



Office of the City Clerk

# The City of Morgantown

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

**AGENDA**  
**MORGANTOWN CITY COUNCIL**  
**REGULAR MEETING**  
**JANUARY 20, 2015**  
**7:00 p.m.**

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE TO THE FLAG**
4. **APPROVAL OF MINUTES:** Regular Meeting Minutes 12-2, 12-16 & Special Meeting Minutes 12-9 available on the web.
5. **CORRESPONDENCE** Presentation: Morgantown Utility Board, Doug Smith
6. **PUBLIC HEARINGS:**
  - A. **AN ORDINANCE AN ORDINANCE PROVIDING FOR LEASING TO RSA FLIGHT TRAINING, LLC, LESSEE, BY THE CITY OF MORGANTOWN, LESSOR, A CERTAIN AREA AT THE MORGANTOWN MUNICIPAL AIRPORT AND DECLARING THE LEASE AND MEMORANDUM OF LEASE HERETO ATTACHED AS PART THEREOF.**
7. **UNFINISHED BUSINESS:**
  - A. **Consideration of APPROVAL of (SECOND READING) and (ADOPTION) of AN ORDINANCE PROVIDING FOR LEASING TO RSA FLIGHT TRAINING, LLC, LESSEE, BY THE CITY OF MORGANTOWN, LESSOR, A CERTAIN AREA AT THE MORGANTOWN MUNICIPAL AIRPORT AND DECLARING THE LEASE AND MEMORANDUM OF LEASE HERETO ATTACHED AS PART THEREOF. (First Reading January 6, 2015)**
  - 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 AMENDING SECTION 105.42 OF THE MORGANTOWN CITY CODE, AS THE SAME APPLIES TO COMPENSATION OF ELECTION OFFICIALS AND OTHER EXPENSES.**
11. **CITY MANAGER'S REPORT:**  
**INFORMATION:**
  1. 2014 Urban Archery Hunt Results
  2. Performance Measures
12. **REPORT FROM CITY CLERK**
13. **REPORT FROM CITY ATTORNEY**
14. **REPORT FROM COUNCIL MEMBERS**
15. **ADJOURNMENT**

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



**Office of the City Manager**

# The City of Morgantown

City Manager  
Jeff Mikorski, ICMA-CM  
389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
(304) 284-7405 FAX: (304) 284-7430  
[www.morgantownwv.gov](http://www.morgantownwv.gov)

## City Manager's Report for City Council Meeting on January 6, 2015

### Information :

#### 1. 2014 Urban Archery Hunt Results

The attached memo from Rick Bebout, Archery Hunt Coordinator, highlights the 2014 Archery Hunt. Once again, the Hunt was a great success with no injuries to hunters or residents. One hundred and five deer were harvested with 853 pounds of venison provided to local food shelters. I would like to publically acknowledge Mr. Bebout for his excellent volunteer service to the City as Hunt Coordinator. Planning will begin shortly for the 2015 Urban Archery Hunt with the registration of hunters through the City's Web Page in March.

#### 2. Performance Measures

During the Conference Session on January 13, 2015, City Council was provided the most recent results of the each department's performance measures. We will begin providing that information to the public in a consistent and concise format on the City's Web Page in the coming weeks, then updated on a regular basis.

Also identified to City Council were the needs of each department to sustain and enhance City services to the expectations of the City Administration and Council. As requested at the meeting by Council, City Administration will now provide an opportunity for residents to provide feedback on what services need to be enhanced in order to help prioritize available resources. We are assembling a survey tool to receive feedback from residents through an online and paper survey. The survey tool should be available in February.



Jeff Mikorski ICMA-CM,  
Morgantown City Manager

## 2014 City of Morgantown Urban Archery Deer Hunt Breakdown

Submitted Friday, January 2, 2015

- 105 deer harvested.
- 35 of those deer were donated, yielding 853 pounds of ground venison.
- Another safe, incident-free season.

Harvest breakdown by property:

|   |            |
|---|------------|
| BoPARC - Dorsey's Knob Park                   | 5          |
| BoPARC - White Park                           | 5          |
| Chalfant Avenue                               | 3          |
| City of Morgantown - Peninsula Avenue         | 2          |
| Earl Core Road hillside                       | 1          |
| Koontz Street                                 | 1          |
| Green Bag Road hillside                       | 11         |
| Harner Street                                 | 2          |
| Morgantown Housing Authority – Liberty Avenue | 4          |
| Norwood parcels                               | 14         |
| South Point Circle                            | 4          |
| WVU Arboretum                                 | 11         |
| WVU Dairy Farm                                | 5          |
| WVU Falling Run hollow                        | 4          |
| WVU Farm woodlot                              | 4          |
| WVU Mon. Boulevard hillside                   | 2          |
| WVU Motor Pool                                | 6          |
| WVU Research Park                             | 15         |
| WVU Van Voorhis woodlot                       | 4          |
| White Avenue parcels                          | 2          |
| <b>2014 Total Harvest</b>                     | <b>105</b> |

For 2015:

- Registration for the lottery for new hunters will be open March 1 and will be open through March 31. Link will be posted on City's website.
- Will continue to work with new landowners and add their properties where applicable.

Questions or comments should be directed to Rick Bebout, (304)293-7205, [bebout.rick@gmail.com](mailto:bebout.rick@gmail.com).

## BOARDS AND COMMISSIONS - TERMS EXPIRED AND CURRENT VACANCIES

### FIRE CIVIL SERVICE:

Dan Hursh e-mailed that he must resign due to personal reasons. We are looking for a new Commissioner administratively. This is a City Manager appointment.

### POLICE CIVIL SERVICE COMMISSION:

Ed Bodkin, FOP appointment on this commission resigned for he purchased a home outside the City Limits. (See attached letter) FOP has submitted Kevin Clark as the new candidate to fill that position. (See attached letter). Council can vote on this appointment at the Regular Meeting on January 20, 2015. Appts. made by those they represent.

### URBAN LANDSCAPE:

Nicole Panaccione, Fourth Ward resigned on 7/1/2014. Councilor Selin is looking for a replacement for that position on that commission. Attached is a letter from Kara Hurst resigning as Urban Forest member and Chair. By councils approval Clerk will advertise for vacancy. Nominated by CM, one from each WD, 13 members with staggered terms and 1 Councilor.

### TREE BOARD:

Kara Hurst also resigned from the Tree Board. (See attached letter) By Councils approval Clerk will advertise for vacancy. Residents appt. not ward specific; one member must have knowledge of tree management and care.

**\*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.*

1/13/15

Morgantown City Clerk—Linda Tucker

December 30, 2014

Its' with deep regrets that I must resign from the Morgantown Civil Service Police Commission. The reason for this resignation is that my wife and I have purchased a home outside of the city limits. Under code, you must live within the city limits to be on the commission.

Through my eleven plus years on the commission, I have met and worked with great people. I have developed a deep appreciation for the Morgantown Police Dept. and its fine staff. I hope that my services has been an asset to the FOP, the Department , and the Commission. Thank you for the opportunity and may God Bless.

