

DRAFT
DEVELOPMENT AND OPERATING AGREEMENT

THIS DEVELOPMENT AND OPERATING AGREEMENT (“Agreement”) is made and entered into as of the ___ day of _____, 2022, by and between the CITY OF LEBANON, TENNESSEE (“Owner”), a public corporation, organized and existing under the laws of the State of Tennessee, and owner and operator of CITY OF LEBANON MUNICIPAL AIRPORT (the “Airport”), and _____, LLC a Tennessee Limited Liability Company (“Developer” or “Lessee”).

WHEREAS, Owner desires to grant, and Developer desires to obtain certain premises, rights and privileges at the Airport, and

WHEREAS, the parties desire to definitively reduce their agreement to writing.

I. INTRODUCTION

(a) The Owner, as it is authorized by law to do, has agreed to enter this Development and Operating Agreement regarding the development and construction by Developer, of a group of private aircraft hangars known as the South East Side Development Phase I at the Airport to be leased by Developer or transferred upon completion to individual owners of general aviation aircraft. Said hangars are to be designed and constructed pursuant to a grading and site plan Atkins designed for the City of Lebanon attached as Exhibit A. Additional plans as required will be approved by the City of Lebanon’s engineering department and building department per applicable laws. All plans shall be in accordance with the Design Guidelines for the City of Lebanon Municipal Airport.

II. DEFINED TERMS

As used in this Agreement:

(a) Applicable Laws shall mean all statutes, ordinances, rules and regulations adopted by the Federal Aviation Administration (FAA), other federal, state and local

governmental authorities with jurisdiction over the Airport and the use of the Airport Facilities including, without limitation, the Owner's Rules and Regulations for the use of Airports and Facilities and its minimum standards for Commercial Aeronautical Activity City of Lebanon Municipal Airport and the City of Lebanon Municipal Airport Design Guidelines and Construction Standards For Private Hangar, as they presently exist and as they may be amended in the future.

(b) Assignee shall mean, upon completion of each phase _____, LLC shall be allowed to assign all rights and liabilities it holds in the premises subject to approval of the City of Lebanon.

(c) Design Guidelines shall mean the City of Lebanon Municipal Airport Design Guidelines and Construction Standards for Private Hangar adopted and/or generally adhered to by the Owner, including any supplements thereto, and includes among other things the Owner's required schedule of submittal of Plans and Specifications.

(d) Developer shall mean, _____, LLC, a Tennessee Limited Liability Company, also sometimes referred to herein as the "Lessees."

(e) Development shall mean the process of planning, design and construction of Facilities on the Premises by the Developer. This design and/or construction will proceed, as authorized in advance by the Lebanon City Council upon recommendation of the Lebanon Airport Commission. The plans may also be considered by the Lebanon Planning Commission.

(f) Development Agreement shall mean this Development and Operating Agreement and its exhibits attached hereto.

(g) Facility shall mean t-hangar box hangar structure planned and constructed by or for Developer for sub leases or transfer to approved purchaser or lessee. The Facility(s) shall constitute a fixture of ____ aircraft hangars upon completion.

(h) Hangar Lease shall mean the City of Lebanon's Lease Agreement for Private Aircraft Hangar, a copy of which is attached hereto as Exhibit B.

(i) Lessee shall originally mean _____, LLC, a Tennessee Limited Liability Company (also sometimes referred to herein as the "Developer"). However, upon completion of the Phase I Facilities and at any time during this Agreement, _____, LLC may transfer all rights and liabilities it holds in the Premises and the Facilities to any third party, with the approval of the Owner.

(j) Premises shall mean the land area on the Airport depicted as South East Side Phase I Development on Exhibit A hereto, consisting of a drawing describing property, acres or square feet, and to which Developer has development rights by this Agreement for phases of construction or as it may be amended in the future.

(k) Permitted Aircraft shall mean a privately owned airplane of the general aviation classification powered by either a single engine or twin engines piston or turbine.

(l) Project shall mean all improvements, including Facilities, grading, drainage, utilities and paving, constructed by Developer on the Leased Premises.

(m) Unit for purposes of this Agreement shall mean sub leases of an individual hangar or T-hangars, and the term Unit Occupant shall mean any assignment, leases, or Sublessees owning use rights to any Unit.

(n) Transfer for purposes of this Agreement shall mean the act or process of transferring or assigning the leasehold rights for the Facility from the Developer to any Unit Occupant or any other third party.

(o) Phases for the purposes for this Agreement shall mean construction phases agreed by the Owner and Developer or as it may be amended in the future.

III. AGREEMENT

NOW, THEREFORE, Owner and Developer, in consideration of the foregoing premises and of the mutual covenants and agreements set forth herein, agree as follows:

1. PREMISES; RENTAL.

(a) Premises. Owner hereby grants to Developer for its exclusive use (subject to certain reservations of rights to Owner as hereinafter described) the area at the Airport depicted and described as South East Side Development on Exhibit A, attached hereto and incorporated herein by this reference (the “Premises”), consisting of 15 T Hangars known as Row F (Option 1), or Row F plus 1 Triplex Box Hangar with 3 units approximately _____'x_____ ' (Option 2).

(b) Phase one construction must commence within six (6) months of the Lebanon City Council approval of this Agreement.

(c) Lease Execution. Prior to commencement of any construction of any phase(s) or utilities the Developer shall enter into the Lease Agreement with the Owner for a private Aircraft Hangar.

(d) Commencement of Obligation for Rental. Upon completion of the Facilities of each Phase a Hangar Lease between the City of Lebanon and _____ LLC will be executed (Exhibit B). _____ LLC or assignee shall become obligated to pay ground rental as set forth below beginning no later than thirty (30) days from the date of the use and occupancy permit for each hangar.

