



Office of the City Clerk

The City of Morgantown

Linda L. Little, CMC
389 Spruce Street, Room 10
Morgantown, West Virginia 26505
(304) 284-7439 Fax: (304) 284-7525
llittle@cityofmorgantown.org

AMENDED AGENDA
MORGANTOWN CITY COUNCIL
REGULAR MEETING
MARCH 18, 2014
7:00 p.m.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** Regular Meeting – March 4, 2014
5. **CORRESPONDENCE:**
6. **PUBLIC HEARING:**
 - A. AN ORDINANCE ADOPTING THE ANNUAL BUDGET OF THE CITY OF MORGANTOWN FOR THE FISCAL YEAR 2014-2015.
7. **UNFINISHED BUSINESS:**
 - A. Consideration of APPROVAL of SECOND READING (ADOPTION) of AN ORDINANCE ADOPTING THE ANNUAL BUDGET OF THE CITY OF MORGANTOWN FOR THE FISCAL YEAR 2014-2015.
(First Reading on March 4, 2014)
 - B. Boards and Commissions
8. **PUBLIC PORTION WHICH SHALL BE SUBJECT TO RULES ESTABLISHED BY COUNCIL AND ADOPTED BY RESOLUTION**
9. **SPECIAL COMMITTEE REPORTS**

10. NEW BUSINESS:

- A. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND HELICOPTER ANALYTICS, INC. (LESSEE) AS IT PERTAINS TO OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.
- B. Consideration of APPROVAL of FIRST READING of AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND HELICOPTER ANALYTICS, INC., LESSEE, IN WHICH OFFICE SPACE, SPECIFICALLY SUITE 229 IS BEING LEASE AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A HELICOPTER MAINTENANCE AND RESTORATION CONCESSION.

11. CITY MANAGER'S REPORT:

INFORMATION:

- 1. 2014 Urban Archery Hunt

NEW BUSINESS:

- 1. Bid Results of Asphalt for 2014 Street Paving Project

12. REPORT FROM CITY CLERK:

- A. Liquor License Application – Minsyr-Oxbridge, LLC, DBA: Waterfront Place Hotel

13. REPORT FROM CITY ATTORNEY

14. REPORT FROM COUNCIL MEMBERS

15. ADJOURNMENT

If you need an accommodation contact us at (304) 284-7439

REGULAR MEETING MARCH 4, 2014: The regular meeting of the Common Council of the City of Morgantown was held in the Council Chambers of City Hall on Tuesday, March 4, 2014 at 7:00P.M.

PRESENT: City Manager Jeff Mikorski, City Attorney Steve Fanok, City Clerk Linda Little, Mayor Jenny Selin and Council Members: Ron Bane, Bill Kawecki, Wes Nugent, Marti Shamberger, Mike Fike and Nancy Ganz.

The Meeting was called to order by Mayor Selin.

APPROVAL OF MINUTES: The Regular Meetings minutes of the February 18, 2014 meeting were approved as amended.

CORRESPONDENCE: No correspondence.

BOARDS AND COMMISSIONS: City Clerk Linda Little reported that she has advertised to fill the vacancy on the Sister Cities Commission. The deadline for applications is March 30, 2014.

PUBLIC PORTION:

James Giuliani, 256 Prairie Avenue, commented about development in Morgantown regarding public/private projects between WVU and private businesses. Mr. Giuliani stated that businesses making profit developing on land owned by WVU should not be able to use WVU to avoid being taxed.

Dave Biafora, Metro Properties, concurred with Mr. Giuliani, stating that the problem is “no taxes” and unfair competition. Mr. Biafora commented that Council does not understand how serious the problem is. He requested the City bring concerned citizens and developers in for a workshop on the topic.

SPECIAL COMMITTEE REPORTS: Councilor Ganz reported that the Director of BOPARC, Mark Wise was hired by West Virginia University and that Mel Burch will serve as the Interim Director. She also encouraged everyone vote in the “Year of the Tree” contest and to enjoy the last snow storm of the year by sled riding at Chestnut Ridge Park. Councilor Bane gave an update of the First Ward Meeting and announced the next meeting for March 26th. Councilor Kawecki invited everyone that is interested in local history to a reception at the Morgantown History Museum on March 19th. Councilor Kawecki then asked for an update on the Housing Advisory Board and whether the City has issued a response to the recent concerns the board have expressed to Council. Lastly, Councilor Shamberger announced the upcoming meetings of the Met Theatre Commission and the Woodburn School Redevelopment Commission.

NEW BUSINESS:

AN ORDINANCE ADOPTING THE ANNUAL BUDGET: The below entitled Ordinance was presented for first reading:

AN ORDINANCE ADOPTING THE ANNUAL BUDGET OF THE CITY OF MORGANTOWN FOR THE FISCAL YEAR 2014-2015.

City Manager Jeff Mikorski explained the last minute change in the Ordinance presented, due to new property tax information received from the County Assessor. After discussion, motion by Bane, second by Nugent to pass the above entitled Ordinance to second reading. After further explanation from the City Manager and discussion, motion carried 7-0.

A RESOLUTION SUBMITTING A LETTER OF INTENT TO THE NATIONAL SAFETY COUNCIL TO BECOME A US DESIGNATED SAFE COMMUNITY AND ENDORSING THE CITY'S PARTICIPATION IN THE SAFE COMMUNITY COLLABORATIVE EFFORT. The above entitled Resolution was presented for approval.

After explanation from the City Manager, motion by Fike, second by Ganz to approve the above entitled Resolution. Motion carried 7-0.

CITY MANAGERS REPORT:

INFORMATION:

1. Update on HB4208

Mr. Mikorski reported to Council that City Administration has been tracking the bill which would make synthetic drugs not included in the controlled substance schedule illegal. He also noted the bill is to be reviewed by the Senate Health and Human Resources Committee, followed by the WV Senate Judiciary Committee. He will monitor the bill's status and report back to Council.

2. POW/MIA Flag at Public Meetings

Mr. Mikorski stated that in accordance with Council's request during the last Committee of the Whole meeting, City Administration will move forward with the procurement of POW/MIA flags for installation at all City of Morgantown facilities.

NEW BUSINESS:

1. License Agreement Transfer

Mr. Mikorski informed Council that the City of Morgantown has been requested to transfer a license agreement allowing vehicular ingress and egress into the Rail-Trail right-of-way to provide access to a public parking facility. With City Council's approval, the City Manager can execute the necessary license agreement documents with Minsyr-Oxbridge LLC., the new owners of Waterfront Place Hotel.

After discussion and explanation of the agreement by the City Manager and City Attorney; motion by acclamation to approve the execution of the license agreement assignment documents by the City Manager, as needed to move forward with the property exchange. Motion carried 7-0.

