner and operator of the Lancaster County Regional Airport ("Airport") which is located in Lancaster County, State of South Carolina; and

WHEREAS, Lessee desires to lease and use two maintenance hangars on certain Airport land and/or improvements and/or engage in certain Aeronautical Activities ("Activity" or "Activities") at the Airport; and

WHEREAS, The County desires to lease to Lessee and allow the use and/or operation on certain Airport land at the Airport to Lessee, in accordance with the terms herein and to grant access to Lessee to the premises for such term and conditions as defined herein.

NOW, THEREFORE, for and in consideration of the rents, fees, covenants, promises, and agreements contained herein, and for other good and valuable consideration, County and Lessee agree as follows:

SECTION 1. GENERAL

A This agreement embraces the entire lease agreement of the parties mentioned herein pertaining to the hangar "Hangar" and portion of adjacent apron and no statement, remark, agreement, or understanding, either oral or written, not contained herein shall be recognized or enforced as it pertains to the lease of the land, except that this agreement may be modified by written addendum agreed to and signed by all pertinent parties and attached hereto.

B. The "Section" captions and headings are inserted solely for the convenience of reference and are not part of nor intended to govern, limit, or aid in the construction of any provision hereof.

C. The parties to this agreement hereby acknowledge and agree that they are the principals to the agreement and have the power, right, and authority to enter into this agreement and are not acting as an agent for the benefit of any third party, except that Lessor is acting on behalf of the County of Lancaster.

D. This agreement shall be governed by the laws of the State of South Carolina and construed thereunder and venue of any action brought under this agreement shall be in Lancaster County, South Carolina.

E. If any section, paragraph, sentence, or phrase entered in this agreement is held to be illegal or unenforceable by a court of competent jurisdiction, such illegality or unenforceability shall not affect the remainder of this agreement and, to this end, the provisions of this agreement are declared to be severable.

SECTION 2. LEASED AREA: 2 maintenance hangars and apron

Building – Lessor does hereby lease to Lessee two maintenance hangars and an adjacent apron area. The two hangars include approximately 7,300 sq. ft. of space (Hangar 1 – 2,500 s.f., Hangar 2 – 4,800 s.f.) and an adjacent apron area which includes approximately 3,200 sq. ft. of space (80' x 40' feet) as shown on Exhibit "A" which is attached hereto and incorporated herein, and hereinafter referred to as the "Hangars" and located on the Airport. Per the Airport Commission, the lease is for two (2) shade ports with three (3) tie down spaces and the apron described above. Lessee hereby leases said Hangars and apron (the "**Leased Premises**") from the Lessor subject to the terms, considerations, and privileges stated herein.

SECTION 3. TERM

This lease shall be for a term of 2 years, commencing on the 1st day of April, 2015 and ending on the 31st day of March, 2017. At the end of the term, the County can choose to continue acceptance of payment from Lessee on a month-to-month basis until such time that the County chooses to terminate this arrangement or the County may choose to draft a new lease for negotiation. All the terms and conditions stated herein shall remain in effect while the month-to-month arrangement is being exercised or while a new lease is being negotiated.

SECTION 4. CONSIDERATION

A. In consideration for the lease of the Leased Premises referenced herein, Lessee hereby agrees to pay a monthly sum of Three Hundred (\$300.00) Dollars. All payments are to be made monthly; beginning one month in advance on or before the day this agreement is entered.

B. All lease payments shall be paid as the same become due, without demand, in lawful currency of the United States and made payable to Lancaster County, South Carolina by mail or delivery.

C. In the event Lessee fails to remit any payments when the same are due, an interest rate at the rate of 10% shall be charged by Lessor beginning on the seventh (7th) day after the date the payment is due and such interest shall continue to accrue monthly against such delinquent payment until the payment plus interest is received by Lessor. In the event Lessee shall become delinquent for more than 90 days, this lease may be terminated by Lessor as further defined in Section 9. Two consecutive late payments made during the term of this lease or a total of four late payments made during the lease term (total) will be cause for Lessor to terminate this agreement.