(e) Upon commencement of the obligation to pay rental Developer and/or any Assignee shall be obligated to pay to Owner, Ground Rental per square foot which shall be established prior to execution of the lease. Lease is anticipated to be based on the Developer's phasing plan.

2. TERM. The term of this Development Agreement shall be for twenty-four (24) months, beginning _____, 2022 and ending at midnight on _____, 202__ (the "Initial Term"). Extensions to additional term will be agreed by all parties.

3. DEFAULT; REMEDIES; TERMINATION. The following provisions may be exercised by the Owner, as appropriate, as to any portion of the Premises remaining under Developer's control, either as a Lessee or as a Developer, in the case the Premises remains undeveloped. Developer shall proceed to complete construction of hangars within the term as identified in Section 2 above.

(a) Default: Any one or more of the following events shall constitute an "Event of Default":

(1) The failure of Lessee, to pay any Ground Rental or any other sum of money within thirty (30) days after the same is due hereunder;

(2) The admission, either verbally or in writing, by Lessee of its or their inability to pay its debts when due;

(3) The failure of Lessee to continuously operate the Premises or any Unit in accordance with the use provisions set forth herein or in the City of Lebanon Hangar Lease, or the vacating or abandonment of the Premises or any Unit at any time following delivery of possession of the Premises or said Unit to Lessee;

(4) The sale of Lessee's interest in the Premises under attachment, execution or similar legal process, or if Lessee is adjudicated as bankrupt or insolvent under

any state bankruptcy or insolvency law or an order for relief is entered against Lessee under the Federal Bankruptcy Code and such adjudication or order is not vacated within thirty (30) days;

(5) The commencement of a case under any chapter of the Federal Bankruptcy Code by or against Lessee or Lessee's obligations hereunder, or the filing of a voluntary or involuntary petition proposing the adjudication of Lessee as bankrupt or insolvent, or the reorganization of Lessee, or an arrangement by Lessee or any such guarantor and is withdrawn or dismissed within thirty (30) days after the date of its filing;

(6) The appointment of a receiver or trustee for the business or property of Lessee, unless such appointment shall be vacated within thirty (30) days of its entry;

(7) The making by Lessee of an assignment for the benefit of its creditors, or if in any other manner Lessee's interest in the Lease shall pass to another by operation of law;

(8) Default by Lessee in the performance or observance of any covenant or provision of the Owner's Hangar Lease (other than a default involving the payment of money), which default is not cured within thirty (30) days (or such longer notice period as may apply) after the giving of notice thereof by the Owner, unless such default is of such nature that it cannot be cured within such thirty (30) day period, in which case no Event of Default shall occur so long as Lessee shall commence the curing of the default within such thirty (30) day period and shall thereafter diligently prosecute the curing of same.

(b) Remedies: Upon the occurrence of an Event of Default hereunder, Owner shall have the right, at its option and upon reasonable notice to Lessee, to elect any

one or more of the following remedies provided, however, that any Sublessee that is not in default on their Hangar Lease shall be allowed to remain in Possession under that sub-lease:

(1) Owner may re-enter and take possession of the Premises that remains undeveloped or under the control of the Developer, as Lessee, or any portion thereof and improvements without terminating this Development Agreement or any Hangar Lease, in their entirety, the same for the account of Lessee, and hold Lessee liable for the difference in the rents and other amounts actually paid by Lessee and the Hangar Rental and other amounts payable by Lessee hereunder.

(2) Owner, as agent of Lessee, without terminating the Hangar Lease, may, at Owner's option, enter upon and operate the Premises, including improvements, and in this connection, Lessee authorizes Owner upon such entry, to take over and assume the management, operation and maintenance of such Premises and improvements and in general to perform all actions necessary in connection therewith in the same manner and to the same extent as Lessee might so act, using Owner's best efforts to operate the Premises and improvements for the account of Lessee or a Sublessee, holding Lessee hereunder or under the Hangar Lease.

(3) Owner may terminate the Development Agreement, exclude Lessee from possession of the Premises and improvements and use Owner's best efforts to lease the same to another for the account of Lessee, holding Lessee liable for all Ground Rental and other amounts payable by Lessee hereunder.

(4) Owner may terminate the Development Agreement on the Premises, exclude Lessee from possession of the Premises and improvements and recover from Lessee as damages the present value of the amount by which the Ground Rental and any additional costs to be paid by Lessee exceeds the reasonable rental value of the Lease

Premises for the remainder of the term of any Hangar Lease on the Premises, as determined by an appraiser selected by Owner.

(5) Owner may take whatever action at law or in equity may appear necessary or desirable to collect the Ground Rental and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement, or covenant of Lessee under the Development Agreement or Hangar Lease on the Premises, and in connection with such actions, to recover any or all damages accruing to Owner for Lessee's violation or breach of the Development Agreement or Hangar Lease on the Premises.

No remedy herein conferred upon or reserved to Owner is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission by Owner to exercise any right or power accruing upon any default of Lessee shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised by Owner at any time, from time to time and as often as may be deemed expedient.

(6) Owner may utilize Developer's Performance Bond to complete any remaining improvements to support actions in 1 through 5 above.

(c) Termination Rights. The Owner shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following:

(1) Issuance by any Court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes and the remaining in force of said injunction, whether permanent or temporary, for a period of thirty (30) days.

(2) The assumption by the United States Government or any authorized agency thereof, or any other governmental agency of the operation, control or use of the Airport facilities or any substantial part, or parts, thereof in a manner which substantially restricts Lessee's operations for a period of thirty (30) days or more.

(d) Vacate Premises. Upon termination by Owner of the leasehold interest of Lessee, said party shall immediately and without further notice vacate the Premises, removing any property (excluding fixtures, which become part of the Facility) belonging to Lessee, and shall perform such cleaning as may be required to leave the premises in good condition. Owner shall, in such event, be entitled to recover immediately all unpaid rental and other reasonable damages, including loss of reasonable rental value from the date of last payment until a suitable new tenant has been secured.