2. Arts Monongahela Request for Grant Matching Funds

Mr. Mikorski informed Council that Arts Monongahela is seeking \$3,000.00 in funding from the West Virginia Division of Culture and History Commission on the Arts, Community Arts Project Grant. He noted that this arts project is a re-granting program to support local arts organizations and individual artists. He stated that the grant requires matching funds of \$3,000.00 to be designated from the City's FY 2014 Capital Escrow contingency line and would allow Arts Monongahela to re-grant a total of \$6,000.00 locally, if approved.

Motion by Kawecki, second by Shamberger to approve the match of funds for \$3,000.00 as described above in conjunction with the Community Project Grant from the 2014 Capital Escrow contingency line. Motion carried 7-0.

Councilor Kawecki then requested an update on the Housing Advisory Board. Mr. Mikorski reported on a recent meeting with WVU where all the issues of public/private partner ownership were discussed.

Mr. Mikorski then informed Council that the City has engaged the Auctioneering services of Joe R. Pyle to facilitate the sale of the Armory property. He stated that in order to get the property sold as quickly as possible, the sale will be nationally advertised on April 26th, 2014.

REPORT FROM CITY CLERK: No report.

REPORT FROM CITY ATTORNEY: No report.

REPORT FROM COUNCIL MEMBER: (Roll Reversal)

Councilor Ganz: Councilor Ganz reported that street food vendors are doing well since the implementation of the new regulations. She thanked WVU for the recent creation of the Positive Student Behavior Committee. Lastly, she encouraged everyone to cast their votes in the tree contest before the deadline.

Councilor Fike: Councilor Fike noted he attended Main Street Morgantown's 30th birthday party. He commended WVU for the creation of the Greek Life Advisory Board and praised its collaborative efforts. He then wished local resident Peggy Chappelle of Jerome Park a happy 90th birthday.

Councilor Shamberger: Councilor Shamberger commented that she attended the First Ward meeting and wishes the group well in its formation. She announced the MHS Spaghetti Dinner event and then congratulated the WVU Women's Basketball team.

Councilor Nugent: Councilor Nugent offered congratulations to the new officers of the Wiles Hill-Highland Park neighborhood association. He reported that he attended a recent performance of the new show at the MAC: *Love, Sex and the IRS*, and noted it is a delightful and benignly humorous show, despite its racy title. He encouraged everyone to support local theatre and local performers.

Councilor Kawecki: Councilor Kawecki concurred with Mr. Nugent's comments about local theatre and noted that M.T. Pockets Theatre also puts on enjoyable shows. He reported on the South Park Association of Neighbors' and the Greenmont Association's wish to champion efforts to have a pedestrian bridge built across Decker's Creek. He thanked the City for its enforcement of clear sidewalks during the winter weather.

Councilor Bane: Councilor Bane announced the next meeting of the newly formed First Ward Neighborhood Association, where there will be an election of officers. He suggested that the concerns of the developers who spoke at the Public Portion be addressed administratively, through the Manager's efforts. He hoped more

information can be sought about the effects of any proposed development and related taxation information. He then discussed the issues which arose at the last meeting of Council, during the Committee of the Whole; he was gaveled for calling a Point of Order over a violation of decorum during a period of public comment. He felt the situation was not handled fairly, and feels as though Council is no longer operating as a team. He informed Council he will see the Manager independently going forward as he feels his voice is not being heard among the group.

Mayor Selin:

Mayor Selin announced the Red Cross Blood Drive, the next Rivertown meeting, Chocolate Lover's Day, auditions for Children's Community Theatre, and announced the Biggest Baddest Tree contest. She responded to Councilor Bane's concerns, noting that when she is Chair of a meeting she does her utmost to respect the participation of all members and speakers, while maintaining order. She thanked those who came to speak at Council. Mayor Selin then noted citizen concerns over where removed snow is to be piled, and asked that a brief report be generated in order to assess the needs of effective snow removal to better prepare for next year.

ADJOURNMENT: There being no further items of business or discussion, the meeting adjourned by unanimous consent at 8:20pm.

City Clerk

Mayor

*A FULL TRANSCRIPT OF ALL COUNCIL MEETINGS IS AVAILABLE ON DVD AT THE MORGANTOWN CITY LIBRARY.



The City of Morgantown

389 Spruce Street
Morgantown, WV 26505
www.morgantownwv.gov

Office of the City Manager

City Manager's Report for City Council Meeting of March 18, 2014

Information:

1. 2014 Urban Archery Hunt

Planning has begun for the 2014 Urban Deer Archery Hunt, and, as last year, registration is beginning in early spring to help gauge interest and prepare for this fall event. Bow hunters can register to be a part of the archery hunt by filling out a form on the City's Urban Deer Archery Hunt web page from now to April 18, 2014. Official rules and regulations, including the properties involved, will be presented at an upcoming Council meeting. The City will be working with WVU Extension Service to provide a ground level updated deer count this spring to see the effect of the City's Urban Deer Archery Hunt on the deer population in and around the City limits.

New Business:

1. Bid Results of Asphalt for 2014 Street Paving Project

Attached is a memo from the City Engineer, Terry Hough, regarding the results of a bid call request for prices for the asphalt material needed for this year's paving program. In order to reduce costs, it has been our practice to split the bids into cost for materials and installation of asphalt. For the paving material, I recommend awarding the contract to Greer Company in the amount of \$145,311.00 to purchase three varieties of asphalt.

Jeff Mikorski, ICMA-CM
Morgantown City Manager

Memo

City of Morgantown Department of Public Works and Engineering

To: Jeff Mikorski, City Manager
From: Terry Hough, Director 
Subject: Bid Call 2014-01 2014 Street Paving Project
Hot Laid Bituminous Asphaltic Cement
Date: March 12, 2014

Bids were opened March 1, 2011 at 10:30 a.m. for the 2014 Street Paving Project Hot Laid bituminous Asphaltic Cement. The results are as follows:

Greer Asphalt Company

<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total</u>
Hot Laid Bituminous Asphaltic Cement Wearing Course	1,500 Tons	\$75.00/ton	\$112,500.00
Hot Laid Bituminous Asphaltic Cement Non-Skid Course	88 Tons	\$85.00/ton	\$ 7,480.00
Hot Laid Bituminous Asphaltic Cement Base Course	347 Tons	\$73.00/ton	<u>\$ 25,331.00</u>
Total Amount of Bid			\$145,311.00

Given the above, I recommend that the bid be awarded to Greer Asphalt Company. It should be noted that this bid is for materials only. Another contract will be presented for the placement of the asphalt in the future.