D. Lessee agrees that Lessee will at all times keep the Leased Premises, including the inside and the outside of the Hangars clean and free of trash, litter, tall grass, weeds, junked automobiles, dilapidated aircraft and scrap aircraft parts, etc. or any other object(s) that may be considered unsightly as determined by the airport manager or other representative as appointed by the County.

E. Lessee shall abide and require Lessee's permitted subtenants, if any, to abide by all applicable rules and regulations as established by state, local, and federal agencies or by any other agency with the power to establish or to enforce rules and regulations concerning the use of the Leased Premises and, except as permitted in Section 6 below, will not engage in storage or disposal of hazardous chemicals, fuel, and/or oil or use thereof on the Leased Premises described herein. Should Lessee fail to keep the Leased Premises area clean and free of hazards, Lessor may, after 10 days written notice, arrange for the cleanup of the littered or hazardous area. Such cleanup shall be charged to Lessee and payable on demand. Failure to render proper payment for such cleanup within ten days after demand therefore and/or general disregard for the considerations and restrictions listed in this lease agreement will be grounds for the Lessor to terminate this agreement.

F. Taxes, Fees- Lessee shall be liable for all existing or future imposed taxes and fees owed on or by Lessee's personal business or Lessee or in any way connected to the operations on the Leased Premises described herein. Under no circumstances shall Lessor be liable for or be required to pay any tax or fee owed by Lessee. The minimum types and amounts of insurance coverages required are specified in the airport's minimum operating standards.

SECTION 5. UTILITIES

The Lessor agrees to pay for normal water, electric, and sewer utility services for the leased premises during the term of this Agreement. Any abuse of, or unnecessary, or excess consumption of electricity, water, or other utility paid for by the County will constitute grounds for lease termination.

SECTION 6. PERMITTED USE

A. Lessee agrees that the Leased Premises defined herein are to be only used for the following purpose: use by Lessee in conjunction with aircraft maintenance and repair including, but not limited to, airframe maintenance and repair, [power plant maintenance and repair], and avionics maintenance and repair.

B. Lessee shall safely store and use such chemicals, cleaning agents, fuel and/or oil used by Lessee in conjunction with its maintenance and repair operations in full compliance with all applicable laws and regulations including regulations from OSHA, SC Department of Labor, Licensing and Regulation, the SC Property and Liability Insurance Trusts, the Lancaster County Fire Marshal and the Lancaster County Airport Commission and/or Manager.

SECTION 7. RESTRICTED USE

A. Lessee agrees that neither Lessee nor any of Lessee's permitted subtenants, if any, will use the Leased Premises or any part thereof for the purpose of temporary or permanent living quarters or for overnight occupancy.

B. Lessee agrees that neither Lessee nor any of Lessee's permitted subtenants, if any, will conduct any commercial activity at the Airport other than those permitted uses denoted in SECTION 6. Any tenant found in violation may be given, by the Lessee or by airport management, an initial written warning to cease and desist. Any subtenant found in violation after said warning has been given will be considered in violation of the airport's rules and regulations and their lease shall be terminated and will be required to vacate.

C. Lessee agrees that Lessee shall submit for review and receive written approval from the airport manager and/or county representative of any sublease prior to distribution to subtenants. As long as the previously approved sublease has not been amended or otherwise modified, the lease can be distributed to the Lessee's subtenants at the Lessee's discretion.

D. Lessee agrees to provide a sufficient number of fire extinguishers of acceptable size and rating as determined by the local fire marshal within each Hangar. Such fire extinguisher(s) shall be positioned in a highly visible and readily accessible area.

E. Except as expressly permitted in Section 6, Lessee agrees that Lessee will not store and will not permit the storage of any fuel or hazardous, volatile, and/or dangerous chemicals on/inside or around the Leased Premises without prior written consent from the Lessor.

F. Lessee agrees not to make any additions or modifications to the land or Hangars including the installation of signage or improvement of interior or exterior decor unless Lessee has obtained prior approval from the airport manager or County's representative in writing and has complied with the terms of this agreement as to construction, liens, etc. In the event of such consent, all improvements or modifications shall be made at the expense of Lessee and, at the expiration of this Lease, shall become the property of the Lessor.

G. Lessee agrees that Lessee will not operate any aviation or non-aviation related business or activity on the Leased Premises other than expressly described in Section 6A herein without the express written consent of Lessor. Any such aviation or non-aviation related business or activity must be so established through a separate contract.