(e) Reversion. Upon any termination of this Development Agreement as to the entire Premises, excluding any portion thereof that has been transferred or assigned to a third party whether by expiration at the end of the Term, without renewal, or of any Extended Term, or by reason of any of the termination provisions hereof, title to the improvements on the Premises (including but not limited to individual Units, other permanent structures and common area improvements) shall automatically revert to the Owner. Neither Developer nor any Lessee, Sublessee, or any other third party with a leasehold interest, shall at any time encumber title to the improvements on the Premises to any party without the express written consent of the City of Lebanon, which consent shall not be unreasonably withheld.

(f) Termination for Unsatisfactory Construction. Lessee covenants and agrees that it will cause construction of the South East Side Development Phase I to be performed in accordance with the Owner's Design Guidelines and that it will repair or

rebuild at its expense any structure or portion thereof which is found to be substandard or unsatisfactorily completed. Failure of the Lessee to comply with this requirement shall give Owner the right, as set forth in paragraph 5(g) below, to declare this Development Agreement in default as to any remaining undeveloped portion of the Premises and to proceed to terminate the Agreement as to said remaining undeveloped portion. Owner may utilize Developer's Performance Bond to complete any remaining improvements.

(g) No Waiver. Owner shall not be held to have waived any default by declining or delaying the exercise of its termination rights set forth above.

4. USE OF PREMISES.

(a) Owner grants to Developer and/or it assigns the right to use the Premises for the construction and occupancy of facilities as hangar space for privately owned aircraft, and for such other limited aeronautical purposes as may be directly related to such a facility. No hangar may be used as a residence by Lessee or any Unit Occupant.

(b) Owner also grants to Developer and/or its assigns the right to assign sub-parcels of the Premises. As construction proceeds and the Facilities are completed, the Developer will have the right to assign all rights and liabilities to an approved third party. Upon said assignment, to transfer ownership interest the Lebanon Airport Commission will be given notice of any such transfer, including information of the aircraft that will be occupying each hangar. Before a hangar commences construction, the City of Lebanon requires execution of a standard Hangar Lease. _____ LLC shall remain the primary Lessee retaining all rights, responsibilities and liabilities it holds to any hangar or sub-parcel of the Premises. The Lessee or any occupant may make no use of the Premises or any Facility for commercial aviation activities without prior approval by City of Lebanon upon recommendation of Lebanon Airport Commission. Any use of the Premises and the Facilities

shall be made in strict compliance with all applicable federal, state or local statutes, codes, ordinances or regulations, and with the Owner's Rules and Regulations for the Use of Airports and Facilities (the "Rules and Regulations") and its Minimum Standards for Commercial Aeronautical Activities at City of Lebanon Airport (the "Minimum Standards") as they may be amended in the future.

5. CONSTRUCTION OF DEVELOPER'S IMPROVEMENTS. Developer covenants that it will design, construct and finance the Project on the Premises in accordance with the Design Guidelines, in compliance with applicable FAA and state design standards, and subject to the following terms and conditions:

(a) The designer and building contractor chosen by Developer, the form of contract with the designer and the contractor, the construction financing package and the permanent financing package for the Development shall all be subject to prior review and approval by Owner, which approval will not be unreasonably withheld.

(b) All plans and specifications for the Facility (the "Plans and Specifications") shall be submitted to Owner by Developer or its contractor at the intervals in the design process specified for such submittals by the City of Lebanon Design Guidelines. Such Plans and Specifications shall be subject to the prior written approval of Owner, which approval will not be unreasonably withheld. All work to be performed by or on behalf of Developer shall conform to the City of Lebanon Design Guidelines, Plans and Specifications, shall be of good quality and workmanship, and shall be free of defects. Developer shall not make any material changes to the Design Guidelines, Plans and Specifications without the prior written consent of Owner, and any such changes shall not, in any event, reduce the quality of the Facility.

(c) The Plans and Specifications submitted to Owner shall (i) be in accordance with all applicable laws, rules, codes and ordinances, including applicable FAA and state design standards, (ii) specify quality of materials and workmanship, and (iii) be in accordance with the Design Guidelines.

(d) No construction shall be commenced until a building permit and all other required permits have been obtained from the local authorities having jurisdiction of the Development. Developer hereby covenants and guarantees completion of the Development in accordance with the provisions of 5(a) and (b) above.

(e) Developer shall submit or cause its approved contractor to submit to Owner no later than thirty (30) days before the commencement of construction of any Facility a copy of the building permit.

(f) Developer shall initiate consultation with the Owner's building inspection division on a regular basis and no less often than monthly, during the course of design and construction of the Project. In addition, Developer shall permit Owner and/or its duly authorized representatives and agents to enter upon the Premises and to inspect the Project and all materials to be used in the construction thereof to insure compliance with the terms of this Agreement, the Design Guidelines and the Plans and Specifications, and shall cooperate and cause all persons involved with the construction of the Project to cooperate with Owner and/or its representatives and agents during such inspections.

(g) During the course of construction, Owner shall further have the right to ascertain to its satisfaction that the construction of the Project is progressing in accordance with the requirements of this Section. In the event Owner shall determine that the work is not progressing in accordance with such requirements, Owner shall notify Lessee in writing of its specific objections, and Developer shall, within thirty (30) days of receiving such

notice, remedy any defects as specified by Owner or, if such defects cannot be remedied in such period, then Developer shall immediately commence remedying such defects and shall diligently continue with such steps until the defects are cured to the reasonable satisfaction of Owner. In the event that Developer shall fail or refuse to remedy such defects, Owner shall have the right to declare a default under this Agreement.

