

AGENDA
SHAWNEE AIRPORT AUTHORITY
October 5, 2015 AT 6:30 P.M.
COMMISSION CHAMBERS AT CITY HALL
SHAWNEE, OKLAHOMA

CALL TO ORDER

DECLARATION OF A QUORUM

All motions will be made in the affirmative. The fact that a commissioner makes or offers a second to a motion does not mean that the commissioner must vote in favor of passage.

1. Consider approval of Consent Agenda:
 - a. Minutes from the September 21, 2015 meeting.
 - b. Airport Advisory Board minutes from August 19, 2015 meeting.
 - c. Approve mortgage of leasehold interest of Vyve Broadband, LLC office located at 707 Saratoga Street, Shawnee Oklahoma to CoBank, ACB with reservation of City right of approval of transfer.
2. Consideration and approval of a land lease with Delta Wings Equipment, LLC.
3. New Business

(Any matter not known about or which could not have been reasonably foreseen prior to the posting of the agenda)
4. Adjournment

Respectfully submitted

Phyllis Loftis, CMC, City Clerk

Shawnee Airport Authority

1. a.

Meeting Date: 10/05/2015

SAA Minutes 09-21-2015

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the September 21, 2015 meeting.

Attachments

SAA Minutes 09-21-2015

THE TRUSTEES OF THE SHAWNEE AIRPORT AUTHORITY OF THE CITY OF SHAWNEE, COUNTY OF POTTAWATOMIE, STATE OF OKLAHOMA, MET IN REGULAR SCHEDULED SESSION IN THE COMMISSION CHAMBERS AT CITY HALL, 9TH AND BROADWAY, SHAWNEE, OKLAHOMA, MONDAY, SEPTEMBER 21, 2015, DURING THE BOARD OF CITY COMMISSIONERS MEETING AT 6:30 P.M., PURSUANT TO NOTICE DULY POSTED AS PRESCRIBED BY LAW. UPON ROLL CALL, A QUORUM WAS DECLARED WITH THE FOLLOWING MEMBERS IN ATTENDANCE:

PRESENT: Agee, Harrod, Mainord, Hall, Shaw, Dykstra

ABSENT: None

Call to Order

Declaration of a Quorum

AGENDA ITEM NO. 1: Consider approval of Consent Agenda:

- a. Minutes from the September 8, 2015 meeting.
- b. Airport Advisory Board minutes from July 15, 2015 meeting.

A motion was made by Trustee Dykstra, seconded by Trustee Hall, to approve Consent Agenda Item No. 1(a-b). Motion carried 6-0.

AYE: Dykstra, Hall, Shaw, Agee, Harrod, Mainord

NAY: None

AGENDA ITEM NO. 2: Consideration, discussion, and possible action on an Agreement for Services with H.W. Lochner, Inc. regarding an Oklahoma Aeronautics Commission (OAC) funded concrete apron project.

A staff report was given by Keenan English, Assistant Airport Manager. He stated that Oklahoma Aeronautics Commission (OAC) is wanting to partially fund the replacement of a portion of an asphalt apron with a concrete pad. This improvement will help slow down the deterioration caused by large aircraft being parked for periods of time on the asphalt. The estimated cost of the project is \$250,000.00; OAC will fund 95% leaving the City to fund the remaining 5%, roughly \$12,500.00. Mr. English stated he was not aware of this opportunity until

recently, and it is possible the expenditure may cause a deficit in the Airport budget for this fiscal year.

A motion was made by Trustee Harrod, seconded by Trustee Shaw, to approve action on an Agreement for Services with H.W. Lochner, Inc. regarding an Oklahoma Aeronautics Commission (OAC) funded concrete apron project. Motion carried 6-0.

AYE: Harrod, Shaw, Dykstra, Agee, Mainord, Hall

NAY: None

AGENDA ITEM NO. 3:

Budget Amendment – Airport Budget

For new grant funds; and insurance proceeds to replace lighting that was struck by lightning

Commissioner Shaw asked if there would be a cap amount placed on the project to insure the amount would remain around the estimate given by Oklahoma Aeronautics Commission. Finance Director Cindy Sementelli stated that OAC is usually very accurate in their estimates.

A motion was made by Trustee Harrod, seconded by Trustee Agee, to approve the Budget Amendment for the Airport Budget for new grant funds; and insurance proceeds to replace lighting that was struck by lightning. Motion carried 6-0.

AYE: Harrod, Agee, Mainord, Hall, Shaw, Dykstra

NAY: None

AGENDA ITEM NO. 4:

New Business (Any matter not known about or which could not have been reasonably foreseen prior to the posting of the agenda)

There was no New Business.

AGENDA ITEM NO. 5:

Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (7:08 p.m.)

ATTEST:

WES MAINORD
CHAIRMAN

PHYLLIS LOFTIS, CMC, SECRETARY

Shawnee Airport Authority

1. b.

Meeting Date: 10/05/2015

SAA AAB Minutes 08-19-2015

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Airport Advisory Board minutes from August 19, 2015 meeting.

Attachments

AAB Minutes 08-19-2015

MINUTES
AIRPORT ADVISORY BOARD MEETING AUGUST 19, 2015, 5:30 P.M.
TERMINAL BUILDING
2202 AIRPORT DRIVE

CALL TO ORDER

DECLARATION OF A QUORUM

ITEM ONE:

CONSIDERATION AND APPROVAL OF CONSENT AGENDA

2. Minutes from the July 15th, 2015 meeting

Mr. Humphrey's motioned to approve the consent agenda. Mr. Dersahakian 2nd the motion. Board unanimously voted in favor of the motion.

ITEM TWO: PRESENTATION TO SHAWNEE INDUSTRIAL AUTHORITY REGARDING VACANT COMMERCIAL PROPERTIES ON AIRPORT LAND

Mr. English presented to Chris Harden of the SIA several commercial development projects and business opportunities available at the airport. The board discussed costs, revenue streams, and time lines on each potential project. Mrs. Harden offered to have the Board present their ideas to the SIA Board at an upcoming board meeting. The Board agreed to hold a sub-committee meeting on September 15th to discuss what projects would be worth presenting to the SIA.

ITEM THREE: DISCUSSION OF OKLAHOMA AERONAUTIC COMMISSION (OAC) PROVIDING A CONCRETE PAD FOR LARGE AIRCRAFT PARKING

Mr. English explained to the Board that the OAC was offering to build a concrete pad in place of a portion of the existing parking apron in order to accommodate large aircraft parking. The OAC would finance 95% of the project. The Board unanimously agreed to pursue the project and present to the board any items that needed to be voted on to move the project forward.

ITEM FOUR: STAFF REPORT

Mr. English provided a staff report that included a potential land lease with a company wanting to build a large hangar at the airport, airport land acquisition opportunities, and notable new tenants at the airport.

ITEM FIVE: CITIZEN COMMENTS

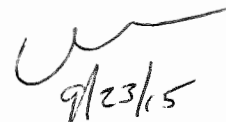
No citizen comments.

ITEM SIX: NEW BUSINESS

No new business.

ITEM SEVEN: ADJOURNMENT

Mr. Humphrey's motioned to adjourned. Mr. Fogerty 2nd the motion. Board unanimously voted in favor of the motion. Meeting adjourned at 6:40pm.



Handwritten signature and date 9/23/15

Shawnee Airport Authority

1. c.

Meeting Date: 10/05/2015

Vyve Mortgage

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Approve mortgage of leasehold interest of Vyve Broadband, LLC office located at 707 Saratoga Street, Shawnee Oklahoma to CoBank, ACB with reservation of City right of approval of transfer.