If you have any questions or wish to discuss this issue, please contact me.

BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

BUILDING CODE APPEALS BOARD:

Ron Eck's Term expires on 4/30/14. Code Enforcement Office is going to check and see if he wishes to continue to serve. Qualified by experience and training by Council-5 members

SISTERS CITY COMMISSION:

Claudia Gulley has resigned. City Clerk will advertise for candidates for 30 days.

TRAFFIC COMMISSION:

Terms for the following expire on 4/26/14: David McKain, Julia Durham, Martin Dombrowski and William Blosser. Damien Davis will ask if they wish to continue to serve. Residents appointed by Council, must represent specific categories

***POLICE & FIRE CIVIL SERVICE COMMISSIONS: NEW PRESIDENTS APPOINTED IN JANUARY.**

****Information for Boards and Commissions vacancies are placed in the Dominion Post, are advertised on the City's Government Station Channel 15, and are posted at the Library and also information is on the City's Web Page.***

****Council decided on 3-21-06 by unanimous consent that if there is only one candidate for Boards & Commissions, that they will not interview; the City Clerk will check with Council before scheduling a Special Meeting.***

****BZA and Planning Commission term expirations are advertised in October and interviews must be completed by December per State Law.***

Boards and Commission interview structure will be reviewed at a Committee of the Whole. 3/7/14

**AN ORDINANCE ADOPTING THE ANNUAL BUDGET OF THE CITY OF
MORGANTOWN FOR THE FISCAL YEAR 2014-2015**

The Common Council of the City of Morgantown, West Virginia hereby ordains:

SECTION I:

That the following budget be and the same is hereby adopted for the City of Morgantown for the FY 2014-2015.

General Fund Revenues

Balance as of July 1, 2014	\$ 360,000
Taxes	20,357,881
Licenses and Permits	313,000
Intergovernmental	281,301
Charges for Services	2,649,100
Interfund Charges	75,170
Fines and Forfeiture	613,000
Other Financial Sources	132,284
Miscellaneous	<u>393,365</u>
<u>Total General Fund Revenues</u>	\$ 25,175,101

Coal Severance Fund Revenues

Balance as of July 1, 2014	\$ 14,714
Coal Severance	110,000
Miscellaneous	<u>200</u>
<u>Total Coal Severance Fund Revenues</u>	\$ 124,914

TOTAL REVENUES - GENERAL & COAL SEVERANCE \$ 25,300,015

General Fund/Department Expenditures

Mayor and City Council	\$ 65,734
City Manager	507,605
Finance	790,814
City Clerk	158,070
Municipal Court	257,494
City Attorney	282,689
Engineering	489,357
Personnel	44,648
Code Enforcement	958,366
Planning and Zoning	194,929
Elections	19,000
Information Technology	167,990
City Hall & Buildings	513,346
Police	6,630,520
Fire	4,419,508
Animal Control	39,393
Street	2,410,416
Signs & Signals	625,462
Equipment Maintenance	766,847
Urban Landscape	150,855
Contributions	452,245
Operating Transfers Out	<u>5,229,813</u>
<u>Total General Fund Expenditures</u>	\$ 25,175,101

Coal Severance Fund Expenditures

Contributions to Other Funds	\$ 120,000
Contingencies	<u>4,914</u>
<u>Total Coal Severance Fund Expenditures</u>	\$ 124,914

TOTAL EXPENDITURES FOR
GENERAL & COAL SEVERANCE FUNDS

\$ 25,300,015

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN (LESSOR) AND HELICOPTER ANALYTICS, INC. (LESSEE) AS IT PERTAINS TO OFFICE SPACE AT THE MORGANTOWN MUNICIPAL AIRPORT.

WHEREAS, Helicopter Analytics, Inc. wishes to lease space from the City within the Municipal Airport Terminal Building so as to operate an office; and

WHEREAS, City Administration has recommended to Morgantown City Council that it approve the lease, a copy of which is hereto attached; and

WHEREAS, Morgantown City Council is of the opinion that it would be in the best interest of the City and its Airport to approve said lease agreement.

NOW THEREFORE, the City of Morgantown hereby ordains that its City Manager is authorized to execute the lease agreement hereto attached and made a part of this ordinance, by and on behalf of the City of Morgantown.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

LEASE AGREEMENT

THIS AGREEMENT, made this 1st day of April, 2011, by and between **THE CITY OF MORGANTOWN**, a municipal corporation, hereinafter referred to as the **"CITY"**, and **HELICOPTER ANALYTICS, INC.**, (hereinafter referred to as **"LESSEE"**).

WITNESSETH, THAT WHEREAS, the **"CITY"** owns, controls and operates the Morgantown Municipal Airport; and

WHEREAS, **"LESSEE"** desires to lease office space from the City within the Airport Terminal Building.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the parties hereto agree as follows;

ARTICLE I - PREMISES

- 1.1 The **"CITY"** hereby leases to **"LESSEE"** office space, more particularly identified as Suite 214 within the Morgantown Municipal Airport Terminal Building as shown on the Exhibit hereto attached.

ARTICLE II - CONSTRUCTION/INSTALLATION OF IMPROVEMENTS

- 2.1 The **"LESSEE"** shall not, without prior written consent of the **"CITY"**, make any permanent improvements to the assigned area such as the demolition of existing walls, the construction of new permanent walls, the installation of electrical outlets or lighting, or any modifications to the heating/air conditioning systems.
- 2.2 The **"LESSEE"** may place furniture, property, and equipment into the assigned area as is necessary for the conduct of its business. Installed equipment which requires electrical or natural gas power shall be subject to the conditions outlined in ARTICLE VI, paragraph 6.1 of this Agreement. The **"LESSEE"** shall have the right to remove the same upon termination of this Agreement, providing the premises are repaired to the satisfaction of the **"CITY"** or restored to their original condition after such removal.

ARTICLE III - TERM OF AGREEMENT

- 3.1 The **"LESSEE"** shall have and hold said premises, facilities, rights, licenses, and privileges set forth herein for a term commencing April 1, 2014, and terminating March 31, 2016, unless sooner terminated as herein provided. Upon expiration of this Agreement, it may be extended on a month to month basis by mutual written agreement of the Lessee and Morgantown Airport Director.

- 3.2 It is the mutual intent of the parties that this Agreement shall remain in effect for the full term, subject to each party's right on breach.

ARTICLE IV - RENTAL FEES

- 4.1 The "LESSEE" agrees to pay the "CITY" a monthly rental fee of \$450.00 total for office space composed of one office. Payment will be made in advance, on or before the first business day of each month during the terms hereto and any extension thereof.
- (a) Failure to remit payment as to the prescribed time will result in an additional charge of 1.5% per month of all unpaid rents and fees.
 - (b) All sums due hereunder shall be paid by check payable to The City of Morgantown and mailed to the "Morgantown Municipal Airport, 100 Hart Field Road, Morgantown, West Virginia 26505 unless otherwise directed in writing by the "CITY".