Sincerely,

Ed Bodkin

FOP President—Scott Carl

Police Commission—Jerry Summers , Charlie Chico

Morgantown Police Chief—Ed Preston

Morgantown Police Dept.—Jenn Harker



# **Fraternal Order of Police**

Monongalia & Preston County Lodge #87, Inc.  
P. O. Box 1410, Morgantown, WV 26507-1410

**To: The City of Morgantown  
Morgantown City Clerk – Linda Little Tucker**

**From: F.O.P. Lodge 87 President – Scott Carl**

**This letter is to inform the City of Morgantown and City Clerk Tucker that effective 12-31-2014 Ed Bodkin will no longer be the Commissioner appointed by Lodge 87. Mr. Bodkin is moving out of the city limits and is no longer eligible to serve as a commissioner. Effective 01-01-2015 Kevin Clark will be the new appointee for Lodge 87.**

**Scott Carl**

**President, Mon/Preston Lodge # 87**



***The Only National Police Organization***

Zimbra

llittle@cityofmorgantown.org

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**ULC and Tree Bd membership**

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**From :** wvhurst@comcast.net

Wed, Dec 17, 2014 02:47 PM

**Subject :** ULC and Tree Bd membership**To :** linda little <llittle@cityofmorgantown.org>**Cc :** Jeff Mikorski <jmikorski@cityofmorgantown.org>, Marchetta Maupin <mmaupin@cityofmorgantown.org>

December 17, 2014

To: City Clerk of Morgantown

From: Kara Hurst

At this time I wish to notify the City Clerk that as of the end of this year I will no longer serve on the Urban Landscape Commission and the Morgantown Tree Board. I have enjoyed my time in volunteer service to the City and encourage their continued endeavor to create a greener, more aesthetically interesting community.

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**Timothy Ball : Guest Commentary**

Preferred release date: Sunday, January 4, 2015

Sometimes good things result from terrible incidents. This is the case in West Virginia- and certainly with Morgantown Utility Board – in response to the water supply disaster suffered last January by our friends in Charleston.

While our area was spared the direct consequences of this terrible event, it did serve as a reminder of the importance of protecting our precious and irreplaceable water resources. In fact, MUB's response has been so extraordinary that we are again leading the state in innovative and effective water protection and emergency response programs.

Shortly after the water contamination event, the WV Legislature passed SB 373, authorizing The Aboveground Storage Tank Act and the Public Water Supply Protection Act. In accordance with SB 373, Governor Tomblin created the Public Water System Supply Study Commission. The task of this commission, of which I'm honored to be a member, is to assess SB 373 and other issues related to source water protection planning, and to report the findings annually to the Legislature.

On December 15<sup>th</sup> the commission issued its first report to the Governor. As an active member I have been extremely impressed by the seriousness with which the commission has addressed its duties. The recommendations provided by the commission, if enacted, will significantly improve the ability of utilities to implement meaningful source water protection efforts.

I can similarly report that MUB's source water protection planning far exceeds the requirements of SB 373 for a number of reasons. Foremost, previous planning has well positioned us to respond to an emergency. We already maintain an independent secondary raw water source (Cobun Creek Reservoir) and we recently increased treated water storage capacity across our system.

Despite these advantages, we recognize that a number of challenges remain that must be addressed. This includes the fact that our current Cobun Creek Reservoir contains only enough water to supply our system for about six days. While this is ample to meet a limited chemical spill in which we simply wait for the contaminant to pass by the river intake, it would be insufficient during a prolonged event.

This is why we are undertaking two important projects. First, we are evaluating the feasibility of expanding our Cobun Creek Reservoir from its current 60 million gallon capacity to 90 million gallons. Second, we are planning construction of an additional 120 million gallon reservoir farther upstream on Cobun Creek. We have hired the firm of Gwin Dobson and Foreman to assist us with these analyses and expect to share the conclusions and resulting plans for both projects within the next few months.

Of course, while having access to additional raw water is critical to protecting public health, storage is only useful if we can first prevent watershed contamination.

To accomplish this, we are partnering with Downstream Strategies to update our source water protection plan (SWPP). Our goal is to design the SWPP so that it moves from being a one-time static exercise to being the foundation of a continuous and integrated source water protection program.

Central to this idea is the creation of a GIS-based management system that maps threats to our source water. The mapping feature will include contaminant inventories compiled throughout our entire

watershed and not be limited to just to those threats within our Zone of Critical Concern (ZCC). This is going well beyond the requirements of SB 373 which focuses primarily on compiling information related to ZCCs.

But our planning does not stop there. The GIS-based system will also include a sophisticated threat matrix to prioritize known contaminants, thus supporting site specific contingency planning. Should a water emergency occur, MUB engineers and scientists will have immediate access to all of this information. This aspect of the system alone is critical to overall planning and response and extends well beyond SB 373.

However, to make the system even more robust, we are evaluating technologies for additional continuous source water monitoring of our watershed. These solutions will provide real-time information on water conditions at a number of points along the Monongahela River. And although we recognize that such a system extends well beyond SB 373 and any other requirements, we see it as integral to protecting public health.

Finally, we are also planning for effective and thorough threat and response communications with a detailed communications plan. This plan will address all facets of communications between MUB and nearby industries, state agencies, and the public. The plan will solicit both public and expert input in the planning process and will facilitate timely delivery of critical information during an event.

We will soon make public presentations to MUB's board of directors and Morgantown City Council describing these efforts. Both meetings (January 13<sup>th</sup> and 20<sup>th</sup>, respectively) are open to the public and comments are certainly welcome. Those presentations and many of the planning documents referenced here are available at [mub.org](http://mub.org).

One thing that can't be emphasized enough is your role in protecting our water resources. With your support of MUB's efforts, we will continue to provide water that is clean, reliable and that fosters a healthy future for our community. Your questions and comments are most welcome. Please visit our website at [mub.org](http://mub.org) or call (304) 292-8443.

*Timothy Ball is general manager of Morgantown Utility Board and a member of the Public Water System Supply Study Commission. He is a professional engineer with more than 35 years in the water industry. A more detailed version of this editorial is available at [www.mub.org](http://www.mub.org).*

# Protecting public health via source water protection

A message from MUB General Manager Tim Ball

Sometimes good things result from terrible incidents. This is the case in West Virginia- and certainly with Morgantown Utility Board – in response to the water supply disaster suffered last January by our friends in Charleston,

While our area was spared the direct consequences of this terrible event, it did serve as a reminder of the importance of protecting our precious and irreplaceable water resources. In fact, MUB's response has been so extraordinary that we are again leading the state in innovative and effective water protection and emergency response programs.

Shortly after the water contamination event, the WV Legislature passed SB 373 (the bill is available [here](#)) authorizing The Aboveground Storage Tank Act and the Public Water Supply Protection Act. In accordance with SB 373, Governor Tomblin created the Public Water System Supply Study Commission. The task of this commission, of which I'm honored to be a member, is to assess SB 373 and other issues related to source water protection planning, and to report the findings annually to the Legislature.

On December 15th the commission issued its first report to the Governor (available [here](#)). As an active member I have been extremely impressed by the seriousness with which the commission has addressed its duties. The recommendations provided by the commission, if enacted, will significantly improve the ability of utilities to implement meaningful source water protection efforts. Some of the recommendations include--

- Require that annual exercises of source water protection contingency plans be conducted, evaluated and documented.
- To evaluate the feasibility of a comprehensive database of potential contaminant sites to be provided by the State for use by public water utilities.

- Make funding available for source water protection planning and source water protection plans, to be phased in over a three (3) year period.
- Require that entities submitting MSDS chemical data sheets provide additional information, where the MSDS is incomplete.
- That the existing State spill response protocol be improved to include an automated spill reporting system utilizing well-understood Latitude/Longitude system with location data obtained from a GPS receiver, and that all potentially affected public water utilities be notified of reported spills.
- That the State share with public water utilities existing information related to mobile contaminant threats resulting from shipments by rail, road, or waterways.
- That the Legislature should consider income tax credits for landowners who grant conservation easements to promote source water protection.
- That laws be reviewed to ensure that conflicting confidentiality restrictions be resolved so that State agencies may share all necessary information with public water utilities.