(h) Notwithstanding Owner's right to inspect as set forth above, Developer shall be solely responsible for ascertaining and ensuring that the Project improvements constructed or installed by or for Developer have been constructed or installed in accordance with the Plans and Specifications and that they comply with all fire, health and sanitary codes and regulations and all other laws, rules, codes and regulations that relate to the construction, use or occupancy of the Project, whether federal, state or local. Developer shall remedy any construction that is not in accordance with such requirements promptly upon Owner's request. Developer shall be responsible for all liabilities arising out of its failure to construct or cause the construction of the Project in accordance with the Design Guidelines and the Plans and Specifications or by reason of defects in workmanship, and Developer shall hold Owner harmless from and against any such liabilities. Developer shall indemnify and hold Owner harmless from and against all losses, costs, damages or expenses, including reasonable attorney's fees and court costs, arising out of or in any way connected with or related to the failure to construct or cause the construction of the Project in accordance with the Design Guidelines and the Plans and Specifications for construction of any Facility, and Owner shall be entitled to recover attorney's fees and court costs incurred in enforcing its right of indemnification hereunder.

(i) Any signs erected on the Premises (i) must conform with the general architectural scheme of the Premises and any related property owned by Owner, (ii) must be

approved by Owner prior to the installation thereof, and (iii) must comply with the Owner's Design Guidelines and with applicable ordinances or other governmental restrictions; and the determination of such requirements and the prompt compliance therewith shall be the responsibility of Lessee or Assignee.

(j) The paving projects must be constructed in accordance with the Owner's design standards for Airport facilities.

(k) The construction access shall be through the east gate located off Castle Heights Avenue. A construction road/route shall be established to protect the existing access road, taxi lane, etc., from damage. The Developer shall be responsible for the repair of any damages to the access road and Airport grounds as determined by the City of Lebanon Commissioner of Public Services.

(l) Video survey(s) and pictures of the pavement and grounds shall be made and reviewed by all parties prior to commencement of construction. The Developer and Owner are both encouraged to provide information.

(m) No tracked equipment may be operated on any paved surface. The Developer is responsible for any damage to the road and grounds.

(n) The construction schedule is to be in compliance with the City of Lebanon Building Official Codes and mindful of adjacent residential neighbors. Said construction schedule shall be provided by City of Lebanon to Lebanon Airport Commission.

(o) Safe work zone controls must be established and remain in place throughout the construction process. The contractor shall submit such plan for review by the Lebanon Airport Commission. The plan should include lighted barricades, parking stops, construction zone/work area, etc. The plan is to be approved by the City of Lebanon Commissioner of Public Services.

(p) Monthly progress meetings shall be held to discuss all concerns related to safety for both construction workers and existing plane operations, construction progress, etc. More frequent meetings will be called if deemed necessary by the City of Lebanon Commissioner of Public Services.

(q) The construction contractor is responsible for maintaining and controlling trash, debris, nails, etc., from getting onto the apron and blowing onto the taxiway and runways.

(r) The contractor shall establish and maintain a specific location for employee parking and equipment and material staging. The contractor shall submit a plan for review by City of Lebanon Staff and Fixed Base Operator (FBO). The location shall be approved by the City of Lebanon Commissioner of Public Services.

(s) Every effort shall be made to avoid closure of taxi lanes. If there are any necessary closings of taxi lanes, etc., they shall be approved by the Owner and communicated directly to each aircraft owner affected by closure (as applicable) a minimum ten (10) days in advance. The notice shall also be provided to the FBO ten (10) days in advance.

6. DEVELOPER'S CONSTRUCTION-RELATED OBLIGATIONS.

(a) Owner will have no obligation to incur any expense related to the design, construction or financing of the Development, except as set forth herein. Owner will participate in a cost sharing venture with _____ LLC for the construction of an access drive in the area known as the Thorne Drive entrance for the benefit of existing hangars. The amount to be paid by the Owner towards the construction shall be determined once construction costs are defined and approved by the Owner. Owner will not be required to provide any common area utilities, storm water, sewer, water or electrical for the Project.

(b) Owner covenants and agrees to seek grants from appropriate federal, state, and local agencies to be applied, as permitted by the granting agency and applicable law, to specific portions of the work on the Development, subject to the requirements set forth herein that matching funds be furnished by Developer. Without limiting the generality of the foregoing statement, Owner agrees if requested by Developer, if any funds made available, to apply for funding for necessary roads and taxiway construction and extension of utilities to be accomplished on the Premises. The Developer shall furnish any matching funds that may be required for any roads and taxiways unless otherwise approved by Owner.

(c) A letter of credit shall be required by the Owner for infrastructure, (access, water, sewer, electric etc.) and shall be posted for approval of each phase prior to approval of the building permit.

7. DEVELOPER TO MAKE ADDITIONAL PAYMENTS.

(a) Developer covenants and agrees in connection with any grant of federal, state or local funds secured by Owner related to the design, construction or financing of the Development (except as to any grant that Owner may contribute towards the construction of roads, feeders or taxiways) to provide in a timely manner the full amount of any local matching funds which may be required by the granting agency, and to abide by the requirements of the granting agency as reflected in the particular grant agreement. Failure of Developer to comply with this provision shall entitle Owner to declare an immediate default of this Agreement.

8. REPAIR OF IMPROVEMENTS.

Developer covenants and agrees with Owner that as to every part of the Premises that has not been transferred and assigned, during the Term or any Extended Term hereof, Developer shall undertake and perform, or shall cause to be undertaken and

performed at Developer's sole expense, all construction, repairs, replacements and maintenance required hereby and reconstruction as permitted herein, whether foreseen or unforeseen, ordinary or extraordinary, structural or non-structural and including all roofs, and whether occurring on the interior or exterior of any improvements erected, or to be erected, by Developer on the Premises, and all additions thereto or alterations thereof. Developer shall notify the Lebanon Airport Commission of any significant improvements, additions or alterations prior to commencement to verify compliance with this Agreement. Developer shall obtain all permits prior to commencement of improvements, etc. Developer will not suffer or permit any waste or neglect of any part of the Premises and will take such steps as often as may be necessary to keep the buildings, appurtenances and other improvements on the Premises in a safe, good and sound condition commensurate with their intended use, reasonable wear and tear expected. In the event Developer fails or refuses to perform such work and upon reasonable notice to Developer of such failure, Owner may perform such maintenance or repair and be reimbursed by Developer for the cost thereof immediately upon presentation to Developer of an invoice, therefore.