ARTICLE V - MAINTENANCE OF PREMISES

- 5.1 The "CITY" agrees to provide the "LESSEE" with basic custodial services for the corridor outside the assigned area. These services are limited to sweeping, mopping and dusting of the corridor as needed.
- 5.2 The "CITY" agrees to maintain, at its expense, the basic infrastructure of the terminal building to include the basic structure, heating/air conditioning systems, plumbing systems and electrical systems provided however, such maintenance necessitated by the negligence of the "LESSEE", his employees or agents, or by willful destruction, shall be at the expense of the "LESSEE".
- 5.3 The "CITY", Airport Director or its/his duly appointed representatives shall have the right to enter the "LESSEE'S" assigned area to,
- a) Inspect the assigned area at reasonable intervals during the "LESSEE'S" regular business hours, or at any time in case of an emergency, to determine if the "LESSEE" is in compliance with the terms and conditions of this Agreement. The "CITY" may, at its discretion, require the "LESSEE" to effect any required maintenance or repairs at the "LESSEE'S" own cost; and
 - b) Perform any and all things which the "LESSEE" is obligated to, and has failed to do, after providing the "LESSEE" with ten (10) days' written notice to act, including maintenance, repairs and replacements to "LESSEE'S" assigned area. The cost of all labor, materials and overhead charges required for the performance of such work will be paid by the "LESSEE" to the "CITY" within ten (10) days following receipt

of invoice for said charges by “LESSEE”.

ARTICLE VI - UTILITIES

- 6.1 The “CITY” shall pay all electric current, water, and natural gas that enters the assigned area via presently installed underground utility lines and pipes, to the Terminal Building, and operates by local utility companies. The “LESSEE” shall be expected to exercise all practical economy and failure to do so will constitute unsatisfactory operations. The “CITY” shall have the right to insist upon and institute practices, which it deems necessary, which the “LESSEE” shall be expected to implement, to ensure no misuse or abuse of this privilege.
- 6.2 Should the “LESSEE” require any additional utility service other than that provided for above (such as telephone or internet lines), the “LESSEE” agrees to bear all costs associated with installing such utility service.

ARTICLE VII - GENERAL PROVISIONS

- 7.1 The “LESSEE” hereby covenants and agrees:
- a) That the facilities and space hereby leased shall be maintained and left in a neat and clean condition and the “LESSEE” shall conduct his business in such a manner as not to interfere with the normal operations of the Airport.
 - b) That personnel performing services for the “LESSEE” shall be neat, clean, and courteous, and the “LESSEE” shall not permit it’s agents, servants or employees so engaged to conduct business in a loud, boisterous, offensive or objectionable manner.
 - c) That the “LESSEE” shall abide by and be subject to all reasonable Airport Rules and Regulations which are now, or may from time to time be, promulgated by the “CITY”, concerning management, operation or use of the Airport.
 - d) That the “LESSEE” will meet all expenses in connection with the use of the leased premises hereunder and the rights and privileges herein granted, including without limitation by reason of enumeration, taxes, permit fees, license fees, and assessments lawfully levied or assessed against it or assessed because of it’s operations hereunder, and that it will secure all required permits and licenses for it’s operations hereunder.
 - e) That the “LESSEE” will not on the grounds of race, color, national origin, sex, handicap, religion, or age discriminate, or permit discrimination, against any person or group of persons in any manner prohibited by Part 21 of the Regulations of the Office of the Secretary of

Transportation and Title XI of the Civil Rights Act of 1964.

ARTICLE VII - INDEMNIFICATION AND INSURANCE

- 8.1 "LESSEE" shall protect, defend, indemnify and hold the "CITY" and its representatives and employees completely harmless from and against any and all liabilities, demands, suits, claims, losses, fines or judgements arising by reason of the injury or death of any person or damage to or loss of any property, including all reasonable costs for investigation and defense thereof, (including, but not limited to, attorney fees, court costs and expert fees), of any nature whatsoever arising out of, or incidental to this Lease Agreement or "LESSEE'S" use or occupancy of the leased premises or the acts or omissions of "LESSEE'S" officers, employees, agents, representatives, contractors, sub-contractors, licensee's or invitee's, regardless of where the injury, death, loss or damage may occur, unless such injury, death, loss or damage is caused by the negligence of the "CITY" or its employees, agents, officers, or representatives. The "CITY" shall give "LESSEE" reasonable notice of any such claims or actions. The provisions of this Article shall survive the expiration or earlier termination of this Lease Agreement.
- 8.2 Without limiting its liability as aforesaid, the "LESSEE" shall carry insurance in the following amounts during the term hereof, naming the "CITY" as co-insured:

Public Liability

Bodily Injury	\$500,000 per occurrence
Property Damage	\$50,000 per occurrence

- 8.3 The "LESSEE" shall provide the "CITY" with certification of insurance throughout the term of this agreement, evidencing such coverage to be in force.
- 8.4 The "CITY" agrees to notify the "LESSEE" in writing, as soon as practicable of any claims, demands or action arising out of an occurrence covered hereunder of which the "CITY" has knowledge, and to cooperate with the "LESSEE" in the investigation and defense thereof.

ARTICLE IX - CANCELLATION/TERMINATION

- 9.1 It is understood and agreed by the parties hereto this agreement may be terminated by either party, for any reason, by one party giving the other party sixty (60) days advanced written notice. It is further understood and agreed by and between the parties hereto the following provisions will result in cancellation of this agreement.
- (a) In the event the "LESSEE" shall make default in any of the provisions

of this agreement, and said default shall continue for a period of thirty (30) days, then and in that event, this agreement may be canceled and held for naught by the "CITY", and the "LESSEE" shall immediately surrender possession of the office space.

- (b) A national emergency results in the Airport being substantially occupied by the United States Government so as to materially interfere with the "LESSEE'S" operation.
- (c) In the event the Airport, or a material portion thereof, is destroyed by fire or other cause, resulting in material interference with the "LESSEE'S" operations.

9.2 Upon termination or cancellation of this Agreement, the "LESSEE" shall remain liable for any rental fee and/or custodial fee payments, if any, then due, and the "LESSEE" shall immediately surrender possession of the office space.