Attachments

Vyve Mortgage Memo

Vyve Mortgage Agreement

Mayor
WES MAINORD



The City of Shawnee
Shawnee Regional Airport
2202 Airport Dr.
Shawnee, Oklahoma 74804-1448
(405) 878-1625 Fax (405) 878-1583
www.ShawneeOK.org

Commissioners

LINDA AGEE
JAMES HARROD
KEITH HALL
LESA SHAW
MICHAEL DYKSTRA

Date: October 5th, 2015
To: Shawnee Airport Authority
From: Keenan English, Assistant Airport Manager
RE: Mortgage of Leasehold for Vyve Broadband A, LLC (Airport tenant)

Nature of Situation: Vyve Broadband A, LLC leases 3.06 acres of airport land located at 707 W. Saratoga Street. They are requesting the Airport's Authority's approval to allow them to take out a mortgage on their office building that they own on the leased premises.

Staff Analysis, Considerations: Provisions of the agreement are:

- Lender to CoBank, ACB
- If tenant defaults on mortgage, CoBank, ACB would own the building and is obligated to the terms of the original Airport land lease.
- The mortgage agreement does not amend or modify the Lease or its terms and provisions.
- The Airport agrees to accept lease payments from the Bank on behalf of the Lessee.
- Loan is for \$50,000
- The duration of the loan is 4 years beginning in October/November of 2015 and ending Oct./Nov. of 2019.
- Lease ends in April of 2034.

Recommendation: Airport and City staff recommend approval of Mortgage of Leasehold.

Budget Consideration:
No impact on budgets

CONSENT AND AGREEMENT

THIS CONSENT AND AGREEMENT (this "Agreement") is made effective the date of the last execution on the signature page hereof, among the CITY OF SHAWNEE, OKLAHOMA, a municipal corporation (the "Lessor"), VYVE BROADBAND A, LLC., (the "Lessee"), and COBANK, ACB, a national banking association (the "Bank").

Vyve Broadband A, LLC
707 Saratoga St. Shawnee, OK

WITNESSETH:

WHEREAS, the Lessor and Lessee have entered into a certain Lease Agreement dated May 1st, 1994 (the "Lease") as amended covering approximately 3.06 acres of real property and the improvements located thereon (the "Leased Premises"), which is located at the Shawnee Regional Airport; and

WHEREAS, the Lessee has requested that the Bank make a loan to the Lessee (the "Loan") secured by the Lessee's leasehold interest in the Leased Premises; and

WHEREAS, the Bank is willing to make the Loan to the Lessee, subject to fulfillment of certain requirements, including those contained in this Agreement;

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Consent. The Lessor hereby consents to the making of the Loan and the Lessee's mortgaging the Lessee's leasehold interest in the Lease and Leased Premises to the Bank as security for the Loan. The Lessor further consents to the assignment and transfer of the Lessee's interest in the Lease and Leased Premises to the Bank or its successors or assigns in the event of a foreclosure by the Bank of its mortgage covering the Lease and Leased Premises or in the event of a transfer by the Lessee of its interest in the Lease and Leased Premises to the Bank in lieu of such foreclosure.

2. Notice; Opportunity to Cure. The Lessor agrees to simultaneously provide to the Bank a copy of each notice or demand that the Lessor provides to the Lessee pursuant to the Lease, and agrees that the Bank may, but shall not be obligated to, undertake actions to cure any default alleged in such notice or demand within the same period of time afforded the Lessee pursuant to the Lease. The Lessor shall send a copy of each notice or demand to the Bank at the following address, or to such other address as the Bank may specify by notice to the Lessor:

Ted Koerner
Managing Director
CoBank, ACB
P.O. Box 5110
Denver, CO 80217

3. No Amendment. It is the intent of the parties hereto that this Agreement does not amend or modify the Lease or its terms and provisions. The Lease shall continue in full force and effect in accordance with its terms and provisions, subject only to the provisions of this Agreement.

IN WITNESS WHEREOF, Mortgagor has executed this agreement on this ____ of October, 2015.

BY: _____
ANDY KOBER
VYVE BROADBAND A, LLC

BY: _____
TED KOERNER
COBANK, ACB

STATE OF OKLAHOMA)
COUNTY OF POTTAWATOMIE)SS:

The foregoing instrument was acknowledged before me this ____ day of October, 2015

Public Notary

Commission Expires _____
Commission number: _____

Acknowledgment

The City of Shawnee, lessor of the subject lease, does hereby acknowledge the Mortgage of Leasehold agreement, dated October _____, 2015 between Vyve Broadband A, LLC. as Mortgagor(s) and CoBank ACB as mortgagee. In accordance with the terms of the said lease agreement, the subject Mortgage of Leasehold does not constitute a breach of the lease by the lessees, does not violate any City ordinance, and does not violate the “non-transferability” provision in the Lease. As such, the City will not prevent the bank from exercising its contractual rights, against the Lessees in the event the bank seeks to foreclose its Mortgage. It is understood, however, that in the event the Bank becomes the Lessee, the City reserves the right to approve any subsequent transfer of the lease to a third party.

Agreed to this _____ day of _____, 2015

By: _____
WES MAINORD, MAYOR
CITY OF SHAWNEE

By: _____
JUSTIN ERICKSON
CITY MANAGER/AIRPORT MANAGER

Attest: _____
PHYLLIS LOFTIS, CITY CLERK
CITY OF SHAWNEE

By: _____
MARY ANN KARNS
CITY ATTORNEY

VYVE BROADBAND A, LLC

Date Executed:_____

By:_____
Andrew Kober, President
(the "Lessee")

COBANK, ACB

Date Executed:_____

By:_____
Ted Koerner, Managing Director
(the "Bank")

Shawnee Airport Authority

2.

Meeting Date: 10/05/2015

Delta Wings Lease

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration and approval of a land lease with Delta Wings Equipment, LLC.

Attachments

Delta Wings Lease Memo

Delta Wings Lease

Delta Wings Lease Ex A

Mayor
WES MAINORD



The City of Shawnee
Shawnee Regional Airport
2202 Airport Dr.
Shawnee, Oklahoma 74804-1448
(405) 878-1625 Fax (405) 878-1583
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Commissioners

LINDA AGEE
JAMES HARROD
KEITH HALL
LESA SHAW
MICHAEL DYKSTRA

Date: October 5th, 2015
To: Shawnee Airport Authority
From: Keenan English, Assistant Airport Manager
RE: Land lease with Delta Wings Equipment, LLC.

Background: Delta Wings Equipment, LLC (DWE) is seeking a land lease agreement to build a 10,000 sq. foot hangar to house their fleet of aircraft. DWE is a subsidiary company of Pacific Wings Holdings, LLC (PAH) which is headquartered in Albuquerque, NM. PAH was a former commuter airline that operated under several different airline names that served various parts of the United States such as Arizona, New Mexico, Georgia, Hawaii, and Tennessee. Their fleet consists of six Cessna 208 Grand Caravans.

Delta Wings' business model now consists of leasing these Grand Caravans to companies around the country and the world. They intend to relocate these aircraft to Shawnee and use the Shawnee Regional Airport as a base for their fleet. Darrin Lofton, of Choctaw, OK, would be the General Manager of the Shawnee location and would manage the leasing and maintenance of the fleet. In order to do this, they are requesting a land lease of 20,000 square feet to build a shell building (hangar) on existing pavement at the airport to house the aircraft (See layout). The area would accommodate both the hangar and their parking. They have asked for an option to expand the hangar size during the term of their lease.