9. INSPECTIONS.

(a) Inspection by Developer. Developer and its representatives shall, prior to the Date of Possession, have the right, for the purpose of satisfying itself as to the physical properties of the Premises, at Developer's sole cost, expense and risk and at reasonable times and without unreasonable interference with other Airport operations or with any ongoing construction on or adjacent to the Project site, to conduct such physical inspections, tests and studies of the Project site and title examination of the title thereto as Developer deems appropriate; and said physical tests and studies may, without limitation, include soils tests, engineering inspections, and hazardous substances audits. Developer shall promptly repair

any damage to the Premises resulting from the exercise of Developer's rights hereunder. Developer shall indemnify and hold Owner harmless from and against all losses, damages and claims resulting from Developer's tests, inspections, and studies.

(b) Inspection by Owner. Subsequent to the Date of Possession, Owner and/or Owner's duly authorized agents shall have the right with reasonable prior notice to Developer to enter the Premises at all reasonable hours for the purpose if (i) inspecting same, (ii) performing obligations of Owner under this Lease, and (iii) performing obligations of Developer hereunder which Developer may neglect or refuse to perform. The provisions contained in this section shall not impose on Owner any of Developer's obligations under this Lease, nor shall they create any liability of Owner by virtue of Owner's having inspected the Premises.

(c) Record Documents. Upon the completion of construction by or for Developer of each Facility, Developer shall deliver to the City of Lebanon Engineering Department (i) complete sets of record drawings and specifications, in paper form, depicting the as-built conditions of the Premises in accordance with the Design Guidelines and the Plans and Specifications, (ii) a complete set of release of lien forms from all contractors, subcontractors, equipment manufacturers and materials and other suppliers and (iii) a Certificate of Occupancy from the City of Lebanon.

10. LIENS. Developer has the obligation to construct improvements on the Premises as more particularly set out in paragraph 5; however, Developer shall not permit any liens to attach to Owner's interest in the Premises as a result of such construction or otherwise, at any time during the Initial Term or any Extended Term hereof, and all persons are put on notice of the fact Developer shall never, under any circumstances, have the power to subject the interest of Owner in the Premises to any mechanic's or materialmen's liens or

other liens of any kind. If any mechanics' liens or other lien or order for the payment of money shall be filed against the Premises or building(s) or improvements thereon by reason of, or arising out of, any labor or material furnished or alleged to have been furnished to or for Developer at the Premises, or for or by reason of any change, alteration or addition by Developer, or the cost or expense thereof or any contract relating thereto, or against Owner, then Developer shall within thirty (30) days after the filing of any such lien cause the same to be canceled and discharged of record, by bond or otherwise, at the election and expense of Developer, and shall defend on behalf of Owner, at Developer's sole cost and expense, any action, suit or proceeding which may be brought thereon or for the enforcement of such liens or orders, and Developer shall pay any damages and discharge any judgment entered thereon and shall indemnify and hold Owner harmless from any claim or damage resulting therefrom. If Developer fails to keep this covenant, in addition to any other remedies available to Owner under this Agreement or otherwise, Owner may at its option discharge such lien or order, in which event Developer agrees to pay Owner, on demand, a sum equal to one hundred fifteen percent (115%) of the amount of the lien or order thus discharged by Owner plus Owner's costs, expenses and attorney's fees. **Notice is hereby given that Owner shall not be liable for any labor or materials furnished to Developer, and that no liens by mechanics, materialmen, or any other such laborer or materials shall attach to or affect the interest of Owner in the Premises.**

11. **RESPONSIBILITIES OF DEVELOPER.**

(a) Developer shall at all times, including during construction of the Project, keep its Premises neat, orderly, sanitary and presentable, and shall cause to be removed from such premises, at Developer's own expense, all waste, garbage and rubbish, and it agrees not to deposit the same on any part of Airport, except that Developer may

deposit same temporarily in its Premises or in space designated by Owner for collection and removal. Suitable excess material shall be placed on Airport property as designated by the City of Lebanon Commissioner of Public Services.

(b) Developer shall maintain its aircraft apron area in a neat, clean and orderly condition, free from litter, debris, refuse, petroleum products or grease that may result from its activities or those of its assigns or their contractors, employees, agents or suppliers, and shall remove all oil and grease spillage which is attributable to Developer's Permitted Aircraft or equipment on its aircraft apron.

(c) Developer agrees to operate and maintain each Facility, under its control, in accordance with the Environmental Laws as set forth in the Owner's Rules and Regulations, and with the rules and regulations of the Tennessee State Fire Marshal, the National Fire Protection Association codes, applicable building codes, and commonly accepted industry practice. In the event of conflict, the more stringent regulation applies.

(d) Developer further covenants that it will under no circumstances release or dispose of unused or contaminated fuel, oil, solvents, paint or other petroleum or petrochemical products of any type, whether liquid or solid, or any other material deemed a Hazardous Material, by dumping or burning by fire, either upon or off the Airport premises in any manner or fashion, but shall release or dispose of the same only in accordance with environmentally accepted practices and disposal procedures and practices as set forth above; and shall cause any soil or other portion of Airport premises which has become contaminated by any Hazardous Materials stored or used by Developer or its Sublessee or their agents, employees, contractors or suppliers on the Airport premises to be remediated, decontaminated, detoxified or otherwise cleaned up in accordance with the requirements of cognizant governmental authorities.

