

EQUIPMENT LEASE AGREEMENT

LEASE AGREEMENT (hereinafter the "Agreement") made this ____ day of _____ 2015, _____ BETWEEN Mr. Steve Allen, an individual, Richard Monn, an individual, and James Cullen, an individual, of 5120 Bobcat Lane, Flagstaff, AZ 86004, (hereinafter the "Lessor") owners of the leased aircraft (hereinafter the "Equipment"); AND NAVAJO COUNTY, a political subdivision of the State of Arizona, of 100 East Code Talkers Drive, Holbrook, Arizona 86025, (hereinafter the "County");

WHEREAS:

- A. The County has a need to lease of an airplane for the Sheriff's Office Air Operations Division.
- B. The County wishes to contract with Lessor on the terms and conditions set out in this Agreement; and,
- C. Lessor owns a 1967 Cherokee 6-300, FAA # 4102W, 6 passenger low wing, and is ready, willing and able to lease them to the County.

THEREFORE, in consideration of their mutual promises set out herein, the Lessor, and the County agree as follows:

1) Scope of Work

- A. Lessor agrees to lease to the County the following equipment: 1967 Cherokee 6-300, FAA # 4102W, 6 passenger low wing, (hereinafter the "Equipment").
- B. Lessor reserves the right to occasionally use the Equipment when it does not conflict with the County's use.
- C. Remuneration to Lessor will be for direct expenses with no profit of any sort. Lessor requests no smoking in the aircraft and no modifications made without prior consent of Lessor.

2) Lease Payments

- a) County agrees to pay Lessor as rent for the agreement the following amounts:
 - 1. Reimbursement of actual fuel costs.
 - 2. \$85 per hour flown for reimbursement of operating expenses such as insurance, tie-down fee, engine replacement, annual inspection, etc.

3) Term of Agreement

The effective term of this Agreement is from July 1, 2015 through June 30, 2016 and not to exceed 150 flying hours. Upon mutual agreement between the parties, this contract may be renewed for three (3) additional one year terms.

4) Termination of Agreement

This Agreement may be terminated by either party upon thirty (30) days written notification.

5) Insurance

The Lessor will provide and maintain appropriate insurance acceptable to the County.

- A. In no event will the total coverage be less than the minimum insurance coverage specified below:
 - i. Aircraft Policy with a combined single limit Bodily Injury/Property Damage including Passenger Liability in the amount of not less than One Million Dollars (\$1,000,000) per occurrence.
- B. The Lessor will name the County, its agents, officials, volunteers and employees as additional insured's' and the policy will specify that the insurance afforded by the Lessor is primary insurance and that any insurance coverage carried or self-insurance by the County, any department or any employee will be excess coverage and not contributory insurance to that provided by the Lessor. Said policy must contain a severability of interest provision. County reserves the right to continue payment of premium for which reimbursement will be deducted from amounts due or subsequently due Lessor. Notice must be sent to the County 30 days prior to any cancellation or material change to the policies.
- C. If a policy does expire during the life of the Contract, a renewal certificate must be sent to the County ten (10) days prior to the expiration date.
- D. Upon the execution of this Agreement by the Lessor, the Lessor will furnish the County with copies of the Certificates of Insurance drawn in conformity with the above insurance requirements. The County reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements. Failure on the part of the Lessor to procure and maintain the required liability insurance and provide proof thereof to the County within ten (10) days following the commencement of a new policy, will constitute a material breach of the Agreement upon which the County may immediately terminate the Agreement.

6) Indemnification

The Lessor will at all times, to the fullest extent permitted by law, indemnify, keep indemnified, defend and save harmless the County and/or any of its agents, officials and employees from any and all claims, demands, suits, actions, proceedings, losses, costs and/or damages of every kind and description, including any attorney's fees and/or litigation expenses, which may be brought or made against or incurred by the County on

account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake, or negligence of the Lessor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement or arising out of Workers' Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of the Lessor and/or its subcontractors or claims under similar such laws or obligations. The Lessor's obligations under this paragraph do not extend to any liability caused by the sole negligence of the County or its employees.