They are proposing to build a hangar that meets the construction standards mentioned below

Staff Analysis, Considerations:

Terms of the lease would be as follows:

- Thirty (30) year lease with one ten (10) year option to renew.
- Airport takes ownership of the hangar after the lease term ends.
- Leased premises contains 20,000 sq. feet. 10,000 sq ft for the hangar and 10,000 sq ft for parking and potential hangar expansion.
- Lease rate is \$3,000 per year (\$250 per month). Lease rate will be adjusted every 5 years.
- Leased premises would be used for: Aircraft leasing and management, selling of aircraft parts, and a repair station.

- Lessee has 6 months to begin construction from the lease date. If building specifications or plans are denied by the City Planning Department or Airport Board, then the lease will terminate, as stated in Section 5.6.
- Insurance required; \$1,000,000 general liability policy covering fire, property, and bodily injury.
- Lessee responsible for all improvements, repairs, utility access, utility bills, etc.
- Hangar will not be financed. Lessee will pay for the hangar outright.

Construction standards

- Hangar will be built on the existing concrete pad as seen on the layout.
- Support columns will required to be bolted to newly poured concrete that is no less than 3 feet thick.
- A concrete stem wall will be required to be built in order to make the hangar level and to prevent water from seeping in.
- Rolling hangar doors would be used instead of bi-folding electric doors.
- All construction plans will be submitted to the City Planning Department and Airport Board for approval. Must also file form 7460-1 (Notice of Proposed Construction or Alteration) with the FAA at least 30 days prior to construction.

Recommendation: Airport staff recommends agreeing to the lease. The lease would bring much needed revenue through lease rates and fuel sales. Also, the hangar would become the airport's property once the lease is up. The continuation of the lease is contingent on approval of building plans and specifications. The Airport Advisory Board recommended approving the lease at the September 23rd, 2015 special call meeting.

Budget Consideration:

\$3,000 of revenue per year for the land lease, plus revenue from terminal office space and hangar storage space (rates TBD on separate lease agreement).



DELTA WINGS EQUIPMENT, LLC
LAND LEASE 2015

This Agreement of Lease made and entered into this 1st day of October 2015 by and between the Shawnee Airport Authority of Shawnee, Oklahoma (City), hereinafter referred to as "Lessor", and Delta Wings Equipment, LLC a subsidiary (Pacific Air Holdings, LLC) hereinafter referred to as "Lessee".

WITNESSETH THAT:

WHEREAS, the City is the owner of the premises known as Shawnee Regional Airport (the "Airport"); and

WHEREAS, the City and Lessee are mutually desirous of entering into a Lease for the use and occupancy of certain areas at the Airport;

NOW, THEREFORE, in consideration of the premises and of the rents, covenants and conditions herein contained, the City does hereby grant to the Lessee the right to use and occupy the area of the Airport described in Article 2 hereof, during the term hereof, (hereinafter referred to as the "Leased Premises"), for the term and pursuant to the conditions hereinafter set forth.

ARTICLE 1 - TERM

- 1.1 The term of this lease shall be for a 30 year period commencing on **October 1st, 2015** and terminating on **September 30th, 2045**
- 1.2 Lease may be **renewed for one (1) period of ten (10) years** commencing upon the expiration of the original term or any renewal term hereof at the option of the Lessee. Lessee must provide Lessor with written notice of intent to renew at lease ninety (90) days prior to the expiration of lease.

ARTICLE 2 - LEASE PREMISES

- 2.1 Property located on the Shawnee Regional Airport consisting of **20,000 square feet** as shown on Exhibit A attached hereto as part hereof, together with all rights, privileges, easements, appurtenances, and amenities belonging to or in any way pertaining to the premises and together with the building and other improvements situated or to be situated upon said premises, referred to as the "Premises".

ARTICLE 3 - USE OF LEASED PREMISES

- 3.1 Lessee agrees to provide at reasonable rates and without discrimination, the

following services to the general public:

Construction of a 10,000 sq. ft. hangar with office space. As a part of the consideration for this lease, and in accordance with the Minimum Standards of Commercial Aviation Activities, the hangar will be used to provide at reasonable rates and without discrimination, the following services to the general public:

Aircraft leasing, management, selling of aircraft parts, and a repair station.

- 3.2 The premises shall be used solely for purposes consistent with the operation of the Shawnee Regional Airport or its successor(s) and the property leased hereunder shall be used continuously during the term of this agreement, for the uses described in Section 3.1, and for those things directly attendant to LESSEE'S business operation of storage of aircraft and for no other purpose, except such as shall be from time to time permitted by LESSOR. The parties hereto shall comply with all the terms and conditions or prior resolutions of the LESSOR, concerning the operation of the Shawnee Regional Airport or its successor(s), with the ordinances, rules and regulations of the City of Shawnee, Oklahoma, and the parties hereto shall comply with, and this agreement shall be subject to, all other agreements with the Federal Aviation Administration, being an agreement between the LESSOR, and the United States of America acting through the Federal Aviation Administration relative to the operation and maintenance of the Shawnee Regional Airport or its successor(s), which agreements are made a part hereof by reference as though the same appeared herein, together with any agreements with the Oklahoma Aeronautics Commission.

ARTICLE 4 - RENTAL

- 4.1 Lessee agrees to pay to the City as rental for use of the premises and the privileges herein granted the sum of **\$3,000 per year**.
Lease rate will be then **adjusted every five (5) years** based on the inflation rate established by consumer housing price index and/or any appraisals done on the Airport's behalf.
- 4.2 Lessee shall pay one-twelfth (1/12) of the annual rent in advance on or before the first day of each month during the term or any renewal of this lease. Provided, however, that if any monthly rental payment is not paid on or before the tenth day following the first day of each month, such payment shall bear interest at 10% per annum.
- 4.3 The monthly rent shall be payable at the office of the Airport Manager or such other locations as may from time to time be directed in writing by the City.

ARTICLE 5 – HANGAR CONSTRUCTION

- 5.1 The building must be located as shown on Exhibit "A" hereto, and such building must be approved by the City of Shawnee Planning Department after the approval of the plans and specifications by Lessor. Lessee shall meet Lessor's Hangar Construction Standards. Lessee's contractor shall maintain the construction site in an orderly condition and shall not permit any construction material or trash to blow from the site. .
- 5.2 Lessee agrees not to finance the cost of constructing the hangar or any other capital improvements made on the leased premises without the Lessor's consent. Lessee will commit the full funds of the cost of construction before construction commences. Furthermore, Notwithstanding anything to the contrary contained in this Lease, the interest of the Lessor, whether real or personal, in and to the leased premises, the property, or the project shall not be subject to or chargeable with any liens for labor performed or material supplied in connection with any work or improvements performed by the Lessee.
- 5.3 Notice of Proposed Construction: Lessee shall file FAA form 7460-1 (Notice of Proposed Construction or Alteration) With the Federal Aviation Administration at least 30 days prior to the date of proposed construction.
- 5.4 Private Hangar Construction Specifications. Any new building or structure or new portion thereof, constructed by LESSEE on the Premises after the effective date hereof, and all alterations, improvements, changes or additions made in or to such Premises after the effective date hereof **shall be the property of LESSEE who expressly agrees to comply with the specifications for Hangar Construction Standards as attached as Exhibit B. The hangar shall become LESSOR'S property on expiration or termination of this lease.** All plans, certificates, designs, and permits shall be given to LESSOR at the LESSOR's request and shall be consistent with those requested in the tenant's "Application for hangar development" packet.
- 5.5 Construction of a new building, that is not replacement of an existing building, **shall commence within six (6) months** from the effective date hereof. Said hangar construction shall be completed within 90 days thereafter. This lease cannot be assigned or transferred unless the hangar is complete and Certificate of Occupancy is issued by the City of Shawnee. Failure to comply with this provision is a material event of default.
- 5.6 All improvements, alterations and additions, including the plans and specifications therefor, shall conform in all respects to the applicable statutes, ordinances, building codes, rules and regulations of the Federal Aviation Administration, the United States, State of Oklahoma, and Pottawatomie County, as such may be amended from time to time, and such other authority as may have jurisdiction over any improvements, alterations or additions. Lessor's approval of such improvements shall not constitute a representation or warranty as to such conformity, which shall remain the responsibility of Lessee.