ARTICLE X - MISCELLANEOUS PROVISIONS

10.1 Any notice or other communication to the parties hereunder shall be deemed validly given, served or delivered upon deposit in the United States Mail, registered and with proper postage and registration fee paid, addressed as follows:

THE "CITY"

**OFFICE OF THE AIRPORT DIRECTOR
Morgantown Municipal Airport
100 Hart Field Road
Morgantown, West Virginia 26505**

"LESSEE"

**HELICOPTER ANALYTICS, INC.
1411 Pittsburgh Street
Scottsdale, PA 15683
ATTN: Bob Moser, President**

Or other address as may be designated by either party, in writing, from time to time.

10.2 To the extent not prohibited by law, the "CITY" shall attempt to protect the rights and privileges granted to the "LESSEE" under this and similar agreements.

- 10.3 The failure of the “CITY” to insist, in any one or more instance, upon the strict performance by the “LESSEE” of any of the provisions, terms, covenants, reservations, conditions or stipulations contained in this Lease Agreement shall not be considered as a waiver or relinquishment thereof for the future, but the same shall remain and continue in full force and effect, and no waiver of the conditions or stipulations hereof shall be deemed to have been made in any instance unless expressly in writing.
- 10.4 If any term, clause or provision of this Lease Agreement shall be adjudged by any court or government agency to be invalid or contrary to any applicable law or regulation or state government agency, such invalidation or determination shall not affect the validity and enforceability of the remaining portions of the Lease Agreement; and, to this end, the terms, clauses and provisions of this Lease Agreement are hereby agreed to be severable.
- 10.5 Both parties hereto acknowledge and agree that his document contains the entire agreement between the parties and that they have not relied upon any statements, representations, agreements or warranties, except such as are expressed herein, and that no amendment or modification of the Lease Agreement shall be valid or binding unless expressed in writing and executed by the parties hereto within the amended Lease Agreement in the same manner as the execution of this Lease Agreement.
- 10.6 This Lease Agreement shall be deemed to have been made in and construed in accordance with the laws of the State of West Virginia.
- 10.7 “LESSEE” shall not assign, transfer or sublease this Lease Agreement, by process or operation of law or in any other manner whatsoever, or sublet any portion of the leased premises or permit any portion of the leased premises to be occupied or used by anyone other than the “LESSEE” without the prior, written consent of the “CITY”, which said consent may be withheld in the sole discretion of the “CITY”.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed by their duly authorized officer and their respective seals to be hereunto affixed, the day and year first above written.

CITY OF MORGANTOWN

BY: _____
Jeff Mikorski, City Manager

In the presence of:

City Clerk

ATTEST:
(Seal)

HELICOPTER ANALYTICS, INC.

BY:  _____

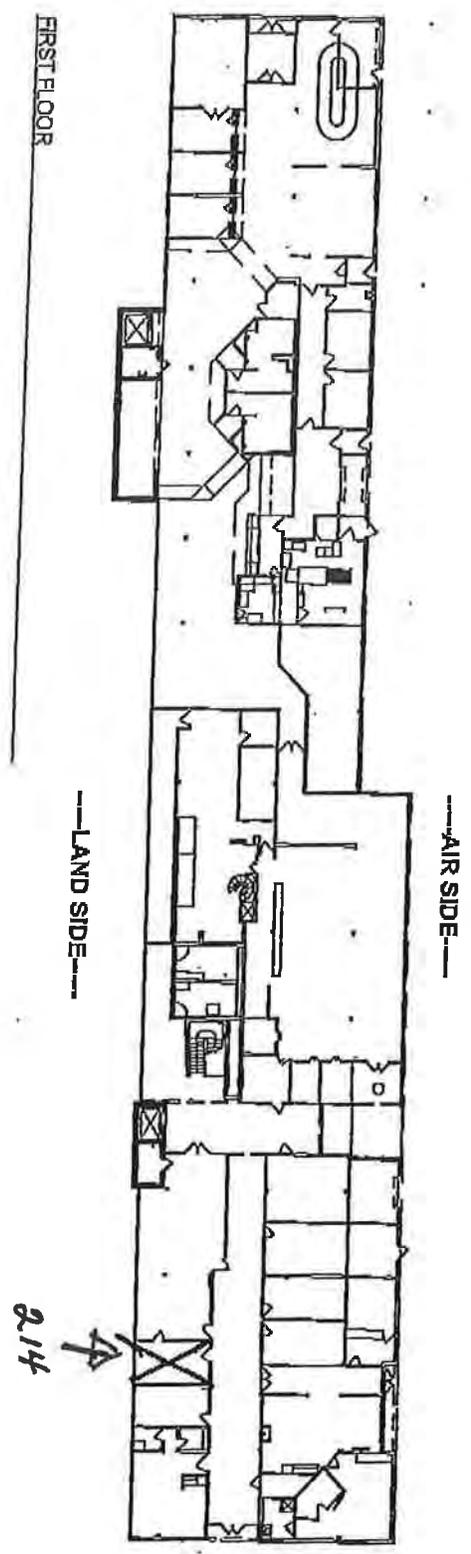
TITLE: PRESIDENT/CEO _____

In the presence of:

Witness

ATTEST:
(Seal)

EXHIBIT A



Terminal Bldg.

AN ORDINANCE AUTHORIZING A LEASE AGREEMENT BY AND BETWEEN THE CITY OF MORGANTOWN, LESSOR, AND HELICOPTER ANALYTICS, INC., LESSEE, IN WHICH OFFICE SPACE, SPECIFICALLY SUITE 229, IS BEING LEASED AT THE MORGANTOWN MUNICIPAL AIRPORT FOR THE PURPOSE OF OPERATING A HELICOPTER MAINTENANCE AND RESTORATION CONCESSION.

The City of Morgantown hereby ordains that the City Manager is authorized to execute the Agreement hereto attached by the City of Morgantown.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED:

THIS AGREEMENT made and entered into this first day of April, 2014, by and between the City of Morgantown, a municipal corporation (hereinafter called "City"), and HELICOPTER ANALYTICS, INC. (hereinafter called "Lessee").

WITNESSETH:

WHEREAS, the City owns, controls, and operates the Morgantown Municipal Airport (hereinafter called "Airport"); and

WHEREAS, the City encourages growth and development of aviation activities at the Airport, which include aviation maintenance; and

WHEREAS, the Lessee is desirous of providing helicopter maintenance and restoration services to businesses and individuals from Morgantown and the surrounding area.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained to be kept and performed to be legally bound hereby, the parties hereto covenant and agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01 The following words and phrases, wherever used in the Agreement shall for the purpose of this Agreement, have the following meanings:

- (a) "Aircraft Operating Area" shall mean the area that contains the runways, taxiways, aircraft parking aprons/ramps, hold areas, and any other area used or intended to be used for surface maneuvering of aircraft, and any areas inside the perimeter fence which are adjacent to surface maneuvering areas. This may also be referred to as "airside."
- (b) "Airport" refers to the Morgantown Municipal Airport.
- (c) "Certificate" shall mean a certificate issued by the FAA to allow a business to operate aircraft or provide an aeronautical service.
- (d) "FAA" means the Federal Aviation Administration of the United States, or any federal agencies succeeding to its jurisdiction.
- (e) "Leased Premises" shall mean an office located in this Terminal Building of the Airport located at 82 Hart Field Road, Suite 229, Morgantown, WV 26505. This space is to be used solely by the Lessee for the conduct of the Lessee's business.