7) Lessor's Warranty Of Compliance With Immigration And Anti-Terrorism Law

A. The Lessor warrants its compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. Section 23-214, subsection a.

B. A breach of warranty under paragraph (a) (above) shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.

C. The County retains the legal right to inspect the papers of Lessor or Lessor's employee who works on the agreement to ensure that the Lessor or subcontractor(s) is complying with the warranty provided under paragraph (a) (above).

D. In accordance with A.R.S. §35-397, the Lessor hereby warrants that the Lessors does not have scrutinized business operations in Iran or the Sudan.

E. Per A.R.S. §35-391, the Lessor hereby warrants that they are in compliance with the Export Administration Act and not on the Excluded Parties List.

F. Per A.R.S. §41-4401, the Lessor hereby warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214 which requires verification of each employee's legal employability, after they are employed, using the basic pilot program (also known as E-verify).

8) Non-Appropriation of Funds

Notwithstanding any other provisions in this Contract, this Contract may be terminated if the County's governing body does not appropriate sufficient monies to fund its obligations herein or if grant funds are terminated or reduced for the purpose of maintaining this Contract. Upon such termination, the County shall be released from any obligation to make future payments and shall not be liable for cancellation or termination charges.

9) Amendment and Entirety of Contract

This document constitutes the entire agreement between the parties with

respect to the subject matter hereto and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements and other communications between the parties. It may not be changed or modified except by an instrument in writing signed by a duly authorized representative of each party.

10) Records

The Lessor will:

- A. Submit all reports and invoices specified in this Agreement.
- B. Retain and contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of this Agreement (hereinafter the "Records") for a period of five (5) years after the termination or completion of this Agreement. If any litigation, claim, dispute or audit is initiated before the expiration of the five (5) year period, the Records will be retained until all litigation, claims, disputes or audits have been finally resolved. All Records will be subject to inspection and audit by the County at reasonable times. Upon request the Lessor will produce a legible copy of any or all Records.

11) Approval by the County

Before this Agreement can become effective and binding upon the County, it must be approved by the County Board of Supervisors. In the event that the Board of Supervisors fails or refuses to approve this Agreement, it will be null and void and of no effect whatsoever.

12) Waiver

The failure of either party at any time to require performance by the other party of any provisions hereof will in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of the breach of any provision hereof will not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of such provision itself.

13) Non-assignment

This Agreement is non-assignable. Any attempt to assign any of the rights, duties or obligations of this Agreement is void.

14) Cancellation of Agreement

This Agreement may be cancelled by the County pursuant to A.R.S. §38-511.

15) Non-discrimination

The Lessor will comply with State Executive Order No. 2009-9 and all other applicable Federal and State laws, rules and regulations prohibiting discrimination.

16) Notice

Any notice given in connection with this Agreement must be given in writing and delivered either by hand to the party or by certified mail-return receipt to the party's place of business as set forth above.

17) Choice of Law

Any dispute under this Agreement or related to this Agreement will be decided in accordance with the laws of the State of Arizona.

18) Severability

If any part of this Agreement is held to be unenforceable, the rest of the Agreement will nevertheless remain in full force and effect.

19) Defaults

If the County fails to perform or fulfill any obligation under this Agreement, County shall be in default of this Agreement. Subject to any statute, ordinance or law to the contrary, County shall have seven (7) days from the date of notice of default by Lessors to cure the default. In the event County does not cure a default, Lessor may at Lessor's option (a) cure such default and the cost of such action may be added to Lessee's financial obligations under this Agreement; or (b) declare County in default of the Agreement. In the event of default, Lessor may, as permitted by law, re-take possession of the Equipment. Lessor may, at its option hold County liable for any difference between the rent that would have been payable under this Agreement during the balance of the unexpired term and any rent paid by any successive County if the Equipment is re-let minus the cost and expenses of such re-letting.

20) Use of Equipment

County shall only use the Equipment in a careful and proper manner and will comply with all laws, rules, ordinances, statutes and orders regarding the use of the Equipment. The lessor shall be responsible for regular inspection and necessary maintenance or repair of the aircraft, and its storage.

21) Condition of Equipment and Repair

Lessor is responsible for regular inspection, maintenance, and repair of the aircraft to ensure that it is in good and acceptable condition at all times available for use by the lessee. The lessor will promptly communicate to the lessee, periods when the aircraft is unavailable for flight due to necessary inspection, maintenance or repair needed. The County or County's agent agrees to conduct pre-flight inspections of the aircraft prior to each flight to verify the aircraft is in flight worthy condition. The lessee will not use the aircraft if it is found not to be in flight worthy condition, and will promptly communicate any such problems to the lessor for maintenance and repair.