Plans and specifications for Lessee's improvements shall be filed with and approved by Lessor before construction commences. Plans and specifications for construction on the Leased Premises shall be submitted to Lessor within thirty (30) days of execution of this Lease Agreement. Lessor's approval or disapproval of Lessee's plans and specifications shall be provided to Lessee within (30) days after submission of such plans and specifications to Lessor by Lessee. Any disapproval shall state specifically the reasons for the disapproval. Lessee shall have the right to re-submit plans and specifications after any disapproval by Lessor. In the event of any disapproval by Lessor, either Lessor or Lessee shall have the right to terminate this Lease Agreement by providing written notice of termination to the other party within sixty (60) days of the date of Lessor's disapproval, in which case neither party shall have any further obligations to the other, provided, however, Lessee shall be entitled to a proportional refund of prepaid annual rent paid to Lessor.

ARTICLE 6 - CONSTRUCTION, ACCEPTANCE, CARE MAINTENANCE,
IMPROVEMENTS AND REPAIR

- 6.1 Lessee warrants that it has inspected the Leased Premises and accepts possession of the Leased Premises and the improvements thereon "as is" in its present condition, and subject to all limitations imposed upon the use thereof by the rules and regulations of the Federal Aviation Administration and by ordinances of the City, and admits its suitability and sufficiency for the uses permitted hereunder. Except as may otherwise be provided for herein, the City shall not be required to maintain nor to make any improvements, repairs or restorations upon or to the Leased Premises or to any of the improvements presently located thereon. City shall never have any obligation to repair, maintain or restore, during the term of this lease, any improvements placed upon the Leased Premises by Lessee, its successors and assigns.
- 6.2 Lessee shall throughout the term of this Agreement assume the entire responsibility, cost and expense, for all construction, repair, and maintenance whatsoever on the Leased Premises and all improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Additionally, Lessee, without limiting the generality hereof, shall:
- 6.3 Keep at all times, in a clean and orderly condition and appearance, the Leased Premises, all improvements thereon and all of the Lessee's fixtures, equipment and personal property which are located on any part of the Leased Premises.
- 6.4 Provide and maintain on the Leased Premises all obstruction lights and similar devices, and safety equipment required by law.

- 6.5 Repair any damage caused by Lessee to paving or other surface of the Leased Premises caused by any oil, gasoline, grease, lubricants or other flammable liquids and substances having a corrosive or detrimental effect thereon.
- 6.6 Take measures to prevent erosion, including but not limited to, the planting and replanting of grasses with respect to all portions of the Leased Premises not paved or built upon, and in particular shall plant, maintain and replant any landscaped areas.
- 6.7 Be responsible for the maintenance and repair of all utility service lines placed on the Leased Premises and used by Lessee exclusively, including, but not limited to, water lines, gas lines, electrical power and telephone conduits and lines, sanitary sewers and storm sewers.
- 6.8 In the event Lessee fails: (a) to commence to maintain, clean, repair, replace, rebuild or repaint within a period of thirty (30) days after written notice from the City to do any maintenance or repair work required to be done under the provisions of this Agreement, other than preventive maintenance, (b) or within a period of ninety (90) days if the said notice specifies that the work to be accomplished by the Lessee involves preventative maintenance only; (c) or to diligently continue to completion any repairs, replacement, rebuilding, painting or repainting as required under the Agreement; then, the City may, at its option, and in addition to any other remedies which may be available to it, enter the premises involved, without such entering causing or constituting a cancellation of this Agreement or any interference with the possession of the Leased Premises, and repair, replace, rebuild or paint all or any part of the Leased Premises or the improvements thereon, and do all things reasonably necessary to accomplish the work required, and the cost and expense thereof shall be payable to the City by Lessee on demand. Provided, however, if in the opinion of the City, the Lessee's failure to perform any such maintenance endangers the safety of the public, the employees or property of the City or other tenants at the Airport, and the City so states same in its notice to Lessee, the City may, at its sole option, in addition to all other remedies which may be available to it, elect to perform such maintenance at any time after the giving of such notice, and Lessee agrees to pay to the City the cost and expense of such performance on demand. Furthermore, should the City, its officers, employees or agents undertake any work hereunder, Lessee hereby waives any claim for damages, consequential or otherwise, as a result there from except for claims for damages arising from the City's sole negligence. The foregoing shall in no way affect or alter the primary obligations of the Lessee as set forth in this Agreement, and shall not impose or be construed to impose upon the City any obligations to maintain the Leased Premises, unless specifically stated otherwise herein.
- 6.9 Plans and specifications for all major repairs, constructions, alterations, modifications, additions or replacements (hereinafter referred to as "improvements"), including, without limitation the new facility to be constructed by the Lessee pursuant to Section 6.10 below, undertaken by the Lessee shall be submitted to and receive the written approval of the City, and no such work shall be

commenced until such written approvals are obtained from the City, which approval shall not be unreasonably withheld or delayed. City shall advise Lessee within thirty (30) days after receipt of the written request, together with copies of the plans and specifications for the proposed improvements in sufficient detail to make a proper review thereof, or its approval or disapproval of the proposed work, and in the event it disapproves, stating its reasons therefore.

- 6.10 If Lessee makes any improvements without City approval, then, upon notice to do so, Lessee shall remove the same or at the option of City, cause the same to be changes to the satisfaction of City. If Lessee fails to comply with such notice within thirty (30) days or to commence to comply and pursue diligently to completion, City may effect the removal or change and Lessee shall pay the cost thereof to the City. Lessee expressly agrees in the making of all improvements that, except with the written consent of City, it will neither give nor grant, nor purport to give or grant any lien upon the Leased Premises or upon any improvements thereupon or which is in the process of construction or repair, nor allow any condition to exist or situation to develop whereby any party would be entitled, as a matter of law, to a lien against said Leased Premises and improvements thereon, and Lessee will discharge any such lien within thirty (30) days after notice of filing thereof. Notice is hereby given by City to all persons that no lien attaches to any such improvements.
- 6.11 Upon the completion of construction or installation, the complete and unencumbered title to all improvements located on the Leased Premises shall immediately vest in City free and clear of all claims on the part of the Lessee on account of any repair or improvement work done or to be done under the terms hereof by Lessee. This vesting of title in the City at the time specified is a part of the consideration for this lease. The City shall not be liable to Lessee or Lessee's contractors or sub lessees for the value of any improvements constructed or located on the Leased Premises.

ARTICLE 7 - ADDITIONAL OBLIGATIONS OF LESSEE

- 7.1 Lessee shall conduct its operations hereunder in an orderly and proper manner.
- 7.2 Further, Lessee shall take all reasonable measures:
- 7.2.1 Not to produce on the Airport any disturbance that interferes with the operation by the City or the Federal Aviation Administration of air navigational, communication or flight equipment on the Airport.
- 7.2.3 Lessee shall control the conduct and demeanor of its officers, agents, employees, invitees and, upon objection from City concerning the conduct, demeanor of any such person, Lessee shall immediately take all lawful steps necessary to remove the cause of the objection.
- 7.2.4 Lessee shall comply with all health and safety laws and requirements and

any other federal, state or municipal laws, ordinances, rules, regulations and requirements, applicable to the Leased Premises and the improvements thereon and its operations at the Airport hereunder.