H. Lessee agrees not to fuel or defuel any aircraft parked inside the Hangars or on the Leased Premises; provided, however, with proper precaution, Lessee shall be permitted to do so on the outside leased apron area as required in order to perform maintenance.

SECTION 8. SUBLEASE, ASSIGNMENT, OR SALE

The Lessee shall not sublease, assign, sell, or transfer this agreement or any right hereunder to any person, corporation, or association without first obtaining prior written approval from the County of Lancaster. Any such sublease, assignment, sale, or transfer without prior written permission from the County shall be grounds, at the option of the Lessor to immediately terminate this agreement. If the Lessor agrees to permit the transfer of this lease to another, the new Lessee shall be required to abide by and comply with all the terms and conditions of this agreement unless the County chooses to draft a new agreement with the Lessee. Any approved assignment of lease will result in a contract directly between the County of Lancaster and the Lessee and not through a sublease. The County reserves the right to withhold approval of any type of lease transfer for any or no reason whatsoever.

SECTION 9. TERMINATION

A. This agreement may be prematurely terminated by Lessor or Lessee if either fails to abide by the terms and conditions expressed herein. Should Lessee be declared bankrupt, incompetent, or become deceased, this agreement shall immediately terminate and shall not be considered as part of Lessee's estate and shall not become an asset of any appointed or assigned guardian, trustee, or receiver. In the event Lessee fails to make timely payments of all taxes or fees, fails to provide proof of required insurance or bond, uses the Airport property or

permits the Airport property to be used for any illegal or unauthorized purpose, files bankruptcy, abandons or leaves the property vacant or unoccupied for 30 consecutive days, or violates any of the terms and conditions of this agreement, Lessor has the right to terminate this agreement and retake possession of any Airport property leased to or under the control of Lessee.

B. Lessee agrees and understands that Lessor reserves the right and has an obligation to further expand, develop, or improve the airport in order to meet the demands of the travelling public, including the termination of this lease agreement, in such instance that the continued leasing of the Leased Premises or otherwise would have a negative impact on any proposed development or improvements at the Airport. This Agreement may be terminated regardless of the desires, wishes, or views of Lessee and without interference or hindrance from Lessee.

C. This agreement may be prematurely terminated by mutual agreement and consent of both parties in writing. Such termination by mutual agreement shall cause both Lessor and Lessee to be free of any and all requirements of this agreement, except as contained in paragraph 9D hereunder, and neither Lessor nor Lessee shall have any derogatory remarks or entries made upon their resumes or upon any public or private records which would indicate failure to successfully fulfill the conditions of this agreement.

D. At the termination of this agreement, either by normal expiration, premature termination, or mutual agreement, Lessee shall peaceably vacate the premises. Should Lessee be found in default of any monies owed to Lessor, Lessor may take possession of any personal property owned by Lessee and located at the Airport and hold until the monetary default is settled. In such case that Lessee cannot or will not settle any claims against him owed to Lessor, Lessor may liquidate any personal property seized, subject to the disposition of a court of competent jurisdiction. Lessee shall remain responsible for any and all expenses incurred by Lessor in such action. The Lessee shall remain responsible for any outstanding bank loans, contractor payments, maintenance or other expenses owed by the Lessee.

SECTION 10. LIABILITY / INSURANCE REQUIREMENTS

A. Lessee shall indemnify and hold harmless the County, its employees and agents against any and all claims, judgments, liabilities, expenses, losses, damages, personal injuries including death, property damage or destruction sustained by any person arising from the use or occupancy of the demised premises or any buildings and improvements erected thereon or from the control or management of the operations of the Lessee on the demised premises or the roads, driveways or other public places used by Lessee at the airport. Part of the foregoing obligation of Lessee under this Section shall be met by the Lessee by obtaining and maintaining continuously in effect and at all times during the term

hereof, at Lessee's sole expense, insurance in a form satisfactory to the County to cover Lessee's liability by reason of its tortious conduct (or omission of conduct) or that of any of its employees, agents, or servants in conjunction with its use of the premises as aforesaid. Such insurance shall name the County as an additional insured.