(e) Developer's obligations upon termination of this Agreement shall be governed by paragraph 23 hereof and the Rules and Regulations. Each capitalized term that is not defined in this Section shall have the meaning ascribed to such term in the Agreement or in the Rules and Regulations.

(f) The foregoing obligations and responsibilities shall apply to Developer's assigns.

12. DAMAGE OR DESTRUCTION.

(a) Developer to Give Notice. In the event of any damage to or destruction of any Facility or any other improvements on the Premises that remain under Developer's control, Developer will give written notice thereof to Owner, generally describing the nature and extent of such damage or destruction. Following the occurrence of such damage or destruction and receipt by Owner of the required Notice thereof, Owner and Developer shall confer and reach a decision jointly as to whether or not to restore the damaged Facility or improvement.

(b) Restoration Requirement. In the event of a decision to restore the Facility or other improvements, Developer shall, at its expense, commence the work of restoration within thirty (30) days from the date of the decision, and shall, subject to delays beyond the reasonable control of Developer, prosecute the restoration to completion with all reasonable dispatch. Such Facilities or improvements shall be restored to substantially equal or better condition than prior to such damage or destruction, and in conformity with the Design Guidelines. In the event of a decision not to restore the Facility or other improvements, Developer shall at its expense, restore the Premises to substantially equal or better condition than prior to any Project. In either case, Developer shall be entitled to utilize the insurance proceeds received from the insurance required under paragraph 15(b) hereof for

restoration, subject to the requirements of paragraph 15(b)(ii) regarding any deductible amounts. Rental and any other charges hereunder shall abate during the period of restoration or in the event the decision not to restore the Facility is made Lessee shall have the right to terminate this Agreement or any Hangar Lease by written notice to Owner.

(c) Limited Alternative to Restoration. Notwithstanding the foregoing provisions, in the event of damage to or destruction of any Facility or other improvements on the Premises during the final one (1) year of the Term hereof (if not extended) or of any Extended Term hereof (if not further extended), Lessee shall have the right to terminate this Agreement or any Hangar Lease by written notice to Owner provided that the damaged or destroyed improvements, and all refuse, are removed from the Premises and the Premises is placed back in the same condition as prior to Development, at the expense of Developer within thirty (30) days after the termination of the Term hereof. Developer shall be entitled to the insurance proceeds received from the insurance required under paragraph 15(b) hereof and to utilize those proceeds for such removal and restoration of the Premises, subject to the requirements of paragraph 15(b)(ii) regarding any deductible amounts.

(d) Right of Owner. Developer covenants and agrees with Owner that no damage or destruction to any building or improvement on the Premises by fire, wind, storm, or any other casualty shall entitle Developer to surrender possession of the Premises or to terminate this Agreement or any Hangar Lease except as provided in subparagraph 12(b) and (c) above, or to violate any of this Agreement's provisions.

13. INDEMNIFICATION. Developer shall indemnify, defend with counsel reasonably acceptable to Owner and hold harmless the Owner, its Commissioners, officers and employees from and against all liability, loss or expense (including attorney's fees) imposed upon Owner by reason of liability for injuries to persons (including wrongful death)

and damages to property caused by Developer's use or occupancy of the Premises, provided that Owner shall give Developer prompt and timely notice of any claim made against Owner, which may result in a judgment against Owner because of such injuries or damages, and promptly deliver to Developer all papers, notices, documents, summonses and other legal processes whatsoever served upon the Owner or its agents; and provided, further, that Developer and its insurer, or either of them, shall have the right to compromise and to defend all claims, actions, suits or proceedings to the extent of Developer's interest therein; and in connection therewith, the parties hereto agree to faithfully cooperate with each other, and with Developer's insurer in the defense thereof.

14. APPLICABLE LAWS. Developer agrees to observe and comply with the Applicable Laws, as defined above, and as they may be amended in the future.

15. INSURANCE.

(a) Liability Insurance. Developer shall maintain in full force at all times during the Initial Term and any Extended Term hereof, and during its occupancy of the Premises, a policy or policies of insurance issued by a company authorized to do and doing business in the State of Tennessee, insuring commercial general liability, including personal injury, accidental death and property damage arising from operations by Developer or its assigns or their duly authorized agents or employees under this Agreement. So long as Developer is not engaging in commercial flight activities as defined in the Minimum Standards, the amount of the coverage for such insurance shall be a combined single limit of not less than \$1 Million. If Developer chooses to engage in commercial flight activities, the limits of such insurance shall be negotiated with the Owner.

(b) Property Insurance.

(i) Developer shall be responsible for providing builder's risk insurance during construction of each Facility and property insurance upon the completed Facility, in amount of the full replacement cost thereof. Such insurance shall be on an "All Risk" policy form and shall insure against the perils of fire and extended coverage and other covered perils under the policy. Developer shall also be responsible for providing property or other suitable insurance covering any improvements, equipment, fixtures and furnishings added to or located in each Facility by Developer.

(ii) The proceeds of such insurance shall be made available for the use of either Owner or Developer to satisfy any obligation to repair or restore any Facility or other improvements under paragraph 12 (b) hereof. In the event of such an insured loss, Developer shall be responsible for the cost of repair or replacement to the extent of the deductible.

(c) Evidence of Coverage. The Developer agrees to furnish to the Owner policies or certificates of insurance as evidence that such valid insurance is in full force and effect at all times throughout the Term of this Agreement. The City of Lebanon and its Commissioners, officers and employees shall be named as additional insureds on each such policy and each policy shall provide that the Owner be given thirty (30) days' written notice prior to any cancellation, alteration or non-renewal of the coverage. Failure to maintain such insurance coverage in force shall be cause for immediate termination of this Agreement by Owner; or, in the alternative, Owner may but shall not be required to obtain for the account of Developer the necessary replacement coverage for any policy which is no longer in force, in which event the Owner shall be entitled to collect the premium from Developer immediately.