I am similarly pleased to report that MUB's source water protection planning far exceeds the requirements of SB 373 for a number of reasons. Foremost, previous planning has well positioned us to respond to an emergency. We already maintain an independent secondary raw water source at Cobun Creek Reservoir. This reservoir currently provides about 15% of our routine water use and stands in ready-reserve if the Monongahela River cannot be used.

Another example of our forward thinking and preparation prior to SB 373 is the recent increase in treated water storage capacity. Since 2010, we have added 6 new tanks providing 5.2 million gallons of treated water storage capacity, for a system total of 38 tanks and 20.9 million gallons. That treated water storage volume equates, under normal circumstances, to about 1.9 days of water usage.

Yet, despite these advantages, we recognize that a number of challenges remain that must be resolved. This includes the fact that our current Cobun Creek Reservoir contains only enough water to supply our system for about six days. While this is ample to meet a limited chemical spill in which we simply wait for the contaminant to pass by the river intake, it would be insufficient during a prolonged event.

This is why we are undertaking two important projects. First, we are evaluating the feasibility of expanding our Cobun Creek Reservoir from its

current 60 million gallon capacity to 90 million gallons. While we are working on this project we may also make other improvements, such as--

- A new pipe line with increased capacity to convey raw water from the reservoir to the water treatment plant.
- Recovery of original impoundment capacity lost due to accumulated sediment within the reservoir.
- New control valves, stabilization of the emergency spillway, and other structural improvements to the existing dam.

Second, we are planning construction of an additional 120 million gallon reservoir farther upstream on Cobun Creek. This second reservoir was planned with decades of foresight when the 112 acre property was purchased by our predecessor organization, the Morgantown Water Commission, in 1960.

Both of the above projects provide realistic solutions to help ensure a continuous water supply. To assist with the analysis of these plans we have hired the firm of Gwin Dobson and Foreman. We expect to share the conclusions and resulting plans for both projects within the next few months.

Of course, while having access to additional raw water is critical to protecting public health, storage is only useful if we can first prevent watershed contamination.

To accomplish this, we are partnering with Downstream Strategies to update our source water protection plan (SWPP). A preliminary report describing the intended scope of the new SWPP in detail is available [here](#). Our goal is to design the SWPP so that it moves from being a one-time static exercise to being the foundation of a continuous and integrated source water protection program.

Central to this idea is the creation of a GIS-based management system that maps threats to our source water. The mapping feature will include contaminant inventories compiled throughout our entire watershed and not be limited to just to those threats within our Zone of Critical Concern (ZCC). This is going well beyond the requirements of SB 373 which focuses primarily on compiling information related to ZCCs.

But our planning does not stop there. The GIS-based system will also include a sophisticated threat matrix to prioritize known contaminants based on

several factors, including their toxicity, stored volume, treatability, and proximity to our intake. This data will support site specific contingency planning as well as provide our engineers and scientists with immediate access to critical data in the event of a water emergency. This aspect of the system alone is critical to overall planning and response and extends well beyond SB 373.

However, to make the system even more robust, we are evaluating technologies for additional continuous source water monitoring of our watershed. These solutions will provide real-time information on water conditions at a number of points along the Monongahela River. And although we recognize that such a system extends well beyond SB 373 and any other requirements, we see it as integral to protecting public health. This is significant because of the enormity of our watershed: While the ZCC is only 6,100 acres, the full watershed draining to our intake is about 1.6 million acres and includes 11 counties (or parts thereof).

Finally, we are also planning for effective and thorough threat and response communications with a detailed communications plan. This plan will address all facets of communications between MUB and nearby industries, state agencies, and the public. The plan will solicit both public and expert input in the planning process and will facilitate timely delivery of critical information during an event.

The projects described above will greatly improve the reliability of our water system. And for the purpose of improved reliability, we are also pursuing a project not directly related to water quality: The addition of generators to provide auxiliary power to the Water Treatment Plant (WTP). Our WTP is currently supplied power by two separate connections to the electrical grid. But even with that redundancy, we remain dependent upon the assumed continuous supply from the grid. The addition of generators will provide a higher level of redundancy and independence that is not available today, better ensuring our ability to continue operations even in the most severe scenarios.

We will soon make public presentations to MUB's board of directors and Morgantown City Council describing these efforts. Both meetings (January 13th and 20th, respectively) are open to the public and comments are certainly welcome. Those presentations will be made available on this website.

One thing that can't be emphasized enough is your role in protecting our water resources. With your support of MUB's efforts, we will continue to provide water that is clean, reliable and that fosters a healthy future for our community. Your questions and comments are most welcome. Please send us a message via our website or give us a call at (304) 292-8443.

To assist your understanding of these projects as well as others we are considering, below you will find links to 'soft' and 'hard' initiatives. On these sites you will find additional information, organized into short-term and long-term perspectives, on what we are considering in our effort to protect public health.

To be clear, 'soft' initiatives are those that tend to be more technological and data driven, while 'hard' initiatives require construction.

- [Hard Initiatives](#)
- [Soft Initiatives](#)

Again, if you have any questions please contact us.



**AN ORDINANCE PROVIDING FOR LEASING TO RSA FLIGHT TRAINING, LLC, LESSEE, BY THE CITY OF MORGANTOWN, LESSOR, A CERTAIN AREA AT THE MORGANTOWN MUNICIPAL AIRPORT AND DECLARING THE LEASE AND MEMORANDUM OF LEASE HERETO ATTACHED AS A PART THEREOF.**

The City of Morgantown Hereby Ordains:

That the City Manager is hereby authorized to execute, on behalf of the City of Morgantown, the Lease Agreement and Memorandum of Lease attached to, and made a part of, this ordinance.

This Ordinance shall be effective from the date of its adoption.

First Reading:

Adopted:

Filed:

Recorded:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

## LEASE

**THIS LEASE** (the "Lease"), made as of the \_\_\_\_\_ day of \_\_\_\_\_ by and between CITY OF MORGANTOWN, a West Virginia municipal corporation, hereinafter referred to as "Landlord" and RSA Flight Training, LLC, hereinafter referred to as "Tenant."

**WHEREAS**, Tenant intends to lease that certain hangar containing twenty seven hundred (2,700) square feet, more or less, owned by Landlord, being a part of the Morgantown Municipal Airport ("Airport"), all as more particularly shown and described on Exhibit A attached hereto and made a part hereof, together with all now existing or hereafter made improvements and all appurtenances belonging thereto (the "Premises");

**WHEREAS**, Landlord, subject to the terms of this Lease, intends to Lease the Premises to Tenant.

### WITNESSETH:

That for and in consideration of Ten Dollars (\$10.00), cash in hand paid and other good and valuable consideration, and the rents, covenants and conditions hereinafter set forth, the receipt of all of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **Premises.** Landlord does hereby let, lease and demise unto the Tenant and Tenant hereby takes and hires from Landlord, the Premises.
2. **Initial Term.** The initial term of this Lease shall be for a period of three (3) years and shall commence on February 1, 2015 (the "Initial Term"). The Initial Term shall expire on January 31, 2018.
3. **Renewal Terms.** Provided Tenant is not in default in the performance of any of its obligations under this Lease, Tenant shall have the right and option to renew this Lease for three (3) additional terms of three (3) years each, each of which terms shall commence immediately upon the expiration of the Initial Term, or the immediately preceding term, and shall expire at midnight on the day preceding the third anniversary thereof (individually, "Renewal Term" and collectively, "Renewal Terms"). Each Renewal Term shall be renewed automatically without notice from Tenant to Landlord unless Tenant provides Landlord with written notice that Tenant does not intend to renew this Lease at least three (3) months prior to the date of expiration of the Initial Term or the then current Renewal Term, as the case may be.
4. **Rental; Base Rent.** Tenant hereby covenants and agrees to pay to Landlord for the initial term, without deduction or set off and without demand, initial rent for the Premises in the monthly amount of \$200.00 beginning on February 1, 2015, and continuing for each consecutive month until January of 2017. Should Tenant renew this Agreement after the initial term, the rent shall be as follows: 1<sup>st</sup> 3 year renewal \$300.00 per month, 2<sup>nd</sup> 3 year renewal \$400.00 per month, and 3<sup>rd</sup> 3 year renewal \$500.00 per month. Rental payments shall be made payable to Landlord at the

address set forth in paragraph 29 of this Lease, or to such other address as Landlord specifies to Tenant in writing. In the event rent is not received by the 1<sup>st</sup> day of the month, Tenant shall pay unto Landlord a late payment equal to five percent (5%) of the amount due.