The Lessor agrees to perform or have performed all 100 hour, progressive, and annual inspections which may become due during the term of this lease agreement and to provide all oil changes, and routine and minor maintenance recommended by the manufacturer or directed by the Federal Aviation Administration during the duration of this lease agreement. The lessor will provide replacement parts, major overhaul of engines and airframe, and will be responsible for compliance with any additional directives of the Federal Aviation Administration of service bulletins, which might be issued during the period of this lease agreement.

The Lessee agrees to release the airplane to the lessor to permit them to carry out responsibilities under this article. The lessee agrees to provide all fuel and oil consumed in its operation of the aircraft. The lessee agrees to reimburse the lessor for the prorated cost of routine maintenance and repair on the aircraft based upon a pro rata share of total hours flown by the County out of all hours the plane is flown during the time period of the lease.

22) Encumbrances, Taxes and Other Laws

County shall keep the Equipment free and clear of any liens or other encumbrances, and shall not permit any act where Lessor's title or rights may be negatively affected. County shall be responsible for complying with and conforming to all laws and regulations relating to the possession, and use of the Equipment.

23) Lessors Representations

Lessor represents and warrants that he has the right to lease the Equipment as provided in this Agreement and that Lessee shall be entitled to quietly hold and possess the Equipment as provided in this Agreement, and Lessor will not interfere with that right as long as County pays the Rent in a timely manner and performs all other obligations under this Agreement.

24) Ownership

The Equipment is and shall remain the exclusive property of the Lessor.

25) Binding Effect

The covenants and conditions contained in the Agreement shall apply to and bind the Parties and the heirs, legal representatives, successors and permitted assigns of the Parties.

26) Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

27) Notice

Any notice required or otherwise given pursuant to this Agreement shall be in writing and mailed certified return receipt requested, postage pre-paid, or delivered by overnight delivery service to:

Lessor:

Steve Allen
27 E. Juniper Avenue
Flagstaff, AZ 86001

County:

NAVAJO COUNTY
Sheriff's Office
Post Office Box 668
Holbrook, AZ 86025

Either party may change such addresses from time to time by providing notice as set forth above.

28) Cumulative Rights

Lessor's and County's rights under this Agreement are cumulative, and shall not be construed as exclusive of each other unless otherwise required by law.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date Herein before indicated.

STEVE ALLEN

By _____
Steve Allen,
Owner of Equipment

NAVAJO COUNTY

By _____
Dawnafe Whitesinger
Chairwoman
Board of Supervisors
Navajo County

RICHARD MONN

By _____
Richard Monn
Owner of Equipment

JAMES CULLEN

By _____
James Cullen
Owner of Equipment

ACKNOWLEDGED before me
by Steve Allen on this _____ day of
_____, 2015.

Approved as to form:

Deputy County Attorney

Notary Public

ACKNOWLEDGED before me
by Richard Monn on this ____ day of
_____, 2015.

Notary Public

ACKNOWLEDGED before me
by James Cullen on this ____ day of
_____, 2015.

Notary Public

Deputy County Attorney
Attest:

Melissa Buckley, Clerk of the Board

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WHEREAS:

- A. The County has a need to lease an airplane for the Sheriff's Office Air Operations Division.
- B. The County wishes to contract with Lessor on the terms and conditions set out in this Agreement; and,
- C. Lessor owns a 1969 Cessna 182M, FAA # N70618, 4 passenger high wing, and is ready, willing and able to lease them to the County.

THEREFORE, in consideration of their mutual promises set out herein, the Lessor, and the County agree as follows:

1) Scope of Work

- A. Lessor agrees to lease to the County the following equipment: 1969 Cessna 182M (4 passenger high wing) license number N70618, (hereinafter the "Equipment").
- B. Lessor reserves the right to occasionally use the Equipment when it does not conflict with the County's use.
- C. Remuneration to Lessor will be for direct expenses with no profit of any sort. Lessor requests no smoking in the aircraft and no modifications made without prior consent of Lessor.