7.2.5 Lessee shall comply with all written instructions of the City in disposing of its trash and refuse at Lessee's expense, and shall use a system of refuse disposal approved by the City. The manner of handling and disposing of trash, garbage and other refuse and the frequency of removal thereof from the Airport premises shall at all times be subject to the rules, regulations and approval of City.

7.2.6 Lessee shall not commit, nor permit to be done, anything which may result in the commission of a nuisance, waste or injury on the Leased Premises.

7.2.7 Lessee shall not do, nor permit to be done, anything which may interfere with the effectiveness or accessibility of the drainage system, sewerage system, fire protection system, sprinkler system, alarm system and fire hydrants and hoses, if any, installed or located on the Leased Premises.

7.2.8 Lessee shall take measures to insure security in compliance with Federal Air Regulations and the Airport Security Plan.

7.2.9 Lessee shall not do, nor permit to be done, any act or thing upon the Leased Premises which may constitute a hazardous condition so as to increase the risks attendant upon the operations permitted by the Agreement.

7.2.10 Lessee shall use only a working supply of flammable liquids within any covered or enclosed portion of the Leased Premises. Any other supplies of such liquids shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories. The term "working supply" as used in this Section 6.10 shall mean the amount consumed by Lessee during any normal work day.

7.2.11 Except for services permitted under Article 3 hereof to be performed by Lessee or Lessee's subcontractors, Lessee shall provide prompt written notice to the City of any person, firm or corporation performing aircraft maintenance work, flight instruction of any sort, air taxi, aircraft charter or aircraft leasing of any sort on the Leased Premises for commercial purposes without a valid permit from the City.

ARTICLE 8 - INGRESS AND EGRESS

- 8.1 The Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways, to be used in common with others having rights of passage thereon, except when the Airport is closed to the public.
- 8.2 The use of any such roadway shall be subject to the Rules and Regulations of the Airport which are now in effect or which may hereafter be promulgated. City may,

at any time, temporarily or permanently, close or consent to or request the closing of, any such roadway and any other way at, in or near the Leased Premises presently or hereafter used as such, so long as a reasonable means of ingress and egress as provided above remains available to the Lessee. The Lessee hereby releases and discharges the City, its officers, employees and agents; and all municipalities and other governmental authorities and their respective successors and assigns, of and from any and all claims, demands, or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any street, roadway or other area, provided that a reasonable means of access to the Leased Premises remains available to the Lessee whether within the Leased Premises or outside the Leased Premises at the Airport unless otherwise mandated by safety considerations or lawful exercise of the police power. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the Leased Premises or in any streets or roadways near the Leased Premises.

ARTICLE 9 - LIABILITIES AND INDEMNITIES

- 9.1 City shall not in any way be liable for any cost, liability, damage or injury, including cost of suit and reasonable expenses of legal services, claimed or recovered by any person whomsoever, or occurring on the Leased Premises, or the Airport, or as a result of any operations works, acts or omissions performed on the Leased Premises, or the Airport, by Lessee, its sub lessees or tenants, or their guest or invitees.
- 9.2 Lessee agrees to indemnify, save and hold harmless, the City, (its officers, agents, servants and employees) of and from any and all costs, liability, damage and expense (including costs of suit and reasonable expenses of legal services) claimed or recovered, justly or unjustly, false, fraudulent or frivolous, by any person, firm or corporation by reason of injury to, or death of, any person or persons, and damage to, destruction or loss of use of any and all property, including City personnel and City property, directly or indirectly arising from, or resulting from, any operations, works, acts or omissions of Lessee, its agents, servants, employees, contractors, sub lessees or tenants. Provided, however, that upon the filing with the City by anyone of a claim for damages arising out of incidents for which Lessee herein agrees to indemnify and hold the City harmless, the City shall notify Lessee of such claim and in the event that Lessee does not settle or compromise such claim, then Lessee shall undertake the legal defense of such claim both on behalf of Lessee and behalf of the City. It is specifically agreed, however, that the City at its own cost and expense, may participate in the legal defense of any such claim. Any final judgment rendered against the City for any cause for which Lessee is liable hereunder shall be conclusive against Lessee as to liability and amount upon the expiration of the time for appeal.
- 9.3 In addition to Lessee's undertaking, as stated in this Article, and as a means of further protecting the City, its officers, agents, servants and employees, Lessee shall

at all times during the term of this Agreement obtain and maintain in effect Public Liability Insurance coverage as set forth in Schedule A attached hereto and made a part hereof. In this connection, Lessee agrees to require its contractors doing work on the Airport, and Lessee's tenants and sub lessees, to carry adequate insurance coverage, and if Lessee so desires, it may accomplish same by an endorsement to Lessee's policies to include such persons or parties as additional named insured.

8.3.1 The City reserves the right to increase the minimum liability insurance set forth in Schedule A when in the City's opinion the risks attendant to Lessee's operations hereunder have increased.

9.4 The Lessee represents that it is the owner of or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its operations under or in anywise connected with this Agreement. The Lessee agrees to save and hold the City, its officers, employees, agents and representatives free and harmless of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Lessee under or in anywise connected with this Agreement.

9.5 The Lessee represents and warrants that no broker has been concerned on its behalf in the negotiation of this Agreement and that there is no such broker who is or may be entitled to be paid a commission in connection therewith. The Lessee shall indemnify and save harmless the City of and from any claim for commission or brokerage made by any such broker when such claim is based in whole or in part upon any act or omission of the Lessee.

ARTICLE 10 - RULES AND REGULATIONS

10.1 From time to time City may adopt and enforce rules and regulations with respect to the occupancy and use of the Airport. Lessee agrees to observe and obey any and all rules and regulations and all other Federal, State and municipal rules, regulations and laws and to require its officers, agents, employees, contractors, and suppliers, to observe and obey the same. City reserves the right to deny access to the Airport and its facilities to any person, firm or corporation that fails or refuses to obey and comply with such rules, regulations or laws. Lessee hereby acknowledges receipt of a current copy of such City rules and regulations.

ARTICLE 11 - SIGNS

11.1 Lessee shall have the right to install and maintain one or more signs on the Leased Premises identifying it and its operations, provided, however, the subject matter, type, design, number, location and elevation of such signs, and whether lighted or unlighted, shall be subject to and in accordance with the written approval of the City.

No sign will be approved that may be confusing to aircraft pilots or automobile drivers or their traffic or which fails to conform to the architectural scheme of the Airport or meet the requirements of the City.