- (f) "Person" shall mean an individual, corporation, government or governmental subdivision, partnership, association, or any other legal entity, or any representative thereof.
- (g) "Property" shall include anything of material value that is real, personal, tangible, or intangible.
- (h) "Rules and Regulations" shall mean those lawful and reasonable rules and regulations which are promulgated by the City for the orderly use of the Airport by both airlines and other operators and users of the Airport as the same may be amended, modified, or supplemented from time to time. It may also mean rules and regulations promulgated by the FAA or other Governmental entity governing conduct on airports in general and/or the Morgantown Municipal Airport specifically.

ARTICLE II. PREMISES

Section 2.01 The City hereby leases to the Lessee an office located in the Terminal Building of the Airport located at 82 Hart Field Road, Suite 229, Morgantown, WV 26505 – measuring approximately two hundred (200) square feet – more specifically identified in Exhibit A attached hereto. This space is to be used solely by the Lessee for the conduct of the Lessee's business.

ARTICLE III. GRANT OF CONCESSION

Section 3.01 The City hereby grants to the Lessee subject to the terms and conditions hereinafter contained the right to conduct and operate a helicopter maintenance and restoration concession at the Airport. This shall not be construed to be an exclusive concession, and it is stipulated, agreed, and understood that the City may grant concessions to other parties for operation of similar services. It is further understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 as amended.

Section 3.02 The City hereby agrees to allow the Lessee to use the Leased Premises as defined above for the purpose of operating a helicopter maintenance and restoration operation.

Section 3.03 Lessee shall have the right to the non-exclusive use, in common with others, of the Airport parking areas, appurtenances and improvements; the right of Ingress and Egress from the Leased Premises, which shall extend to Lessee's employees, guests and customers, and the right in common with other tenants of the Airport to use common areas of the Airport, including but not limited to the Airport Operating Area, roadways and other conveniences for the conduct of Lessee's business.

Section 3.04 Lessee is not authorized to offer other Aeronautical Services under this Agreement without prior written consent of the City and amendment of this Agreement by the Morgantown City Council.

ARTICLE IV. TERM OF AGREEMENT

Section 4.01 The term of this agreement shall be for a period of two (2) years commencing on April 1, 2014, and ending on March 31, 2016, unless terminated at an earlier date for any reason as set forth herein.

ARTICLE V. FEES

Section 5.01 In consideration for the rights and privileges granted by this Agreement, Lessee agrees to pay the City an annual rental payment of four thousand two hundred dollars (\$4,200.00) at the rate of three hundred and fifty dollars (\$350.00) per month. Payment will be made in advance, on or before the first business day of each month during the terms hereto and any extension thereof.

Section 5.02 Rental payments shall increase as of the first day of each calendar year (January 1) during the entire term, by the same percentage increase (if any) in the Consumer Price index (revised) for Urban Wage Earners and Clerical Workers in Pittsburgh, PA, as published by the Bureau of Labor Statistics of the US Department of Labor (CPI) during the prior calendar year, but no more than three percent (3%). Rents shall be fixed between annual adjustments. Each calendar year's recalculated rent shall be the basis for the adjustment for the next calendar year rent. The rent shall be recalculated as soon as the CPI is published. The increase shall be effective as of January 1 of each year. In no event shall adjustment be a negative amount. If the rental rate increases, Lessee shall, within thirty (30) days of receipt of notice from City, pay to City any additional rent caused by the increase in CPI, divided by twelve (12), multiplied by the number of rental payments made by Lessee since the effective date of rental adjustment.

Section 5.03 It is agreed that a finance charge of one and one-half percent (1.5%) per month shall be added to any balance unpaid within thirty (30) days after that balance is due.

Section 5.04 All sums due hereunder shall be made payable to the City of Morgantown. All such sums, statements, and reports shall be delivered to the Airport Director, Morgantown Municipal Airport, 100 Hart Field Road, Morgantown, WV 26505.

ARTICLE VI. INSTALLATION OF IMPROVEMENTS

- Section 6.01 The Lessee shall, without cost to the City, make improvements and provide and install all trade fixtures as are necessary for the customary operation of its business.
- Section 6.02 The Lessee shall have the right, at its sole expense, to install and maintain signs advertising its business; however, Lessee must first obtain prior written approval of the Airport Director, as the City's Representative, both as to size and location.
- Section 6.03 Lessee shall not suffer or permit any mechanic or other items to be levied or filed against the City. All improvements, equipment, fixtures, and interior décor constructed by the Lessee, its agents, or contractors, shall conform in all respects to all applicable statutes, ordinances, building codes, and Rules and Regulations, Lessee shall be responsible for applying for and obtaining any permits required to complete improvements. Any approval given by the City shall not constitute a representation or warranty as to conformity; responsibility therefore shall at all times remain with the Lessee.
- Section 6.04 All structural improvements and alterations shall, upon termination of this Agreement, become property of the Airport. All non-structural improvements and property of the Lessee must be removed upon termination of this Agreement.
- Section 6.05 The Lessee may place such furnishings, property, and equipment into the Leased Premises as is necessary for the conduct of its business. Lessee shall have the right to remove same upon termination of this Agreement, providing the premises are repaired to the satisfaction of the City or restored to their original condition after such removal.
- Section 6.06 The Lessee shall not remove or demolish, in whole or in part, any improvements within the Leased Premises without the express prior written consent of the City, which consent may be conditioned upon the obligation of the Lessee to replace the same by an improvement specified in the consent. However, City shall not withhold consent unreasonably and shall not impose unreasonable conditions upon its consent.