16. DEVELOPER'S PROPERTY. Any personal property or equipment, including aircraft, placed by Developer or its assigns upon or in the Premises, entrances, sidewalks, walkways or approaches, whether owned by Developer or by its assigns, shall be at the risk of the Developer or the owner thereof, and Owner shall have no liability for any damage to said property or to the Developer arising out of the acts or omissions of any other user of the Airport, including other tenants and their employees. In addition, Owner shall have no liability for any damage to said property or to the Developer arising out of the acts or omissions of the fixed base operator or the Owner's managing agent and its employees, except for actions taken or omitted to be taken, by those individuals, which constitute gross negligence or willful misconduct. The Developer shall be solely responsible for providing and maintaining any insurance required by it covering fire, theft and/or other peril as to the contents of any Facility or other buildings and facilities occupied by it, its assigns or its employees, contractors or agents within the Premises.

17. MAINTENANCE OF PREMISES; OWNER ACCESS.

(a) The responsibility of Owner for maintenance shall be limited to the mowing of grassed areas and the maintenance of all paved surfaces, both airside and landside, at the Premises. All other repairs to and maintenance of the structures and Facilities on the Premises shall be performed as and when appropriate by and at the expense of Developer or assigns. The condition and appearance of said structures and Facilities shall conform generally with the appearance of other buildings and grounds on the Airport.

(b) Each individual Unit Occupant shall be responsible for providing and maintaining electricity, telephone, TV, gas, water, sewer service and outside area lights to their individual Facility, for the maintenance and repairs of the individual Facility and for the cost of cleaning, trash removal and janitorial services for the individual Facility.

(c) The Owner and/or its authorized representative shall have the right to enter the Premises or any individual Facility during normal business hours on reasonable notice, and at any time without notice in the event of an emergency, to inspect the Premises and/or the Facility, and for any other lawful purpose, provided that such entry shall not unreasonably interfere with Lessee's conduct of the use and operation of the Facility by it or its Assign. The Commissioner of Public Services of the City of Lebanon, the Chairman of the Lebanon Airport Commission, or their designee(s), shall be the liaison party between the City of Lebanon and Lessee.

18. UTILITIES. Developer shall be responsible for obtaining and paying for utilities for the Premises (gas, electricity and water and sewer, etc.) during the Term of this Agreement, including arrangements for the utilities to be separately metered.

19. TAXES. Developer shall not be responsible for any property taxes assessed to the Premises. Developer and/or Assignee shall be responsible for any and all personal property taxes applicable arising out of any improvements or property on the Premises

20. SURRENDER. Developer and/or assigns agree, subject to the Owner's option, to yield and deliver to Owner possession of the Premises at the termination of the Hangar Lease by expiration or otherwise, or of any Extended Term hereof, including hangars and related fixed improvements and common use facilities, in good condition in accordance with its express obligations hereunder, except for reasonable wear and tear; and Developer shall have the right at any time during the Initial Term or any Extended Term hereof, and for ninety (90) days after the termination thereof, to remove any portable buildings, structures or facilities it may erect or install on the Premises during the development of the project utilized by Developer as temporary construction facilities, and to remove all fixtures and equipment and other property installed or placed by it at its expense, in, on or about the Premises;

provided that, contemporaneously with any and all such removal, Developer shall, at its sole expense, repair any damage to the permanent improvements on the Premises caused by such removal and shall restore the said premises to the condition (reasonable wear and tear expected) they were in at the beginning of the Initial Term hereof.

21. ASSIGNMENT/SUBLETTING.

(a) The parties agree that Developer will be constructing individual hangar units for lease or transfer to third parties as described in this Development Agreement. _____ LLC will be required to execute a Hangar Lease with the City of Lebanon. A copy of the Hangar Lease is attached hereto as Exhibit B. Upon execution of the Hangar Lease, Developer shall be fully released from any further rights, obligations or liabilities hereunder. However, the Owner's consent to the above-described assignment shall not be construed as or deemed to be a waiver of the restrictions contained herein nor as a consent to any subsequent assignment or subletting thereof.

(b) The Lebanon Airport Commissions shall be informed of all transfers of ownership providing of such notice shall require, at a minimum, that the Airport Commission shall (i) receive written notice of the transfer of any ownership, and (ii) said notice shall include the hangar number, contact information and aircraft information of the proposed owner.

(c) With Owner's prior written consent, Developer or Assigns shall be permitted to conditionally assign its leasehold interest, not to include land, as collateral for a mortgage. Said consent shall require Owner's prior review and approval of the form of assignment.

(d) Any sale of the entire building shall be approved by the Owner.

22. BREACH REMEDY OF DEVELOPER. The sole remedy of Developer for any breach or threatened breach hereof by the Owner shall be specific performance or injunctive or similar relief and no breach by the Owner of any covenant or agreement herein contained shall give rise to a claim or action for damages against the Owner.

23. OWNER'S LITIGATION COSTS. Developer agrees to pay to the Owner court costs, reasonable attorney fees, and administrative expenses incurred in any litigation between the Developer and the Owner related to this Agreement or Developer's business on Airport premises should Owner prevail.

24. ENVIRONMENTAL MATTERS.

(a) Termination: indemnification: certification.