ARTICLE 12 - ASSIGNMENT AND SUBLEASE

- 12.1 Lessee covenants and agrees that it will not sell, convey, transfer, mortgage, pledge or assign this Agreement or any part thereof, or any rights created thereby, without the prior written consent of the City.
- 12.2 Any assignment or transfer of this Agreement, or any rights of Lessee hereunder, without the consent of the City, shall entitle the City at its option to forthwith cancel this Agreement.
- 12.3 Any assignment of this Agreement approved and ratified by the City shall be on the condition that the assignee accepts and agrees to all of the terms, conditions and provisions of this Agreement, and agrees to accept and discharge all of the covenants and obligations of Lessee hereunder, including but not limited to the payment of all sums due and to become due by Lessee under the terms hereof.
- 12.4 Subject to all of the terms and provisions hereof, Lessee may, with the prior written consent of the City, sublet a portion or portions of the Leased Premises to a person, partnership, firm or corporation engaged in a business that is in the opinion of the City compatible with Lessee's authorized Airport business, but in no event shall the Lessee sublet all or any portion of the Leased Premises to a fixed base operator.
- 12.5 No consent by the City to subleasing by Lessee of portions of the Leased Premises shall in any way relieve Lessee of any of its obligations to the City set forth or arising from this lease and a termination of Lessee's rights hereunder shall ipso facto terminate all subleases.
- 12.6 No consent to subleasing by the Lessee to a person, corporation or partnership conducting any business for profit derived from activities at the Airport shall be granted by the City without a duly executed permit agreement between the City and the sub lessee.
- 12.7 If the Lessee assigns, sells, conveys, transfers, mortgages, or pledges this agreement or sublets any portion of the Leased Premises in violation of the foregoing provisions of this Article, or if the Leased Premises are occupied by anyone other than the Lessee, City may collect from any assignee, sub lessee or anyone who claims a right to this Agreement or who occupies the Leased Premises any charges or fees payable by it and may apply the net amount collected to the rents herein reserved; and no such collection shall be deemed a waiver by City of the agreements contained in this Article nor of acceptance by City of any assignee, claimant or occupant, nor as a release of the Lessee by City from the further performance by the Lessee of the agreements contained herein.

ARTICLE 13 - NON-DISCRIMINATION

- 13.1 The Lessee, for it, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises for a purpose for which a United States Government program or activity is extended, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed 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.
- 13.2 The Lessee, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the Leased Premises in compliance with all other 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.
- 13.3 In this connection, the City reserves the right to take whatever action it might be entitled by law to take in order to enforce this provision. This provision is to be considered as a covenant on the part of the Lessee, a breach of which, continuing after notice by City to cease and desist, will constitute a material breach of this Agreement and will entitle the City, at its option, to exercise its right of termination as provided for herein, or take any action that it deems necessary to enforce compliance herewith.
- 13.4 The Lessee shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than the Lessee, operates any facility at the Leased Premises providing service to the public and shall include thereon a provision granting the City a right to take such action as the United States may direct to enforce such covenant.
- 13.5 The Lessee shall indemnify and hold harmless City from any claims and demands of third persons including the United States of America resulting from the Lessee's

noncompliance with any of the provisions of this Section and the Lessee shall reimburse City for any loss or expense incurred by reason of such noncompliance.

ARTICLE 14 - GOVERNMENTAL REQUIREMENTS

- 14.1 The Lessee shall at its own cost and expense, obtain all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Lessee's operations at the Leased Premises which may be necessary for the Lessee's operations thereat.
- 14.2 The Lessee shall pay all taxes, licenses, certification, permit and examination fees and excise taxes which may be assessed, levied, exacted or imposed on the Leased Premises or operation hereunder or on the gross receipts or income to Lessee there from, and shall make all applications, reports and returns required in connection therewith.
- 14.3 Lessee shall have the right, at its cost and expense, to undertake appropriate action to exempt all or any part of the Leased Premises from real estate taxes imposed upon the Leased Premises, or to secure a reduction in real estate taxes as assessed. Any such real estate taxes shall be apportioned as of the dates of commencement and termination of the lease. If any real estate taxes as may be assessed against the Leased Premises are reduced or eliminated, Lessee shall be entitled to full benefit thereof, including any refund payable to Lessee resulting there from.

ARTICLE 15 - RIGHTS OF ENTRY RESERVED

- 15.1 The City, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times to enter upon the Leased Premises for any and all purposes, provided, such action by the City, its officers, employees, agents, representatives and contractors does not unreasonably interfere with the Lessee's use, occupancy, or security requirements of the Leased Premises.
- 15.2 Without limiting the generality of the foregoing, the City, by its officers, employees, agents, representatives, contractors and furnishers of utilities and other services, shall have the right, at its own cost and expense, whether for its own benefit, or for the benefit of others than the Lessee at the Airport, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Leased Premises at all reasonable times to make such repairs, replacements or alterations thereto, as may, in the opinion of the City, be deemed necessary or advisable, and from time to time to construct or install over, in or under the Leased Premises such systems or parts thereof and in connection with such maintenance use the Leased Premises for access to other parts of the Airport otherwise not conveniently accessible, provided, however, that in the exercise of such right of access, repair alteration or new construction, the City, shall not unreasonably interfere with the

actual use and occupancy of the Leased Premises by the Lessee. It is specifically understood and agreed that the reservation of the aforesaid right by the City shall not impose or be construed to impose upon the City any obligation to repair, replace or alter any utility service lines now or hereafter located on the Leased Premises for the purpose of providing utility services only to the Leased Premises.

- 15.3 In the event that any personal property of Lessee shall obstruct the access of the City, its officers, employees, agents or contractors, or the utility company furnishing utility service to any of the existing utility, mechanical, electrical and other systems, and thus shall interfere with the inspection, maintenance or repair of any such system, Lessee shall move such property, as directed by the City or said utility company, in order that access may be had to the system or part thereof for inspection, maintenance or repair. If Lessee shall fail to so move such property after direction from City or said utility company to do so, the City or the utility company may move it, and the Lessee hereby agrees to pay the cost of such moving upon demand, and further Lessee hereby waives any claim for damages as a result there from, except for claims for damages arising from the City's sole negligence.
- 15.4 At any reasonable time, and from time to time during the ordinary business hours, the City, by its officers, agents and employees, whether or not accompanied by a prospective lessee, occupier or user of the Leased Premises, shall have the right to enter thereon for the purpose of exhibiting and viewing all parts of the same, subject to Lessee's reasonable security requirements.
- 15.5 Exercise of any or all of the foregoing rights, by the City, or others under right of the City, shall not be, nor be construed to be, an eviction of Lessee, nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

ARTICLE 16 - ADDITIONAL RENTS AND CHARGES

- 16.1 Except as provided in Section 5.3 (b), in the event Lessee fails within thirty (30) days after receipt of written notice from City to perform or commence to perform any obligation required herein to be performed by Lessee, City may enter the Leased Premises (without such entering causing or constituting a cancellation of this Agreement or an interference with the possession of such Leased Premises by Lessee) and do all things reasonably necessary to perform such obligation, charging to Lessee the cost and expense thereof, and Lessee agrees to pay to the City upon demand such charge in addition to other amounts payable by Lessee hereunder. Provided, however, that if Lessee's failure to perform any such obligation endangers the safety of the public or employees or property of the City or other tenants of the Airport, and City so states in its notice to Lessee, the City may perform such obligation of Lessee at any time after the giving of such notice, and charge to the Lessee the reasonable cost and expense thereof which Lessee shall pay upon demand.

- 16.2 If the City elects to pay any sum or sums or incur any obligation or expense by reason of the failure, neglect or refusal of Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement, or as the result of any act or omission of Lessee contrary to said conditions, covenants or agreements, Lessee hereby agrees to pay the sum or sums so paid or expense so incurred by the City as a result of such failure neglect or refusal of Lessee, including interest, not to exceed ten percent (10%) per annum, together with all costs, damages and penalties. In such event, the total of such amounts may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent recoverable by the City in the same manner and with like remedies as if it were originally a part of the rent provided for in this Agreement.