ARTICLE VII. MAINTENANCE OF PREMISES

- Section 7.01 The City agrees to provide maintenance and custodial services in the public areas of the Terminal. Lessee is responsible for all custodial services with the Leased Premises.
- Section 7.02 The City agrees to maintain, at its expense, the basic infrastructure of the Terminal to include the basic structure, heating/air conditioning systems, plumbing systems, and electrical systems provided however, such maintenance necessitated by the negligence or willful destruction of Lessee, its employees or agents, shall be at the expense of the Lessee.
- Section 7.03 The City, Airport Director, or its duly appointed representative shall have the right to enter Lessee's Leased Premises to:
- (a) Inspect the Leased Premises at reasonable intervals during the Lessee's regular business hours, or at any time in case of an emergency, to determine if Lessee is in compliance with the terms and conditions of the Agreement. The City may, at its discretion, require the Lessee to effect any required maintenance or repairs at Lessee's own cost; and
 - (b) Perform any and all things which the Lessee is obligated to, and has failed to do, after providing the Lessee with ten (10) days written notice to act, including maintenance, repairs, and replacements to Lessee's Leased Premises. The cost of all labor, materials, and overhead charges required for the performance of such work will be paid by Lessee to the City within ten (10) days following receipt of invoice for said charges by Lessee.

ARTICLE VIII. UTILITIES

- Section 8.01 The City shall pay for all electric current, water, and natural gas that enters the Leased Premises via presently installed underground utility lines and pipes, to the Terminal, and operated by local Utility Companies. The Lessee shall be expected to exercise all practical economy in the use of such utilities and failure to do so will constitute unsatisfactory operations. The City shall have the right to insist upon and institute practices which it deems necessary, which the Lessee shall be expected to implement, to ensure no misuse or abuse of this privilege.
- Section 8.02 Should the Lessee require any additional utility service other than that provided for above (such as telephone or internet lines), the Lessee agrees to bear all costs associated with installation and use of such service.

ARTICLE IX. PERFORMANCE AND SERVICE STANDARDS

- Section 9.01 This Lessee hereby covenants and agrees that it will furnish prompt and efficient service adequate to meet all reasonable demands for charter flight operations at a fair, reasonable and non-discriminatory basis, and to charge fair, reasonable and non-discriminatory prices for each unit or sale of service substantially similar to that charged by it for similar airports of comparable size within the same general area. The Lessee may make reasonable discounts, rebates and other similar types of price reductions to purchasers on a non-discriminatory basis.
- Section 9.02 Lessee will employ pilots licensed by FAA that meet the requirements of Lessee's Certificate.
- Section 9.03 Lessee is authorized to perform such maintenance activities as necessary to meet the requirements of its Certificate in a hangar provided under separate lease.
- Section 9.04 Lessee shall be authorized to use the Fixed Base Operator waiting areas for its clients and passengers. However, amenities in the waiting area are for passengers and transient aircrews only and not for use by lessee or its employees.
- Section 9.05 Lessee's employees shall be clean, neat in appearance, courteous and polite. The Lessee shall not employ any person or persons in or about the Leased Premises who shall conduct themselves in a loud, boisterous or otherwise improper manner. Upon notification by the Airport Director to the Lessee in writing that any person employed by the Lessee is, in the Airport Director's opinion, disorderly or otherwise unsatisfactory under this paragraph, the Lessee shall conduct a full investigation and correct the problem immediately.
- Section 9.06 The City is responsible for the safety and security of the Airport premises. Access is controlled by keys and key cards. Lessee and its employees will be granted access as necessary to conduct Lessee's business. Key and key cards are issued to individual persons and each person issued a key or key card is solely authorized to use same. Keys and key cards are not to be loaned or used to allow unauthorized persons access to the Airport Aircraft Operating Area. The City reserves the right to cancel and/or revoke access for any person deemed a safety or security risk as necessary. In the event a person's access is terminated for any reason, all keys and key cards must be returned to the Airport Director within five (5) business days. Keys or key cards that are lost and require replacement or are not returned when requested will result in a payment of fifty dollars (\$50.00) per key or key card by Lessee to the Airport.

Section 9.07 The Lessee shall abide by and be subject to all Rules and Regulations which are now, or may from time to time be promulgated by the City concerning management, operation or use of Airport facilities, or the safety of those using the same, and it shall abide by and be subject to all Rules and Regulations which are now, or may from time to time be promulgated by the FAA. The Lessee further agrees to maintain, use, and operate the Leased Premises in compliance with any and all present and future laws, ordinances, Rules and Regulations relating to public health, safety or welfare adopted by Federal, State, local or other governmental bodies or agencies, departments or officers thereof, and obtain all permits, at its sole expense, which may be necessary for the operation of its Concession.

Section 9.08 The Lessee covenants and agrees it will meet all expenses in connection with the use of its Leased Premises and be responsible for any taxes, permit fees, usage fees, license fees, or assessments lawfully levied or assessed by any taxing authority against the business owned and operated by the Lessee, the Leased Premises, concession receipts, or as a result of the Lessee's use and occupancy of Airport premises or its operation at the Airport.

Section 9.09 The Lessee does hereby covenant and agree that:

- (a) No person on the grounds of race, color, creed, age, sex, religion, national origin, or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said service or facilities.
- (b) In the construction of any improvements on the Leased Premises and the furnishing or services thereon, no person on the grounds of race, color, creed, age, sex, religion, national origin, or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination.
- (c) The Lessee shall use the Leased Premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- (d) In accordance with the policy of the US Department of Transportation that Minority Business Enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts such as covered by this agreement, the Lessee hereby assures no Person shall be excluded from the participation in, be denied the benefits of, or otherwise be discriminated against in connection with the award of any contract covered by

49 CFR Part 23 on the grounds of race, color, national origin, sex, or handicap. The Lessee hereby assures it will include the foregoing clauses in all subcontracts and will cause subcontractors similarly to include these clauses in further subcontracts.

In the event of breach if any of the above nondiscrimination covenants, the City shall have the right to terminate this agreement. The City, State of West Virginia, or the United States, or any combination of the foregoing Government entities, shall have the right to enforce the provisions of this Article.

Section 9.10 The Lessee agrees that the City, its duly authorized representatives or agents may, at any reasonable time, enter into the Leased Premises for the purposes of making any inspection deemed necessary in order to determine whether Federal, State, County, or City Rules and Regulations and/or the covenants of this Agreement are being complied with, and to do any and all things which the City is obligated to do as set for the herein, or which may be deemed necessary for the general conduct and safe operation of the Airport.

ARTICLE X. ASSIGNMENT OR SUBLEASE

Section 10.01 The Lessee shall not have the right to assign or transfer the Agreement or any rights hereunder without the prior written consent of the City and amendment of this Agreement by the Morgantown City Council.

Section 10.02 The Lessee shall not sublet any part of the Leased Premises without prior written consent of the City and amendment of this Agreement by the Morgantown City Council.