In the event any federal, state or local government or governmental agency temporarily prevents or stops the use of the Airport or any portion thereof so that Tenant is not entitled to its normal use of the Premises, all rental payments due hereunder shall be abated until such restrictions, prevention or stoppage has been removed.

5. Tenant's Use of the Premises. Tenant will maintain the aircraft hangar (the "Hangar") and operate a flight school, charter business, and aircraft repair business on the Premises. The Premises shall be used in accordance with all applicable federal state and local laws, regulations, ordinances, rules and requirements. Tenant will have the exclusive right to utilize the Hangar for the storage of the Tenant's aircraft and any tools, equipment or machinery or other items related to the operation and maintenance of the Tenant's aircraft, as well as for such uses reasonably required in the operation of a flight school, charter business, and aircraft repair business authorized by this paragraph.
6. Use of Airport. The Tenant 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 to and egress from the Premises, which shall extend to Tenant's employees, guests and patrons; and the right in common with other tenants of the Airport to use common areas of the Airport, including but not limited to the runways, taxiways, aprons, roadways and other conveniences for the take-off, flying and landing of the Tenant's aircraft.
7. Construction Standards: Tenant shall cause any construction on the Premises to be completed in a good and workmanlike manner according to the customary standards of the trade and in compliance with the laws and regulations of any governmental authority having jurisdiction thereof, all at Tenant's sole expense. Tenant shall obtain all necessary permits, approvals and licenses for such work and construction. No such work will be initiated by Tenant until it has received written permission to do so from the Airport Director.
8. End of Term. Upon the later of the expiration or termination of the Initial Term or, if the Term is renewed, any Renewal Term of this Lease, the hangar and all improvements made by Tenant on the Premises shall be and become the sole and exclusive property of Landlord, without the requirement of Tenant executing any documents transferring title thereto.
9. Landlord's Representation of Quiet Enjoyment. Landlord covenants that Tenant may quietly enjoy the Premises without hindrance by Landlord or any party claiming under Landlord, so long as Tenant is not in default in the

performance of any of its obligations under this Lease.

10. Maintenance and Replacement and Casualty Insurance. Tenant shall, at its sole cost and expense, keep and maintain the Premises in a good and tenable condition and shall make and pay for all maintenance, repairs, and replacements thereto during the Initial Term and any Renewal Terms of this Lease, including, without limitation, replacement of the Hangar in the event of any loss or destruction of the Hangar. Tenant shall not be permitted to defer or delay maintenance or repairs of the Premises or such improvement, it being understood and agreed

that Tenant shall continue to maintain, repair and replace the Premises until the date of termination of this Lease. Upon Tenant's request, Landlord agrees that it will provide snow removal services to the Premises. The obligation to insure against loss, injury, and/or damage to and/or destruction of the Hangar shall belong to Tenant. The insurance policy required to be obtained, procured, and/or carried by Tenant under and in accordance with this section shall (a) name Landlord and any Leasehold Lender as additional insured parties and as either co-payees and/or loss payees, (b) provide that the policy shall not be terminated, canceled, reduced, non-renewed, or materially modified without at least thirty (30) calendar days' prior written notice to Landlord and any Leasehold Lender, (c) be written on an "occurrence" basis, and (d) be written for a period of at least one (1) year. In the event of any loss, injury, and/or damage to and/or destruction of the Hangar, all insurance proceeds shall be dedicated to the rebuilding and/or replacement of the Hangar.

11. Utilities. Tenant shall be solely responsible and shall make all arrangements for utilities and services to and for the Premises. Tenant shall pay all fees and costs for all utilities and services, including without limitation security, gas, electricity, water, telephone, sewer, garbage and fire service, as well as any other utility or service used on or supplied to the Premises, including the cost of installation, maintenance or replacement thereof. Landlord agrees to fully cooperate with Tenant in securing and maintaining all utilities and services.

12. Taxes. Tenant shall pay, or cause to be paid, before delinquency all taxes, assessments and fees relating to the Premises, the leasehold estate created by this Lease, and its personal property on the Premises.

13. Encumbrance of the Leasehold Estate:

(a) In and for the purposes of this section of this Lease:

(i) "Leasehold Lender" means a party secured by a Leasehold Security Instrument.

(ii) "Leasehold Lender Default Cure Period" means a period of sixty (60) calendar days subsequent to a Leasehold Lender's receipt of a Notice of Tenant Failure; provided, however, that in the event that (i) the Tenant

Event of Default specified in a Notice of Lessee Failure shall be of such a nature or character that it cannot reasonably be cured or remedied within a period of sixty (60) calendar days subsequent to the Leasehold Lender's receipt of the Notice of Lessee Failure, (ii) the Leasehold Lender shall commence to attempt to cure or remedy the Tenant Event of Default within a period of twenty (20) calendar days subsequent to the Leasehold Lender's receipt of the Notice of Lessee Failure, and (iii) the Leasehold Lender shall diligently continue to attempt to cure or remedy the Lessee Event of Default subsequently, such period of sixty (60) calendar days shall extend for a period which, under all prevailing circumstances, shall be reasonable.

- (iii) "Leaschold Security Instrument" means any deed of trust, credit line deed of trust, mortgage, fixture filing, security agreement, financing statement, assignment of leases and rents, or other security instrument that encumbers or imposes or that shall encumber or impose a lien or security interest upon the leasehold estate created, granted, and/or demised by this Lease, in whole or in part, and all renewals, modifications, amendments, supplements, consolidations, replacements, extensions, and/or restatements thereto and/or thereof.
- (b) Notwithstanding any other provision of this Lease, and with the intent that the provisions of this section shall prevail, control, and dominate over any and all other provisions of this Lease that might in any way or manner be inconsistent with, contradictory to, and/or in conflict with the provisions of this section, Tenant shall have the right, capacity, authority, and power to encumber Tenant's right, title, and interest in, of, and to this Lease and the leasehold estate, in whole or in part, with one (1) or more Leasehold Security Instruments and shall not be required to obtain the consent and/or approval of Landlord with respect to the encumbrance of Tenant's right, title, and interest in, of, and to this Lease and the leasehold estate with and/or by a Leasehold Security Instrument.
- (c) To the extent reasonably necessary for Tenant to obtain financing secured by this Lease and/or the leasehold estate, Landlord shall promptly after submission execute, acknowledge, and deliver any reasonable agreements amending, modifying, and/or supplementing this Lease requested by any proposed Leasehold Lender so long as such amendments, modifications, and/or supplements shall not decrease Tenant's obligations, decrease Landlord's rights, and/or increase Landlord's obligations under, in accordance with, and/or pursuant to this Lease or modify the use restrictions contained herein.
- (d) The encumbrance of Tenant's right, title, and interest in, of, and to this Lease, in whole or in part, with and/or by one (1) or more Leasehold Security Instruments, shall not be an assignment for the purposes of this Lease and not be or constitute a Tenant Event of Default.