ARTICLE 17 - DEFAULT

- 17.1 In the event Lessee breaches any term or provision of this Lease, including the obligation to pay rent as and when due, the City shall have the right to terminate this lease upon giving Lessee ten (10) days notice to cure such default (except as otherwise provided in Section 5.3 above). If Lessee shall not have cured its default within said ten (10) day period to the satisfaction of the City, then the City may declare this Lease and Lessee's right of occupancy to be terminated, and Lessee shall at once quit the Premises, taking only such personality or fixtures as the City may authorize to be removed. The foregoing rights and remedies given to City are and shall be deemed to be cumulative and shall be deemed to be given to City in addition to any other and further rights granted to City herein or by law. The failure by the City at any time to exercise any right or remedy hereby given to it shall not be deemed to operate as a waiver by it of its right to exercise such rights or remedies at any other or future time.

ARTICLE 18 - TERMINATION BY LESSEE

- 18.1 In addition to any other right of cancellation herein given to Lessee, or any other rights to which it may be entitled by law, equity or otherwise, as long as Lessee is not in default in payment to City of any amounts due City under this Agreement, Lessee may cancel this Agreement and thereby terminate all of its rights and unaccrued obligations hereunder, by giving City thirty (30) days' advance written notice upon or after the happening of the following events:

17.1.1 Issuance by a court of competent jurisdiction of an injunction which in any way substantially prevents or restrains the use of the Leased Premises, or any part thereof necessary to Lessee's business operations on the Airport, and which injunction remains in force for a period of at least thirty (30) days after the party against whom the injunction has been issued has exhausted or abandoned all appeals or one hundred twenty (120) days whichever is shorter, if such injunction is not necessitated by or issued as a result of an act or omission of Lessee; or

17.1.2 The assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport and its facilities, or any substantial part thereof, in such a manner as substantially to restrict Lessee from operating its authorized Airport business for a continuous period of at least ninety (90) days.

ARTICLE 19 - SURRENDER AND RIGHT OF RE-ENTRY

- 19.1 Upon the cancellation or termination of this Agreement pursuant to any terms hereof, Lessee agrees peaceably to surrender up the Leased Premises to the City in the same condition as they are at the time of the commencement of the term hereof, and as they may hereafter be repaired and improved by Lessee; save and except, (a) such normal wear and tear thereof as could not have been prevented by ordinary and usual repairs and maintenance, (b) obsolescence in spite of repair, and (c) damage to or destruction of the leasehold improvements for which insurance proceeds are received by the City. Upon such cancellation or termination, the City may re-enter and repossess the Leased Premises together with all improvements and additions thereto, or pursue any remedy permitted by law for the enforcement of any of the provisions of this Agreement, at City's election. Furthermore, upon such cancellation or termination, and for a reasonable time thereafter (not exceeding thirty (30) days after such cancellation or termination, and for which period Lessee will pay to the City current lease rentals), or during the term of this Agreement, if Lessee is not in default in rentals or any other charges or obligations due the City, Lessee shall have the right to remove its personal property, fixtures and trade equipment which it may have on the Leased Premises, provided the removal thereof does not impair, limit or destroy the utility of said Leased Premises or building for the purpose for which they were constructed or improved, and provided, further, that Lessee repairs all damages that might be occasioned by such removal, and restores the building and site to the condition above required.

ARTICLE 20 - SERVICES TO LESSEE

- 20.1 City covenants and agrees that during the term of this Agreement it will operate the Airport as such for the use and benefit of the public provided, however, that the City may prohibit or limit any given type, kind, or class of aeronautical use of the Airport if such action is necessary for the safe operation of the Airport or necessary to serve the civil aviation needs of the public. The City further agrees to use its best efforts to maintain the runways and taxiways in good repair. City agrees to keep in good repair hard-surfaced public roads for access to the Leased Premises. City also agrees to maintain its water and sanitary sewer facilities in areas designated for utilities or easements adjacent to the Leased Premises for access thereto by Lessee in accordance with City Ordinances governing same.
- 20.2 Lessee will contract with and obtain all required permits from the appropriate City

Departments for any utility services provided by City, paying any required connection fees, including those to be paid by owners, and all such services will be provided at rates and on terms and conditions established by the City for similar users in the City.

- 20.3 Lessee will also contract with the furnishers of all other utilities for the furnishing of such services to the Leased Premises and shall pay for all water, gas, electricity, sanitary sewer service, telephone, and burglary and fire protection services furnished to the Leased Premises.

ARTICLE 21 - SURVIVAL OF THE OBLIGATIONS OF THE LESSEE

- 21.1 In the event that the Agreement shall have been terminated in accordance with a notice of termination as provided in Article 16 hereof, all the obligations of the Lessee under this Agreement shall survive such termination, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to City to the same extent, at the same time or times, and in the same manner as if no termination, re-entry, regaining or resumption of possession had taken place. City may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term of the Agreement.

- 21.2 The amount of damages for the period of time subsequent to termination (or re-entry, regaining or resumption of possession) on account of the Lessee's rental obligations shall be the sum of the following:

20.2.1 the amount of the total of all installments thereof payable prior to the effective date of termination except that the credit to be allowed for the installment payable on the first (1st) day of the month in which the termination is effective shall be prorated for the part of the month the Agreement remains in effect on the basis of the total days in the month;

20.2.2 An amount equal to all expenses incurred by City in connection with regaining possession, restoring the Leased Premises, acquiring a new lease for the Leased Premises, legal expenses (including but not limited to attorney's fees), putting the Leased Premises in order, maintenance and brokerage fees.

ARTICLE 22 - USE SUBSEQUENT TO CANCELLATION OR TERMINATION

- 22.1 The City, upon termination or cancellation pursuant to Article 16 hereof, may occupy the Leased Premises or may enter into an agreement with another lessee and

shall have the right to permit any person, firm or corporation to enter upon the Leased Premises and use the same. Such use may be of part only of the Leased Premises or of the entire Leased Premises, together with other premises, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement.

- 22.2 City shall also, upon said termination or cancellation, or upon re-entry, regaining or resumption of possession, have the right to repair and to make structural or other changes in the Leased Premises, including changes which alter its character and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder, provided, that any structural changes shall not be at Lessee's expense.
- 22.3 In the event either of use by others or of any actual use and occupancy by City, there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said Leased Premises or portion thereof during the balance of the term of use and occupancy as the same if originally stated in this Agreement, or from the market value of the occupancy of such portion of the Leased Premises as City may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by City in connection therewith. No such use and occupancy shall be or be construed to be an acceptance of a surrender of the Leased Premises, nor shall such use and occupancy constitute a waiver of any rights of City hereunder. City will use its best efforts to minimize damages to Lessee under this Article.

ARTICLE 23 - LIMITATION OF RIGHTS AND PRIVILEGES GRANTED

- 23.1 Except the exclusive right of Lessee to possession of the Leased Premises, no exclusive rights at the Airport are granted by this Agreement and no greater rights or privileges with respect to the use of the Leased Premises or any part thereof are granted or intended to be granted to the Lessee by this Agreement, or by any provision thereof, than the rights and privileges expressly and specifically granted hereby.

ARTICLE 24 - NOTICES

- 24.1 All notices, consents and approvals required or desired to be given by the parties hereto shall be sent in writing, and shall be deemed sufficiently given when same is deposited in the United States Mail, sufficient postage prepaid, registered or certified mail, return receipt requested, addressed to the recipient at the address set forth below:

To City:

Airport Manager

P.O. Box 1448
Shawnee, Oklahoma 74802-1448

AND

To Lessee:

- 24.2 Such addresses shall be subject to change from time to time to such other addresses as may have been specified in written notice given by the intended recipient to sender.