2) Lease Payments

- a) County agrees to pay Lessor as rent for the agreement the following amounts:
 - 1. Reimbursement of actual fuel costs.
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- C. If a policy does expire during the life of the Contract, a renewal certificate must be sent to the County ten (10) days prior to the expiration date.
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6) Indemnification

The Lessor will at all times, to the fullest extent permitted by law, indemnify, keep indemnified, defend and save harmless the County and/or any of its agents, officials and employees from any and all claims, demands, suits, actions, proceedings, losses, costs and/or damages of every kind and description, including any attorney's fees and/or litigation expenses, which may be brought or made against or incurred by the County on

account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake, or negligence of the Lessor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incidental to the performance of this Agreement or arising out of Workers' Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of the Lessor and/or its subcontractors or claims under similar such laws or obligations. The Lessor's obligations under this paragraph do not extend to any liability caused by the sole negligence of the County or its employees.

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respect to the subject matter hereto and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements and other communications between the parties. It may not be changed or modified except by an instrument in writing signed by a duly authorized representative of each party.

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12) Waiver

The failure of either party at any time to require performance by the other party of any provisions hereof will in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of the breach of any provision hereof will not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of such provision itself.

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17) Choice of Law

Any dispute under this Agreement or related to this Agreement will be decided in accordance with the laws of the State of Arizona.

18) Severability

If any part of this Agreement is held to be unenforceable, the rest of the Agreement will nevertheless remain in full force and effect.

19) Defaults

If the County fails to perform or fulfill any obligation under this Agreement, County shall be in default of this Agreement. Subject to any statute, ordinance or law to the contrary, County shall have seven (7) days from the date of notice of default by Lessors to cure the default. In the event County does not cure a default, Lessor may at Lessor's option (a) cure such default and the cost of such action may be added to Lessee's financial obligations under this Agreement; or (b) declare County in default of the Agreement. In the event of default, Lessor may, as permitted by law, re-take possession of the Equipment. Lessor may, at its option hold County liable for any difference between the rent that would have been payable under this Agreement during the balance of the unexpired term and any rent paid by any successive County if the Equipment is re-let minus the cost and expenses of such re-letting.

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Lessor is responsible for regular inspection, maintenance, and repair of the aircraft to ensure that it is in good and acceptable condition at all times available for use by the lessee. The lessor will promptly communicate to the lessee, periods when the aircraft is unavailable for flight due to necessary inspection, maintenance or repair needed. The County or County's agent agrees to conduct pre-flight inspections of the aircraft prior to each flight to verify the aircraft is in flight worthy condition. The lessee will not use the aircraft if it is found not to be in flight worthy condition, and will promptly communicate any such problems to the lessor for maintenance and repair.

The Lessor agrees to perform or have performed all 100 hour, progressive, and annual inspections which may become due during the term of this lease agreement and to provide all oil changes, and routine and minor maintenance recommended by the manufacturer or directed by the Federal Aviation Administration during the duration of this lease agreement. The lessor will provide replacement parts, major overhaul of engines and airframe, and will be responsible for compliance with any additional directives of the Federal Aviation Administration of service bulletins, which might be issued during the period of this lease agreement.

The Lessee agrees to release the airplane to the lessor to permit them to carry out responsibilities under this article. The lessee agrees to provide all fuel and oil consumed in its operation of the aircraft. The lessee agrees to reimburse the lessor for the prorated cost of routine maintenance and repair on the aircraft based upon a pro rata share of total hours flown by the County out of all hours the plane is flown during the time period of the lease.

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Lessor:

Steve Allen
27 E. Juniper Avenue
Flagstaff, AZ 86001

County:

NAVAJO COUNTY
Sheriff's Office
Post Office Box 668
Holbrook, AZ 86025

Either party may change such addresses from time to time by providing notice as set forth above.

28) Cumulative Rights

Lessor's and County's rights under this Agreement are cumulative, and shall not be construed as exclusive of each other unless otherwise required by law.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date Herein before indicated.

STEVE ALLEN

By _____
Steve Allen,
Owner of Equipment

NAVAJO COUNTY

By _____
Dawnafe Whitesinger
Chairwoman
Board of Supervisors
Navajo County

ACKNOWLEDGED before me
by Steve Allen on this _____ day of
_____, 2015.

Approved as to form:

Deputy County Attorney

Notary Public

Attest:

Melissa Buckley, Clerk of the Board