B. Lessee shall provide Lessor with evidence satisfactory to Lessor of all such insurance, and shall notify Lessor in writing, as soon as practicable, of any claim, demand or action arising out of any occurrence covered thereunder of which Lessee has knowledge. Certificates of such required insurance and bond shall be furnished by Lessee to Lessor and certificates presently then in effect shall be on file at all times. Any changes in those certificates must have prior written approval by Lessor. The types and amounts of the minimum insurance coverage requirements are specified below:

Hangar Keeper's Legal Liability: Value \$100,000/\$50,000 any one unit.

Commercial Liability to include products and completed operations: \$25,000 per accident/\$10,000 property damage.

Policy Liability Aggregate: \$75,000

Liability Self-insured Retention: \$2,500/\$2,500

C. The Lessee shall be financially liable for any environmental contamination sites, spills, releases to the storm water system or other type of contamination that is deemed to be caused by the Lessee or by one of the Lessee's subtenants. The Lessee is also required to comply with the airport's Storm water Prevention and Pollution Program (SWPPP).

SECTION 11. SUBORDINATION

The lease shall be subordinate to the provisions of any existing or future agreement between the Lessor and the United States government, relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or state funds for the development of the airport.

SECTION 12. ARBITRATION

This Agreement is subject to arbitration pursuant to the Uniform Arbitration Act, Section 15-48-10, et seq., Code of Laws of South Carolina 1976, as amended. Any controversy or claim arising out of or relating to this Lease or any alleged breach thereof, which cannot be settled between the parties, shall be settled by arbitration and judgment upon the dispute rendered by the arbitrators shall be final and binding on both parties. Each party shall designate one arbitrator and those two shall designate a third. The costs of arbitration and all legal expenses of both parties shall be paid by the losing party.

SECTION 13. RIGHT OF ENTRY

The County and/or its representatives shall have the right to enter the Premises including all buildings, structures and improvements, at all times and for any purpose necessary, incidental to, or connected with the performance of Lessee and/or County's obligations under this Agreement. County shall provide advance written notice (which shall include email transmission) prior to entering any non-public area except when County determines that emergency circumstances due to safety concerns require immediate entry without prior notice. The County shall possess a key or copy thereof in order to gain access as is required to the hangar.

SECTION 14. QUIET ENJOYMENT

Upon payment of rents and fees and the performance of the covenants, agreements, and conditions to be observed and performed by Lessee, Lessee shall peacefully and quietly have, hold, and enjoy the premises and privileges granted for the term of this Agreement free from hindrance or interruption by the County. Lessee agrees that temporary inconveniences such as noise, disturbances, traffic detours and the like, caused by or associated with the construction of Airport improvements or Airport events, shall not constitute a breach of quiet enjoyment of the Premises, provided same do not materially adversely affect Lessee's ability to access and use the Premises.

SECTION 15. MAINTENANCE OF AIRPORT

Lessee understands and agrees that Lessor reserves the right to maintain the Airport to the standards recommended by the FAA and/or the South Carolina Department of Transportation. Such rights include the right to maintain and keep in repair all public use areas at the Airport and the right to direct and control all activities as necessary at the Airport. As such, the Lessor is not responsible for any loss of business and/or associated revenue resulting from the deactivation or closure of any airport feature including but not limited to runways, taxiways, connectors, aprons, roads, navigational aids, lighting fixtures, structures (including hangars) and other county owned property.

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EXECUTED this _____ day of _____, 2015.

County of Lancaster

County Administrator

Attest:

Clerk to Council

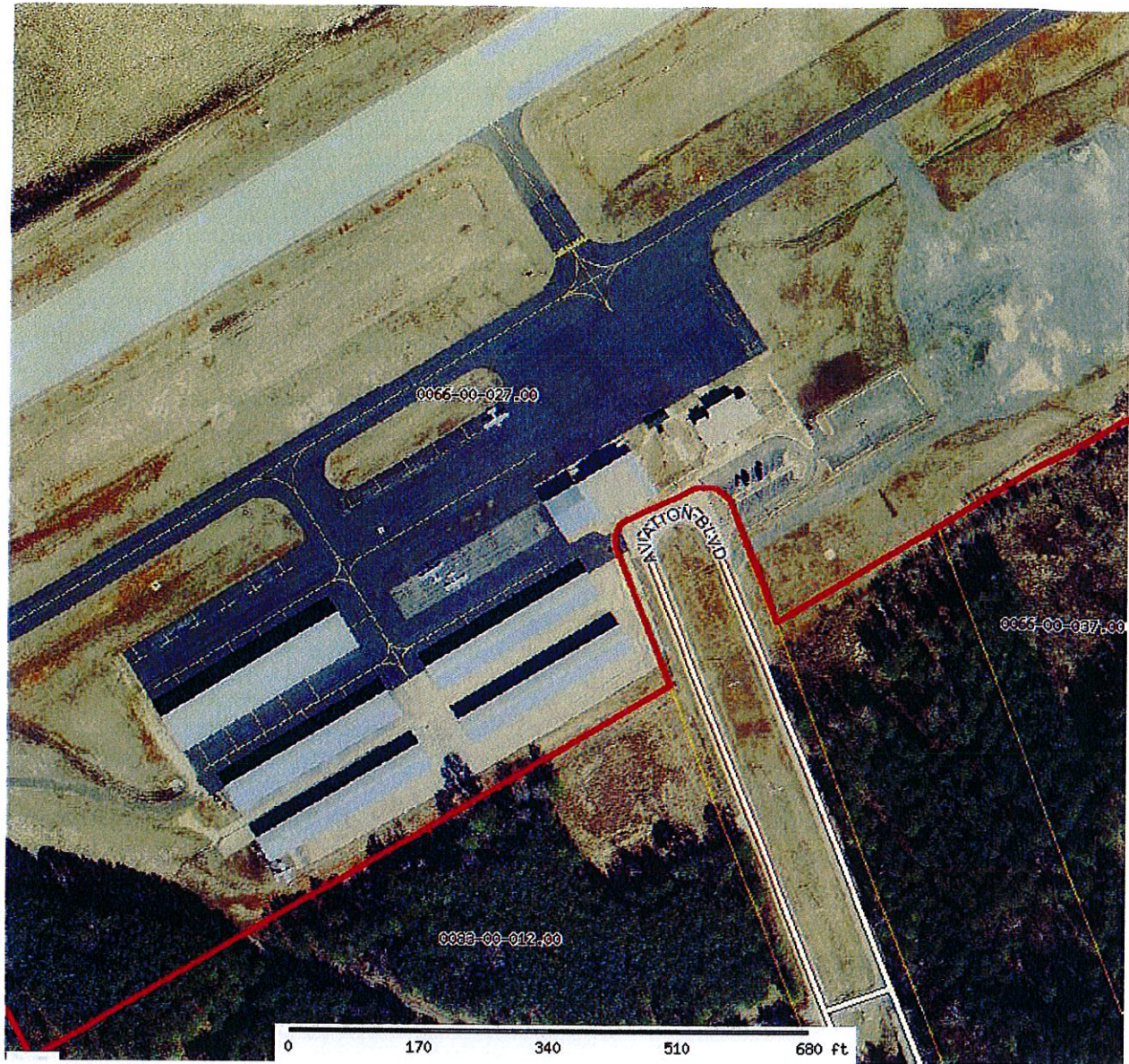
Miller Aviation, LLC

By: _____

Print name: _____

Its: _____

EXHIBIT A
(Attach drawing of Hangars and apron)



| Lancaster County Assessor | | | |
|--------------------------------------|---|-----------------|----------------|
| Parcel: 0066-00-027.00 Acres: 300.75 | | | |
| Name: | LANCASTER COUNTY AIRPORT % F MCWHIR | Land Value | \$1,653,800.00 |
| Site: | 286 AVIATION BLVD | Improvement Val | \$894,600.00 |
| Sale: | \$0 on 11-1969 Vacant= Qual= | Accessory Value | \$58,000.00 |
| Mail: | N MARKET ST LANCASTER, SC 29720-0000 | Total Value | \$2,606,400.00 |
| | | | |
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The Lancaster County Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER LANCASTER COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

Date printed: 02/12/15 : 17:06:33

EXHIBIT "A"
MAINTENANCE HANGAR LEASE