ARTICLE 25 - HOLDING OVER

- 25.1 No holding over by Lessee after the termination of this lease shall operate to extend or renew this lease for any further term whatsoever; but Lessee will by such holding over become the tenant at will of City and after written notice by City to vacate such premises, continued occupancy thereof by Lessee shall constitute Lessee a trespasser.
- 25.2 Any holding over by Lessee beyond the thirty (30) day period permitted for removal of fixtures without the written consent of the City shall make the Lessee liable to the City for damages equal to double the rentals provided for herein and which were in effect at the termination of the lease.
- 25.3 All insurance coverage that Lessee is required under the provisions hereof to maintain in effect shall continue in effect for so long as Lessee, or any of Lessee's sub lessees or tenants occupy the Leased Premises or any part thereof.

ARTICLE 26 - INVALID PROVISIONS

- 26.1 The invalidity of any provisions, articles, paragraphs, portions, or clauses of this Agreement shall have no effect upon the validity of any other part or portion hereof, so long as the remainder shall constitute an enforceable Agreement.

ARTICLE 27 - MISCELLANEOUS PROVISIONS

Remedies to be Nonexclusive.

- 27.1 All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of, or exclusive of, each other, or of any other remedy available to the City, or Lessee, at law or in equity, and the exercise of any remedy, or the existence

herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

Non-Waiver of Rights.

- 27.2 The failure by either party to exercise any right, or rights accruing to it by virtue of the breach of any covenant, condition or agreement herein by the other party shall not operate as a waiver of the exercise of such right or rights in the event of any subsequent breach by such other party, nor shall other party be relieved thereby from its obligations under the terms hereof.

Force Majeure.

- 27.3 Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority or other circumstances for which it is not responsible or which is not in its control provided, however, that this section shall not excuse Lessee from paying the rentals herein specified.

Non-Liability of Individuals.

- 27.4 No director, officer, agent or employee of either party hereto shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of an supplement, modification or amendment to this Agreement because of any breach thereof, or because of his or their execution or attempted execution of the same.

Quiet Enjoyment.

- 27.5 The City covenants that as long as Lessee is not in default of any provision of this Agreement, Lessee shall and may peaceably and quietly have, hold and enjoy the Leased Premises exclusively to it during the term hereof unless sooner canceled as provided in this Agreement.

General Provisions.

- 27.6 Lessee shall not use, or permit the use of, the Leased Premises, or any part thereof, for any purpose or use other than those authorized by this Agreement.
- 27.7 This Agreement shall be performable and enforceable in Shawnee, Oklahoma and shall be construed in accordance with the laws of the State of Oklahoma.

- 27.8 This Agreement is made for the sole and exclusive benefit of the City and Lessee, their successors and assigns, and is not made for the benefit of any third party.
- 27.9 In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.
- 27.10 All covenants, stipulations and agreements in this Agreement shall extend to and bind each party hereto, its legal representatives, successors and assigns.
- 27.11 The titles of the several articles of this Agreement are inserted herein for convenience only, and are not intended and shall not be construed to affect in any manner the terms and provisions hereof, or the interpretation or construction thereof.
- 27.12 Nothing herein contained shall create or be construed to creating a co-partnership between the City and the Lessee or to constitute the Lessee an agent of the City. The City and the Lessee each expressly disclaim the existence of such a relationship between them.

ARTICLE 28 - SUBORDINATION CLAUSES

- 28.1 This Agreement is subject and subordinate to the following:
- 28.1.1 City reserves the right to develop and improve the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance by or on behalf of Lessee, provided, Lessee is not deprived of the use of or access to the Leased Premises.
- 28.1.2 City reserves the right to take any action it considers necessary to protect the aerial approaches to the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 28.1.3 This Agreement is and shall be subordinate to the provisions of existing and future agreements between City 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 obtaining or expenditure of Federal funds for the benefit of the Airport.
- 28.1.4 During the time of war or national emergency, City shall have the right to lease all or any part of the landing area or of the Airport to the United States for military or naval use, and if any such lease is executed, the provisions of this Agreement insofar as they may be inconsistent with the provisions of such lease to

the Government, shall be suspended, but such suspension shall not extend the term of this Agreement. Abatement of rentals shall be determined by the City in proportion to the degree of interference with Lessee's use of the Leased Premises.

28.1.5 Except to the extent required for the performance of any obligations of Lessee hereunder, nothing contained in this Agreement shall grant to the Lessee any rights whatsoever in the airspace above the Leased Premises other than those rights where subject to Federal Aviation Administration rules, regulations and orders currently or subsequently effective.

ARTICLE 29 - ENTIRE AGREEMENT

- 29.1 The Agreement consists of Articles 1 to 29, inclusive, Schedule A, and Exhibit A.
- 29.2 It constitutes the entire Agreement of the parties hereto and may not be changed, modified, discharged or extended except by written instrument duly executed by the City and the Lessee. The parties agree that no representations or warranties shall be binding upon the City or the Lessee unless expressed in writing in this Agreement of Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

LESSOR:
THE CITY OF SHAWNEE
OKLAHOMA
A Municipal Corporation

By:
JUSTIN ERICKSON,
CITY MANAGER
/ AIRPORT MANAGER

By:
MARY ANN KARNS
CITY ATTORNEY

ATTEST:

PHYLLIS LOFTIS, CMC, CITY CLERK

LESSEE:
DELTA WINGS EQUIPMENT, LLC
A subsidiary of Pacific Wing Holdings, LLC

FRANK FORD
CEO

ATTEST:

SCHEDULE "A"

INSURANCE COVERAGE

The Lessee, at Lessee's expense, shall obtain and maintain in continuous effect during the term of this Lease Agreement, insurance policies issued by an insurance carrier licensed to do business in the State of Oklahoma, providing for:

- The Lessee's insurance carrier shall provide the City with a Certificate of Insurance indicating proof of the foregoing coverage. The Certificate shall name the City of Shawnee as additionally insured. Such certificate shall provide that the carrier issuing the certificate shall notify the City within ten (10) days in advance of any cancellation or significant change in the terms of coverage of such insurance policies.
- The failure of the Lessee to obtain and maintain such insurance coverage shall not relieve the Lessee from any liability arising from this Lease Agreement nor shall any such liability be limited to the liability insurance coverage provided herein.

Insurance policies for each type of service provided:

A. AIRCRAFT RENTAL

1. Aircraft Liability
Combined Single Limit Injury and Property Damage
\$ 1,000,000 each occurrence
\$ 100,000 per passenger/per seat bodily injury
2. Comprehensive General Liability and Property Damage
Combined Single Limit Bodily Injury & Property Damage
\$ 1,000,000 each occurrence
3. Student and Renter's Liability
\$ 500,000 each occurrence
\$ 50,000 per passenger/ per seat bodily injury

D. AIRCRAFT ENGINE AND AIRFRAME MAINTENANCE & REPAIR

1. Aircraft Liability
Combined Single Limit Injury and Property Damage

\$ 1,000,000 each occurrence

2. Comprehensive General Liability and Property Damage
Combined Single Limit Bodily Injury & Property Damage
\$ 1,000,000 each occurrence
- 3 Hangar Keeper's Liability*
\$ 500,000 each occurrence
\$ 150,000 per aircraft

E. AIRCRAFT CHARTER AND TAXI SERVICE

1. Aircraft Liability
Combined Single Limit Injury and Property Damage
\$ 1,000,000 each occurrence
2. Comprehensive General Liability and Property Damage
Combined Single Limit Bodily Injury & Property Damage
\$ 1,000,000 each occurrence
- 3 Hangar Keeper's Liability*
\$ 150,000 each occurrence



20,000 sq. ft

10,000 sq. ft

N Airport Dr

Fred Reese Dr

Hangar Site

Leased Area