- (e) For any of the other and remaining provisions of this section to apply in any circumstance, a Leasehold Lender first must deliver to Landlord within twenty (20) calendar days of the delivery of a Leasehold Security Instrument by Tenant (i) a true and correct photocopy of the Leasehold Security Instrument and (ii) notice of the identity and mailing address of the Leasehold Lender. Compliance with the foregoing time period is specifically and expressly of the essence with respect to and in connection with any of the other and remaining provisions of this section.
- (f) When a Leasehold Security Instrument shall be in existence, subject to the approval of the airport manager, which shall not be unreasonably conditioned, delayed, or withheld after confirming compliance with any applicable federal obligations:
  - (i) This Lease shall not be amended, modified, supplemented, altered, changed, enlarged, and/or restated in any way, manner, character, or nature, by performance, acquiescence, course of conduct, or otherwise, without the prior written consent of a Leasehold Lender.
  - (ii) A Leasehold Lender shall be given notice of any legal, equitable, or other proceeding pertaining to or in any way, manner, character, or nature concerning, arising out of, and/or relating to this Lease and shall have the right, but not the obligation, to intervene in such proceeding and be made a party to such proceeding.
  - (iii) Landlord shall be given notice of any legal, equitable, or other proceeding pertaining to or in any way, manner, character, or nature concerning, arising out of, and/or relating to the Leasehold Security Instrument and shall have the right, but not the obligation, to intervene in such proceeding and be made a party to such proceeding.
  - (iv) Landlord shall, upon serving Tenant with any notice of monetary default, notice of non-monetary default, and/or notice of termination, simultaneously serve a photocopy of the same upon a Leasehold Lender.
  - (v) A Leasehold Lender shall, upon serving Tenant with any notice of default of the Leasehold Security Instrument, or any other notice, demand, request, or other communication required, authorized, advisable, and/or permitted under, in accordance with, and/or pursuant to the Leasehold Security Instrument, simultaneously serve a photocopy of the same upon Landlord.
  - (vi) In the event that Tenant shall not remedy or cure a Tenant Event of Default within and during the applicable Tenant Event of Default cure period, Landlord shall notify a Leasehold Lender of such inaction, failure,

neglect, and/or refusal on the part of Tenant, and include and specify in detail in such notice the nature and character of such Tenant Event of Default ("Notice of Tenant Failure").

- (vii) In the event that Tenant shall not remedy or cure an event of default of the Leasehold Security Instrument, within and during the applicable event of default cure period, a Leasehold Lender shall notify Landlord of such inaction, failure, neglect, and/or refusal on the part of Tenant, and include and specify in detail in such notice the nature and character of such Tenant event of default ("Notice of Tenant Default").
- (viii) A Leasehold Lender shall have the right, but not the obligation, to remedy or cure or cause to be remedied or cured any Tenant Event of Default within and during the Leasehold Lender Default Cure Period and Landlord shall accept such performance by or at the instigation of the Leasehold Lender as if such performance had been by Tenant.
- (ix) Landlord shall have the right, but not the obligation, to remedy or cure or cause to be remedied or cured any Tenant default of the Leasehold Security Instrument within and during (1) thirty (30) days of Landlord's receipt of a Notice of Tenant Default (or such longer time if not capable of being cured in such thirty (30) day period and Landlord is diligently pursuing a cure thereof) with respect to non-monetary defaults and (2) fifteen (15) days of Landlord's receipt of a Notice of Tenant Default with respect to monetary defaults and the Leasehold Lender shall accept such performance by or at the instigation of Landlord as if such performance had been by Tenant. Further, upon such performance by Landlord and continued performance by Landlord, a Leasehold Lender shall not exercise any rights pursuant to the Leasehold Security Instrument.
- (x) In addition to the right to remedy or cure or cause to be remedied or cured any Tenant Event of Default within and during the Leasehold Lender Default Cure Period, a Leasehold Lender shall also have the specific and express right, but not the obligation, to (1) postpone and/or extend any specified date of cancellation and/or termination of this Lease set and/or fixed by Landlord in a notice of default and/or termination or otherwise for a period of not more than two hundred forty (240) calendar days subsequent to the Leasehold Lender's receipt of a notice of default and/or termination and (2) postpone and/or extend any cancellation and/or termination of this Lease as a result of the existence of a Tenant Event of Default, the existence of which would otherwise prevent or preclude the extension and/or continuation of the term, for a period of not more than two hundred forty (240) calendar days subsequent to the Leasehold Lender's receipt of notice from Landlord that the term shall not extend and/or continue as a result of the existence of a Tenant Event of Default, so long as the Leasehold Lender shall (1) remedy or cure or cause to be

remedied or cured any Tenant Event of Default within and during a period equivalent to the Leasehold Lender Default Cure Period, (2) undertake to Landlord to and perform, satisfy, observe, comply with, and/or conform to the covenants, conditions, agreements, and/or obligations to be performed, satisfied, observed, complied with, and/or conformed to by Tenant under, in accordance with, and pursuant to this Lease during such two hundred forty (240) calendar day period, and (3) forthwith commence steps to acquire and/or sell Tenant's right, title, and interest in, of, and to this Lease by foreclosure of the Leasehold Security Instrument or otherwise and prosecute the same to completion within and during such two hundred forty (240) calendar day period. In the event that a Leasehold Lender shall perform and satisfy the foregoing obligations within the foregoing time periods, this Lease shall not cancel or terminate and shall extend and/or continue.

- (xi) A Leasehold Lender and/or any other purchaser at a foreclosure or judicial sale ("Purchaser") shall have the unrestricted right, capacity, authority, and power to acquire Tenant's right, title, and interest in, of, and to this Lease by foreclosure, assignment, transfer in lieu of foreclosure, special commissioner sale, bankruptcy trustee sale, or otherwise, and any such acquisition shall not require Landlord's consent and/or approval or be deemed a Tenant Event of Default. Upon Landlord's receipt from a Purchaser of written notice of such an acquisition, Landlord shall permit the Purchaser to enter into possession of the Premises and to hold the same and exercise and enjoy all of the rights, privileges, and benefits of Tenant under, in accordance with, and pursuant to this Lease, and such acquisition shall constitute an assumption by the Purchaser of Tenant's obligations under, in accordance with, and pursuant to this Lease; provided, however, that (1) the Purchaser shall not be obligated or liable for Tenant's obligations under, in accordance with, and/or pursuant to this Lease until the Purchaser shall become the owner of the Leasehold Estate, and then only during the period of time that the Purchaser shall be the owner of the Leasehold Estate and (2) as a condition to the right of the Purchaser to acquire Tenant's right, title, and interest in, of, and to this Lease and the Leasehold Estate, the Purchaser shall promptly, upon acquisition, commence remedying or curing or causing to be remedied or cured all of the Tenant Events of Default which shall be in existence as of the date of such acquisition.
- (xii) Any and all rights, title, interests, claims, liens, and/or security interests, however characterized or designated, which Landlord has, may have, and/or shall have or acquire, whether as of the date of this Lease or subsequently, whether arising and/or created by contract, agreement, statute, common law, or otherwise, in, of, and/or to Tenant's property located at the Premises shall be and shall at all times remain subject, subordinate, and inferior in priority to the rights, liens, and/or security

interests of a Leasehold Lender in, of, and/or to Tenant's property located at the Premises.