(i) Termination of Lease. Upon the expiration or earlier termination of this Agreement or the Hangar Lease (in the event Developer's right and liabilities have been transferred upon completion of the Facility), Developer or assign shall, at its expense, (A) cause all Hazardous Material previously owned, stored or used by Developer or assigns to be removed from the Premises and disposed of in accordance with applicable provisions of law; and, as applicable: (B) unless otherwise agreed to by Owner, remove any aboveground or underground storage tanks or other containers installed by Developer or assigns to store any Hazardous Materials on the Premises, and repair any damage to the Premises caused by such removal; (C) cause any soil or other portion of the Leased Premises which has become contaminated by any Hazardous Materials stored or used by Developer or assigns on the Premises to be decontaminated, detoxified or otherwise cleaned up in accordance with the requirements of cognizant governmental authorities; and (D) surrender possession of the Premises to the Owner free of contamination attributable to

toxic materials or Hazardous Materials generated or used by Developer or assigns or stored or disposed of in or on the Premises during the term of the Hangar Lease or this Agreement.

(ii) Indemnification. Developer or assign (in the event Developer's right and liabilities have been transferred upon completion of the Facility) shall indemnify Owner, defend with counsel reasonable and acceptable to Owner, and hold Owner free and harmless from any liabilities, damages, claims, penalties, fines, settlements, causes of action, costs or expense, including reasonable attorneys' fees, environmental consultant and laboratory fees and the costs and expense of investigation and defending any claims or proceedings, resulting from or attributable to Developer's or assign's use of the Premises and any resulting (A) presence, disposal, release or threatened release of any Hazardous Material that is on, from or affecting the Premises including the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (B) personal injury (including wrongful death) or property damage (real or personal) arising out of or relating to the Hazardous Material; (C) lawsuits or administrative order relating to the Hazardous Material; or (D) violation of any laws applicable to the Hazardous Material. The terms of this paragraph shall apply only to Hazardous Material for which Developer or assign is responsible under this Agreement for the Hangar Lease.

(iii) Survival. Developer's indemnification obligations under this Section shall survive the expiration or sooner termination of the Term or any Extended Term of this Agreement for a period of five (5) years.

(b) Assignment and subletting. Notwithstanding any provision of this Agreement, Developer or assign shall not assign this Agreement in whole or in part, nor sub-lease all or any part of the Premises, nor permit other persons to occupy the Premises or any part thereof, nor grant any license or concession for all or any of the Premises, if the

proposed transferee's use of the Premises will not satisfy the requirements of the Owner's regulations, as amended and revised from time to time, and paragraph (a) above.

(c) Each capitalized term which is not defined in this Section shall have the meaning ascribed to such term in this Agreement or in the Owner's Rules and Regulations.

(d) Nothing set forth above in this section 24, shall have the effect of authorizing or permitting Developer or assign to install any tank for the storage of fuel, oil or other Hazardous Materials on the Premises, whether buried or above ground, such installation being expressly prohibited.

25. ACCEPTANCE OF PREMISES. Developer has inspected the Premises and accepts them in their present condition, and Developer agrees that Owner shall not be required to make any other improvements or repairs in or upon the said premises, except as set forth herein. During the term hereof, Developer agrees to reimburse Owner for damage to electric or other fixtures or appliances, plumbing facilities, or interior walls, ceilings or floors caused by the gross negligence of Developer's officers, employees or agents on the Premises. Upon expiration of this Agreement (except in the event Developer's right and liabilities have been transferred upon completion of the Facility) or any sooner termination thereof, Owner shall have the option to require Developer to quit and surrender possession of the Premises quietly and peaceably and in as good order and condition as when accepted by Developer, reasonable wear and tear and damage by the elements excepted.

26. DEVELOPER'S DEVELOPMENT RESPONSIBILITIES. The following additional conditions shall apply to Developer's use of the Premises and its construction of individual hangars on the Premises:

(a) Upon Owner's written Approval to Proceed with construction of a phase of the hangars, Developer shall be obligated to commence such construction within ninety (90) days thereafter, and Developer must thereafter complete such construction within twenty-four (24) months.

(b) Developer's right to develop hangars on the Airport is limited to the Premises as described in Exhibit A attached hereto, and Owner reserves the right in its sole discretion to make future leases or other arrangements with other entities for the purpose of construction of hangars or any other aviation-related development.

27. NOTICES. Any notice required by the terms hereof shall be sufficient (a) if delivered by hand to, or (b) if deposited in the United States Mail, certified mail-return receipt requested, postage prepaid, or (c) if delivered by facsimile transmission, addressed to the proper party as follows:

To The Owner:

Attention: Mayor
City of Lebanon
200 North Castle Heights Avenue
Lebanon, TN 37087

Commissioner of Public Services
City of Lebanon
200 North Castle Heights Avenue
Lebanon, TN 37087

To The Developer: _____

28. NO INDIVIDUAL LIABILITY. No elected or appointed official, commissioner, officer, or agent or employee of the Owner or Developer shall be charged personally or held individually contractually liable by or to any other party under any term or

provision of this Agreement, or because of any breach thereof or because of its or their execution, approval or attempted execution of the Agreement.

29. ENTIRE AGREEMENT. This Agreement represents the entire agreement between the parties and no representation, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. This Agreement may be amended only by an agreement in writing executed on behalf of both parties.

30. JURISDICTION AND VENUE. This contract has been executed by, delivered to and accepted by the Owner in the State of Tennessee, Wilson County, and the laws of Tennessee hereof shall govern the provisions. Any disputes arising out of or related to this contract shall be resolved in accordance with said laws with venue residing in Wilson County, Tennessee.

IN WITNESS WHEREOF, the parties have executed this Development and Operating Agreement effective on the date shown at the commencement hereof.

CITY OF LEBANON

ATTEST: _____
Commissioner of Finance and Revenue

BY: _____
Mayor

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Ordinance No. 22-_____

_____, LLC

By: _____
Name

Title

RECOMMENDED BY:

Chairman, Lebanon Airport Commission

EXHIBIT "A"
PREMISES DESCRIPTION AND SITE PLAN

EXHIBIT "B"
HANGAR LEASE

EXHIBIT "C"
CONSTRUCTION PHASES