ARTICLE XI. INSURANCE AND LIMITATION OF LIABILITY

Section 11.01 The Lessee covenants and agrees to secure and maintain during the term of this Agreement, the following insurance coverage. A Certificate of Insurance or copies of the Individual policies shall be forwarded to the Airport Director within ten (10) business days after execution of this Lease. Such policies shall contain a provision requiring at least thirty (30) days notice of cancellation which notice shall be given in writing to the Airport Director. In the event these policies are revoked or cancelled, the Airport Director must be notified within five (5) business days. Failure to hold and maintain this insurance will be grounds for termination of this lease.

(a) Comprehensive General Public Liability Insurance covering Lessee's operations at the Airport and its serving of Airport customers with a combined

single limit coverage of One Million Dollars (\$1,000,000), naming the City as an additional insured.

- (b) Passenger/Aircraft Liability Insurance for Charter Operations in the minimum amount of One Million Dollars (\$1,000,000) per passenger and Two Million Dollars (\$2,000,000) per occurrence.

Section 11.02 The Lessee agrees to indemnify and hold the City, its agents, officers, representatives, and employees forever harmless from and against any and all claims, damages, judgments, attorneys fees, compensation, demands, or liability for injuries to Persons or Property caused by, arising from or in connection with the use or occupancy by the Lessee, its agents and employees of the Leased Premises or arising from, out of, or in connection with the Lessor's operations at the Airport or arising directly or indirectly out of any acts of the Lease, its agents, servants, guests, or business invites, or by any reason of any act or omission of any such Person; provided, however the Lessee shall not be liable for any injury, damage or loss occasioned by the negligence of the City, its agents or employees. The Lessee shall give to the City prompt and timely notice of any claim or suit filed which in any way, directly or indirectly, contingently or otherwise, affects or might affect the City. Except for losses due to the negligent acts or omissions of the City, its agents or employees, the Lessee further covenants and agrees it will not hold the City, its agents of employees, responsible for any loss or damage occasioned by fire, theft, rain, flood, windstorm, hail, vandalism, or from any other cause whatsoever, whether said cause be direct, indirect, or merely a contributing factor in producing the loss or damage to an property of the Lessee that may be located or stored on the Leased Premises or any other location at the Airport, and the Lessee agrees that storage of all property on the Leased Premises or elsewhere at the Airport shall be at the Lessor's risk. The Lessee shall be responsible for all damage to persons or property caused by carelessness, negligence, or neglect on the part of Lessee, its agents or employees. They City shall not be liable for any loss/damage suffered by the Lessee arising out of the interruption or cessation of the business conducted by the Lessee under this Agreement.

ARTICLE XII. TERMINATION

Section 12.01 It is mutually understood and agreed that either party may terminate this Agreement, for any reason with sixty (60) days prior written notice to the other party. It is further understood and agreed in the event the Airport were to cease operating as an air transportation facility, this Agreement would automatically terminate. It is further understood and agreed in the event the United States government or any of its agencies would assume control over the Airport in time of war of National Emergency, then this Agreement would automatically abate

during such period. The City agrees to give the Lessee prior notice as it feasible upon the occurrence of such an event.

Section 12.02 Upon the happening of any one of the following events, Lessee shall be deemed to be in default of this Agreement. If Lessee is declared in default, the City may terminate this Agreement by giving the Lessee advance written notice, to be served as hereinafter provided:

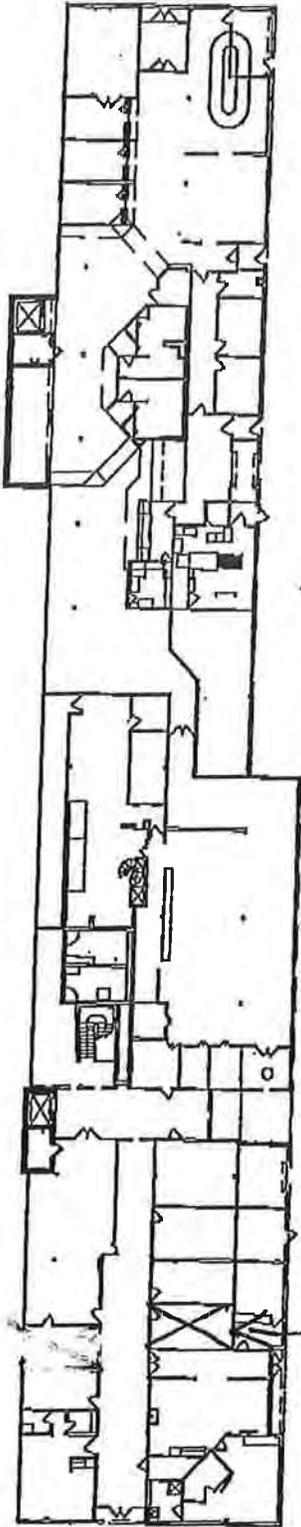
- (a) Failure by the Lessee to pay fees and charges specified in this Agreement or if any part thereof is in arrears and unpaid, provided the City shall first give the Lessee written notice to remedy such failure, and if Lessee does not correct such failure within ten (10) days from receipt of such notice;
- (b) The making by the Lessee of a general assignment for the benefit of creditors;
- (c) The filing by the Lessee of a voluntary petition in bankruptcy, or the institution of proceedings in bankruptcy against the Lessee and the adjudication of the Lessee as a bankrupt pursuant to such proceedings.
- (d) The taking over of the Lessee or its assets by a court of competent jurisdiction;
- (e) The death (if an individual) or dissolution of the Lessee or the divestiture of the Lessee's estate herein by other operation of law;
- (f) The failure of the Lessee to comply with and meet all the laws of Rules and Regulations issued by the City, the FAA, or other governmental agency having jurisdiction;
- (g) The failure of the Lessee to keep and perform any of the covenants or agreements herein contained on the part of the Lessee to be kept and performed, provided the City shall first give the Lessee written notice to remedy such failure, and if Lessee does not correct such failure within ten (10) days from receipt of such notice.

Section 12.03 The City retains the right to recover from the Lessee all minimum monthly payments due up to the time of such termination and all damages for breach of this Agreement. In the event of default by the Lessee of any of the terms of this Agreement, the Lessee shall pay to the City any costs and expenses, including reasonable attorney fees, incurred by the City to enforce its right under this agreement or to recover damages for Lessee's breach.

Section 12.04 No waiver of default by the City of any of the terms, covenants, or conditions hereof to be performed, kept, and observed by the Lessee shall be construed to be or act as a waiver of any subsequent default of any of the terms, covenants, and conditions herein contained to be performed, kept, and observed by the Lessee. The acceptance of payment by the City for any periods after default of any one of the terms, covenants, and conditions herein contained to be performed, kept, and

EXHIBIT A

FIRST FLOOR



AIR SIDE

LAND SIDE

229

Terminal Bldg.