- (xiii) In the event that a default and/or breach shall occur under a Leasehold Security Instrument and/or any promissory notes, agreements, instruments, documents, and/or other security instruments in any way, manner, nature, and/or character evidencing, securing, supporting, concerning, and/or in relation to the obligations secured by the Leasehold Security Instrument, which is not cured by Landlord, a Leasehold Lender and its agents, representatives, employees, successors, and assigns shall have the right, capacity, power, and authority to enter upon the Premises at any time, upon providing reasonable notice to Landlord in advance thereof, for the purposes of inspecting, inventorying, assembling, marshaling, selling, and/or removing Tenant's property located at the Premises; provided, however, that the Leasehold Lender shall have the affirmative obligation to repair any and all damage caused to the Premises as a result of and/or during the course of the same.
- (xiv) In the event that a Leasehold Lender shall take possession or seek to take possession of any of Tenant's property located at the Premises, Landlord shall not interfere with, limit, restrict, hinder, obstruct, prohibit, prevent, and/or preclude, in any way, nature, or manner, such taking and possession and Landlord consents in advance to any such taking and possession at any and all times by a Leasehold Lender and the removal of Tenant's property located at the Premises from the Premises.
- (xv) A Leasehold Lender shall not be obligated and/or liable to Landlord for any liabilities, losses, damages (compensatory, punitive, incidental, consequential, foreseeable, unforeseeable, liquidated, unliquidated, or otherwise), costs, expenses, penalties, injuries, assessments, liens, fines, impositions, demands, claims, actions, causes of action, and/or judgments ("Liabilities") as a result of, by reason of, and/or in connection with the Leasehold Lender's entry upon the Premises and/or taking possession of and/or removing from the Premises of Tenant's property located at the Premises, except for those resulting from the Leasehold Lender's gross negligence.
- (xvi) In the event that Tenant shall vacate and/or surrender the Premises, whether voluntarily or involuntarily, or the leasehold estate shall cancel, terminate, or expire, a Leasehold Lender shall not be obligated and/or liable for charges for storage of Tenant's property located at the Premises unless Landlord shall provide the Leasehold Lender with written demand to remove the property from the Premises within a reasonable time, which shall not be less than thirty (30) calendar days from the Leasehold Lender's receipt of such written demand, and the Leasehold Lender shall fail to do so within such time; provided, however, that in the event that the

Leasehold Lender shall elect not to exercise its lien(s) and/or security interest(s) in, of, and/or to the property, the Leasehold Lender shall in no way or manner be obligated and/or liable to Landlord for such charges.

- (g) In the event that a Leasehold Lender, but not any other Purchaser, shall acquire Tenant's right, title, and interest in, of, and to this Lease, then, notwithstanding any other provision of this Lease, and regardless of whether any Leasehold Security Instrument shall then be and/or remain in existence, the Leasehold Lender shall have the right to assign this Lease without the consent and/or approval of Landlord. In the event that a Leasehold Lender shall assign this Lease, the Leasehold Lender shall notify Landlord of such assignment within ten (10) calendar days of the occurrence thereof.

14. Public Liability Insurance. During the Initial Term and any Renewal Terms, Tenant shall, at its sole cost and expense, keep in full force and effect public liability insurance, underwritten on an occurrences basis, in respect to the use and occupation of the Premises by Tenant, with respect to the negligent acts or omissions of Tenant and its employees, agents, servants, invitees, and licensees, and excluding losses caused by Landlord, other tenants, or other third parties, in an amount of not less than \$1,000,000.00 per person and not less than \$2,000,000.00 per occurrence on account of personal injury to or death of one or more persons and not less than \$1,000,000.00 on account of damage to property. The insurance shall be underwritten by an insurance company licensed to do business in the State of West Virginia and acceptable to Landlord, and must contain a clause or endorsement providing that such policy or policies may not be canceled or terminated without thirty (30) days prior written notice to the Landlord. In addition, in the event that a Leasehold Lender shall be in existence, each such insurance policy required to be obtained, procured, and/or carried by Tenant under and in accordance with this section shall (a) name the Leasehold Lender as additional insured, (b) provide that the policy shall not be terminated, canceled, reduced, non-renewed, or materially modified without at least thirty (30) calendar days' prior written notice to the Leasehold Lender, (c) be issued by an insurance company licensed to do business in the State of West Virginia and which shall be rated A:VIII or better by Best's Key Rating Guide, (d) provide that such insurance cannot be canceled, invalidated, or suspended on account of the conduct of Tenant, (e) be written on an "occurrence" basis, (f) provide that such insurance shall be primary and non-contributing, and (g) be written for a period of at least one (1) year.

Tenant does hereby indemnify, defend and save Landlord harmless from any and all loss, damages, liability, costs and expenses, which Landlord, its agents, servants and

employees may pay or become obligated to pay on account of any claim or assertions of liability arising or alleged to have arisen out of any act or omission of Tenant, its agents, contractors, subcontractors, servants, employees, licensees or invitees in connection with Tenant's use of the Premises except for that caused by Landlord, its employees, agents, or invitees, or the breach of this Lease by Landlord, or caused by any individual or entity not under the control of Tenant.

15. Tenant's Personal Property. Landlord and its heirs, administrators, successors, assigns, employees and agents, shall not be liable for loss of or damage to Tenant's or any subtenant's or assignee's equipment, trade fixtures, furnishings and items of personal property placed in or upon the Premises from accidents, conditions, or casualty occurring in, on or about the Premises unless due to Landlord's, heirs, administrators, successors, assigns, employees and agents' negligence or willful misconduct. Any insurance upon such equipment, trade fixtures, furnishings and items of personal property shall be kept and maintained at Tenant's sole cost and expense.

16. Hazardous Substances.

Definitions. For purposes of this Lease, the term "Hazardous Substances" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls, and radon gas; and (b) any chemicals, materials or substances defined as or included in the definitions of "hazardous substances," "hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants" or "pollutants," or words of similar import, under all federal, state and local environmental, safety or health laws and ordinances and rules of common law, including but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Section 651 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 960 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1081 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6091 et seq.), the Clean Air Act (42 U.S.C. Section 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. Sections 300f-300j), and the Federal Water Pollution Control Act, as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order or directive addressing environmental, health or safety issues of or by any governmental entity.

17. Landlord Representations and Warranties. Except for those Hazardous Substances that are generally utilized by airports of a similar size as the Morgantown Municipal Airport, Landlord represents and warrants that the Premises and improvements located thereon, including ground water, are free and clear of any Hazardous Substances as of the date of this Lease and its heirs, successors, assigns,

contractors, agents, employees or invitees, shall not, in violation of any law regulation or requirement install, store, recycle, dispose of, release or other wise locate, in or upon the Premises, any Hazardous Substance.

18. Tenant Representations and Warranties. Except for those Hazardous Substances

that are generally utilized with the operation of an aircraft and maintenance of an airport hangar, the Tenant and its directors, officers, contractors, agents, employees or invitees shall not, in violation of any law, regulation, or requirement install, store, recycle, dispose of, release or otherwise locate in or upon the Premises any Hazardous Substances, in violation of laws or regulations governing the use, storage or disposal of the same. Tenant agrees to indemnify and hold Landlord, its heirs, administrators, assigns, employees, agents and contractors, harmless for any future liability arising out of or connected with any claims, judgments, damages, penalties, fines, assessments, fees and other expenses related in any manner to the actual improper storage or discharge of Hazardous Substances on the Premises caused by the acts or omissions of Tenant, and its directors, officers, contractors, agents, employees or invitees, and Tenant shall further indemnify and hold Landlord, its heirs, administrators, assigns, employees, agents and contractors, harmless from any violation of such applicable environmental laws or any breach of the foregoing representations and warranties. Tenant further agrees to pay any and all fines, charges, assessments, fees, damages, losses, claims, liabilities or response costs arising out of or in any way connected with a violation by Tenant and its directors, officers, contractors, agents, employees or invitees of such applicable environmental laws, which indemnifications shall survive the expiration or termination of this Agreement.

19. Landlord's Inspection. Landlord, its agents and employees shall have the right to enter upon and inspect the Premises and any improvements made thereon at all reasonable times.

20. Removal of Personal Property. At any time, including upon the expiration or termination of this Lease, Tenant shall be entitled to remove all personal property, improvements, fixtures, trade fixtures and signs which are placed upon the Premises; provided that each item may be removed without any damage to the Premises and further provided, however, that if Tenant is in default hereunder in the payment of any rentals to Landlord such property shall not be removed by Tenant until such defaults are corrected. Any property of Tenant remaining on the Leased Premises after expiration or termination of this Lease shall be deemed to have been abandoned by Tenant and either party may be retained by Landlord or disposed of in such manner as Landlord may in its sole discretion deem appropriate.

21. Tenant Default. After the occurrence of a Tenant event of default as hereinafter defined ("Tenant Event of Default") Landlord may give notice in writing to Tenant that one or more Events of Default have occurred. If the Tenant Event of

Default specified in said written notice is a monetary Tenant Event of Default and is not cured or corrected within a period of ten (10) days after the giving of the notice, then Landlord may terminate this Lease by sending to Tenant a notice of such termination. If the Tenant Event of Default specified in said written notice is a non-monetary Tenant Event of Default and is not cured or corrected with a period of thirty (30) days after the giving of such notice, then Landlord may terminate this Lease by sending to Tenant a notice of such termination. In the event the non-monetary Tenant Event of Default is not capable of correction within such thirty (30) day period, if Tenant has initiated within said period an effort to correct such default, then such period shall be extended until such time as Tenant ceases to pursue diligently its efforts to accomplish such correction.

22. Tenant Event of Default. A Tenant Event of Default as used in this Lease shall include the following:
- (a) Failure by Tenant to pay when due any rent or monies provided to be paid to Landlord under the provisions of this Lease;
  - (b) Execution by Tenant of an assignment for the benefit of creditors;
  - (c) The adjudication that Tenant is bankrupt or insolvent or the filing by or against Tenant of a position to have Tenant adjudged to be bankrupt or a petition for the reorganization of Tenant under any law relating to bankruptcy and such adjudication or petition is not dismissed within sixty (60) days of filing.
  - (d) Appointment of a receiver for Tenant and such receiver is not dismissed within sixty (60) days of appointment; or;
  - (e) Default by Tenant in the performance of any of the other covenants, conditions, obligations and agreements undertaken by Tenant under the terms of this Lease.
23. Landlord Remedies Cumulative. The remedies provided Landlord herein shall be in addition to those provided by law, including but not limited to, the right to re-enter and take possession of the Premises and buildings and improvements thereon with or without process of law and expel the Tenant without prejudice to any remedies which might otherwise be used by Landlord for the collection of the default rentals. Landlord shall have the right to recover its reasonable legal fees and court costs from Tenant if Landlord prevails in any legal action for the collection of money or enforcement of a duty owed by Tenant pursuant to this Lease, without prejudice to any remedies which might otherwise be used by Landlord for the collection of the default rentals.
24. Landlord Default. The following matters shall constitute Landlord Event of

Default:

- (a) Failure of Landlord to abide by any terms or conditions of this Lease;
  - (b) Breach by Landlord of any representation or warranty of this Lease;
25. Notice, Cure. Upon receipt of written notice from Tenant of the occurrence of a Landlord Event of Default, Landlord shall have thirty (30) days to correct the same. Provided if each matter is of the nature that can not be cured within said thirty (30) day period, Landlord has initiated within said period an effort to cure such default, then such period shall be extended until such time as Landlord ceases to pursue diligently its efforts to accomplish such correction.
26. Tenant Remedies. The remedies provided Tenant shall be the right to terminate this Lease upon providing Landlord thirty (30) days notice of termination.
27. Permits and Licenses. Landlord agrees to cooperate and reasonably assist Tenant with obtaining any state or federal permit, license or governmental authorization necessary to permit the use of the Premises by Tenant.
28. Waiver. Failure of Landlord to enforce the breach of any violation of the terms of this lease shall not be considered as a waiver of any subsequent violation.
29. Notice. All notices to be given hereunder by either party shall be in writing and shall be sent by U.S. Mail, Certified, Return Receipt Requested, to Landlord and Tenant at the addresses stated below:

Landlord: Office of the Airport Director  
Morgantown Municipal Airport  
100 Hart Field Road  
Morgantown, WV 26505

Tenant: RSA Flight Training, LLC  
Attn: Joe Weiss/Bret Kennedy  
82 Hart Field Road, Suite 241  
Morgantown, WV 26505

30. Successors. The terms, conditions, covenants and agreements herein contained shall extend to, and be binding upon the parties hereto and their respective heirs, administrators, successors and permitted assigns. Tenant shall not assign, sublease, transfer or convey all or any part of its interest in this Lease without first receiving the prior written consent of Landlord, which consent will not be unreasonably withheld.
31. Memorandum of Lease. This Lease shall not be recorded, but either party may

record a Memorandum of Lease. The party requesting that the Memorandum of Lease be recorded shall prepare and pay all costs of preparation and recording of the Memorandum of Lease.

32. Applicable Law. This Lease shall be construed in accordance with the laws of the State of West Virginia.
33. Severability. The unenforceability, invalidity or illegality of any provision of this Lease shall not render any of the other provisions of the Lease unenforceable, invalid or illegal.
34. Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Lease.
35. Captions. The exception appearing in this Lease are for the purposes of identification only and shall not be considered or construed as affecting in any way, the meaning of the provisions of this Lease.
36. Entire Agreement. This Lease and the Exhibits attached hereto contain the entire agreement between Landlord and Tenant concerning the Premises and there are no other agreements, either oral or written.
37. Agreements with USA. This Lease shall be subordinate to the provisions of any existing or future agreement between Landlord and the United States, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
38. Non-Discrimination: Tenant shall (a) furnish services on a reasonable, and not unjustly discriminatory, basis to all users thereof and (b) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the Tenant may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

[Signature page below]

**IN WITNESS WHEREOF**, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

LANDLORD:

CITY OF MORGANTOWN,  
A West Virginia municipal corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

TENANT:

RSA Flight Training, LLC

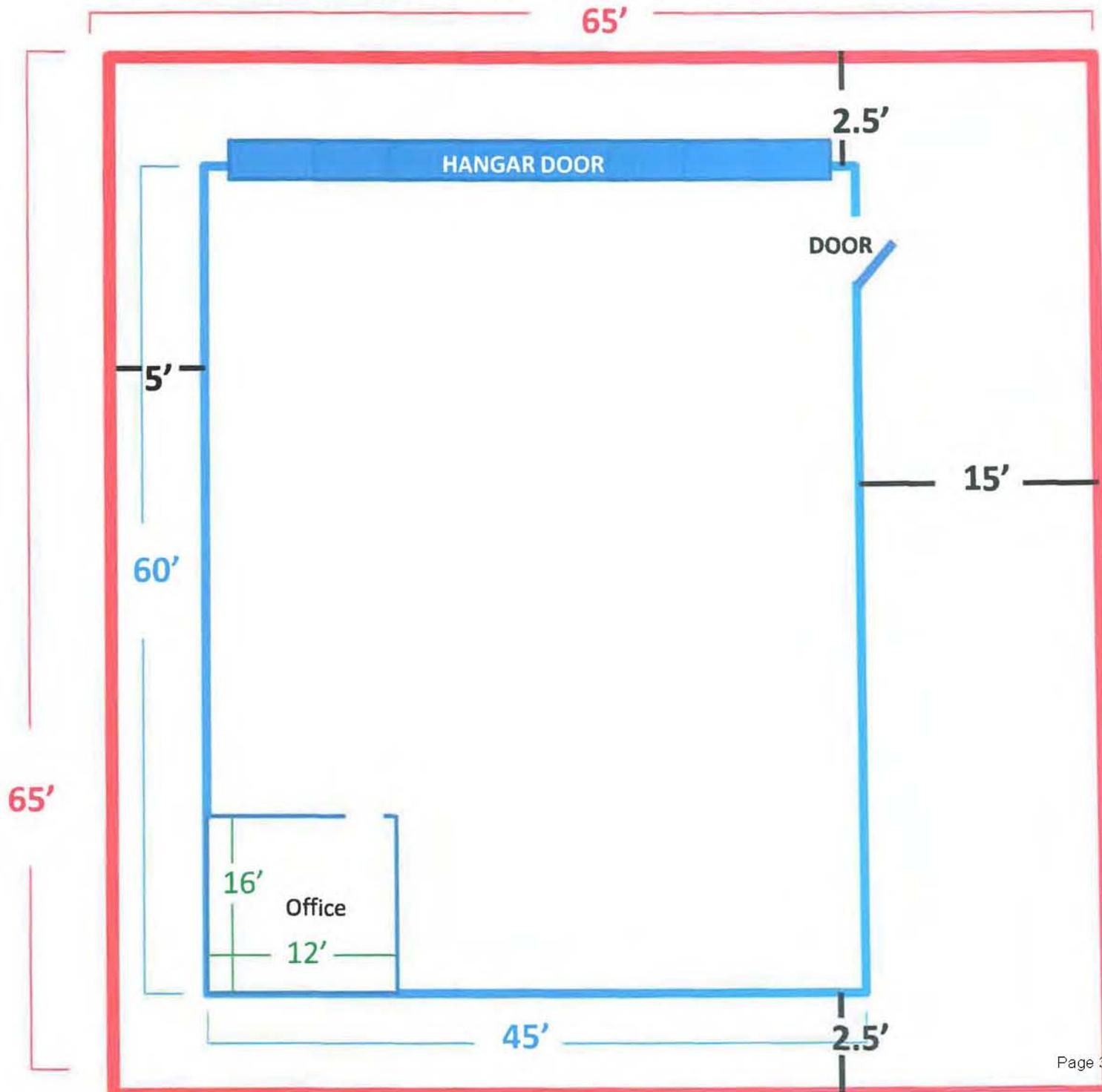
By: \_\_\_\_\_

Its: \_\_\_\_\_

# BYERS HANGAR - MORGANTOWN MUNICIPAL AIRPORT

Property  
Boundary  
Footprint  
65" X 65"

Hangar  
Footprint  
60" X 45"



North  
Not to Scale



This instrument was prepared by:

Robert Louis Shuman  
Reeder & Shuman  
256 High Street  
Post Office Box 842  
Morgantown, West Virginia 26507-0842

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Memorandum of Lease Agreement

This Memorandum of Lease Agreement ("Memorandum") is made and entered into on \_\_\_\_\_, 2015, by and between The City of Morgantown, West Virginia, a municipal corporation ("Lessor"), and RSA Flight Training, LLC, a West Virginia limited liability company ("Lessee").

Under, in accordance with, and pursuant to the provisions of West Virginia Code § 40-1-8, as in effect as of the date of this Memorandum, Lessor and Lessee set forth the following information with respect to that certain lease agreement made and entered into by and between Lessor and Lessee ("Lease Agreement"):

- (1) Lessor: The City of Morgantown, West Virginia, a municipal corporation  
389 Spruce Street, Morgantown, West Virginia 26505
- (2) Lessee: RSA Flight Training, LLC, a West Virginia limited liability company  
130 Sheridan Lane, Morgantown, West Virginia 26508
- (3) Lease Agreement Execution Date: \_\_\_\_\_, 2015
- (4) Description of Leased Premises: A certain hangar containing two thousand seven hundred (2,700) square feet, more or less, located and situate in the Sixth Ward of The City of Morgantown, Morgan District, Monongalia County, West Virginia, at the Morgantown Municipal Airport, as more particularly shown and described on Exhibit A appended and incorporated by this reference, together with all now existing or hereafter-made improvements and all appurtenances belonging thereto.
- (5) Initial Term: Three (3) years commencing on February 1, 2015.
- (6) Renewal Terms: Three (3) additional terms of three (3) years each, each of which terms shall commence immediately upon the expiration of the initial term, or the immediately preceding term, and shall expire at midnight on the day preceding the third (3<sup>rd</sup>) anniversary thereof, which additional terms shall automatically occur subject to certain conditions set forth and contained in the Lease Agreement.
- (7) Dominance of the Lease Agreement: In the event that a conflict shall exist between the terms and provisions of this Memorandum and the terms and provisions of the Lease Agreement, the terms and provisions of the Lease Agreement shall dominate, control, prevail, and govern.

Signature Page Follows

Witness the following signatures.

RSA Flight Training, LLC,  
a West Virginia limited liability company

By: \_\_\_\_\_  
Name: Joe H. Weiss  
Title: Manager

By: \_\_\_\_\_  
Name: Bret A. Kennedy  
Title: Manager

The City of Morgantown, West Virginia,  
a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

State of West Virginia,  
County of Monongalia, to-wit:

The foregoing instrument was executed and acknowledged before me this the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Joe H. Weiss and Bret A. Kennedy, in their capacities as managers of RSA Flight Training, LLC, a West Virginia limited liability company, for and on behalf of such limited liability company, as the act and deed of such limited liability company.

\_\_\_\_\_  
Notary Public  
Commission expiration: \_\_\_\_\_

State of West Virginia,  
County of Monongalia, to-wit:

The foregoing instrument was executed and acknowledged before me this the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of The City of Morgantown, West Virginia, a municipal corporation, for and on behalf of such corporation, as the act and deed of such corporation.

\_\_\_\_\_  
Notary Public  
Commission expiration: \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 105.42 OF THE MORGANTOWN CITY CODE, AS THE SAME APPLIES TO COMPENSATION OF ELECTION OFFICIALS AND OTHER EXPENSES.**

The City of Morgantown hereby ordains that Section 105.42 of its City Code is amended as follows (New matter underlined, deleted matter struck through.):

**105.42 COMPENSATION OF ELECTION OFFICIALS AND OTHER EXPENSES.**

Each Head Election Commissioner of the Election shall be allowed the sum of ~~seventy-five (\$75.00)~~ One hundred fifteen (\$115.00). Each Commissioner and Poll Clerk shall be allowed the sum of ~~seventy-five dollars (\$75.00)~~ One hundred fifteen dollars (\$115.00) for their services and where a Commissioner also acts as a messenger in calling for and delivering the ballots and supplies for his or her precinct and deliver the ballots, boxes, poll books, tally sheets, etc., back to the City Clerk, he or she shall receive ~~fifteen dollars (\$15.00)~~ thirty-five dollars (\$35.00) plus mileage in addition to the allowance herein provided. Each Commissioner and Poll Clerk shall also receive an additional ~~fifteen dollars (\$15.00)~~ thirty-five dollars (\$35.00) for attending a Training Session as mandated by West Virginia Code 3-1-46. The Ballot Commissioners shall be compensated for their services in connection with the election in the sum of one hundred dollars (\$100.00) each. The compensation of the election officers, cost of printing ballots, and all of the expenses incurred in holding and making the returns of the election shall be audited by Council and order paid out of the General Fund of the City.

This ordinance shall be effective upon date of adoption.

FIRST READING:

\_\_\_\_\_ Mayor

ADOPTED:

FILED:

\_\_\_\_\_ City Clerk

RECORDED:

