



**AGENDA
CITY OF HARRISONVILLE
PUBLIC WORKS COMMITTEE
REGULAR MEETING
CITY HALL
MAY 1, 2014
6:00 PM**

- I. Call to Order**
- II. Approval of Minutes**
 - A. Public Works Committee - Regular Meeting - Mar 6, 2014 6:00 PM**
- III. Agenda Items**
 - A. 2014 SIDEWALK & CURB PROGRAM**
 - B. 2014 ASPHALT PROGRAM**
 - C. Sales Tax - Re-prioritize of Street Maintenance Dollars**
- IV. Stormwater Issues**
- V. Public Works Project Updates**
 - A. PUBLIC WORKS UPATE MARCH 2014**
- VI. Airport Reports**
 - A. APRIL AIRPORT REPORT**
- VII. General Discussion**
- VIII. Adjourn**

This meeting will be open to the public.

Posted on City Hall Bulletin Board this day of

Kim Hubbard, City Clerk



DRAFT
MINUTES
CITY OF HARRISONVILLE
PUBLIC WORKS COMMITTEE
REGULAR MEETING
CITY HALL
MARCH 6, 2014
6:00 PM

I. Call to Order

The meeting was called to order at 6:00 PM by Chair Ivan Stull

Attendee Name	Title	Status	Arrived
Kevin Wood	Member	Present	
Doug Meyer	Alternate	Absent	
Morris Coburn	Member	Present	
David Dickerson	Member	Present	
Ivan Stull	Chair	Present	
Bill Mollenhour	Member	Present	

Others Present: City Administrator Keith Moody, Public Works Director Jerry Gibbs, Assistant Public Works Director Eric Patterson Airport Manager James Green, Street Superintendent Rodney Jacobs, Public Information Officer Sheryl Stanley and City Clerk Kim Hubbard.

II. Approval of Minutes

- A. Public Works Committee - Regular Meeting - Feb 6, 2014 6:00 PM** Accepted
Minutes were approved.

III. Agenda Items

A. MECHANIC STREET J4P2257 PRESENTATION

Lee Ann Kell, Transportation Project Manager for Missouri Department of Transportation gave an overview of the Mechanic Street Corridor Project.

Ms. Kell discussed the following:

- Portion of the two lane street becoming three lane*
- Reconstruction of pavement, curbing, gutters, more in-lets and flat bottom swales*
- Reconstruction of sidewalks, installing crosswalks-majority of sidewalks will be 5ft.*
- Identifying right-of-ways, acquiring temporary easements and some permanent*

easements for culverts. Ms. Kell stated they anticipate acquiring right-of-ways in May.

There was discussion regarding the impact on homeowners having access to their driveways. Ms. Kell reported they were still laying out the driveways in an attempt to minimize the disruption to residents as much as possible. There was also discussion that they would try to keep the slope of the driveways the as their existing grade prior to the project. Ms. Kell said that concrete will be used for the majority of the driveways at the approach and the remainder of the drive they will use the same material the resident had prior to construction.

Alderman Coburn asked about the construction of the road and if it would hold up for years to come. Ms. Kell stated they anticipate future traffic use when designing projects and this road should last a long time.

Concerns were shared regarding drainage issues starting at Price Lane. Discussion took place that a culvert in that area would need to be extended and an easement would be necessary.

The tentative schedule for the project was shared that the bid opening is scheduled for February, 2015, award the bid in March, proceed with construction in April or early May and the project is anticipated to be complete by the end of the year.

During the construction there will be one lane open for the first phase and then it will switch for the second phase. The posted detour will be Route P over to 291 it was noted that Harrisonville Emergency Director Francis will included in the talks regarding detours so there will emergency access.

Mr. Moody pointed out that the turn radius of an alleyway is not the same as a driveway and recommended that the curbs not be carried up to the alleys. Ms. Kell made a note and stated they will look at this.

Ms. Kell stated they will talk with the post office regarding access for customers.

There was discussion regarding a tract of land on Highland Drive that was owned by the City.

It was noted that the street lights have not been finalized. Mr. Patterson shared that either induction or LED's will be used and that concrete poles were favored. It was noted that if concrete poles are used they will be break-away poles or in a clear zone area. Mr. Gibbs stated that Electric Department Director Thomas was okay with using concrete poles.

Matt Killion, Area Engineer for MoDOT gave an update on the Hospital Interchange Bridge and reported no interchange would be constructed that repairs to the existing structure would be made.

The question was asked about the culvert on 2 Highway and the possibility of replacing it with a bridge. Mr. Killion reported this item was not ranked high on the priority list and that it is not on MoDOT's five (5) year plan.

Mr. Killion shared that MoDOT funds have decreased and there is a one (1) cent sales tax ballot issue for the November election. Mr. Killion stated if the ballot issue does not pass there will not be enough fund to maintain what the state has.

IV. Stormwater Issues

A. Public Concerns and Education Opportunities

Mr. Gibbs reported this item has been added to the agenda to meet conformance with the City's MS4 permit requirements. This provides an opportunity for the public or committee to bring up storm water related issues.

Mayor Wood inquired about a list of residents who have storm water issues and asked that they be invited to attend Public Works meetings. Mr. Patterson noted that City Engineer Martin is working on list for Public Information Officer Sheryl Stanley.

V. Public Works Project Updates

A. PUBLIC WORKS UPATE MARCH 2014

Mr. Gibbs asked if there were any questions regarding the Public Works Update.

Mayor Wood asked about the status of the CCTV project. Mr. Gibbs reported a second contractor would be brought in to televise the portion of lines that Redzone was unable to televise. There was also discussion that a root cutter may have to utilized to make some of the areas accessible.

Mayor Wood asked for an update on the Independence Bridge Project. Mr. Gibbs reviewed the progress and shared some recent pictures.

VI. Airport Reports

A. AIRPORT MONTHLY REPORT

Mr. Green gave an update on the FAA tree issue. Mr. Green reported all trees needing to be removed or trimmed back have been done with the exception of the tree on Mr. Myler's property. Mr. Green stated the Mr. Myler has been contacted and is not opposed but would like a replacement that is substantial. Mr. Green noted he is investigating what is available.

Discussion took place regarding the placement of a gate which would block individuals from accessing the field behind Mr. Myler's property.

VII. General Discussion

None.

VIII. Adjourn

Alderman Coburn moved to adjourn the meeting. Alderman Dickerson seconded the motion and it was approved by a voice vote. The meeting adjourned at 7:12 P.M.

Kevin Wood, Mayor & Ex-Officio
Chairman of the Board of Aldermen

ATTEST:

Kim Hubbard, City Clerk

Minutes Acceptance: Minutes of Mar 6, 2014 6:00 PM (Approval of Minutes)



TO: Public Works Committee
FROM: Eric Patterson, Asst. Director
DATE: April 23, 2014
SUBJECT: 2014 SIDEWALK & CURB PROGRAM

Type of Item: *Approval*

Attached is Staff's recommendation for sidewalks and curbs to be replaced this year. After speaking to Director Tholen, Director Gibbs and Superintendent Jacobs, Staff would like to do this years program as a change order to last years to take advantage of that pricing. If the Committee has no objection to this we would also need the Contractor to agree in writing to it. Concrete has gone up in cost significantly the past year and in general the contractor's work has been better than the previous year. If this is not okay with the Committee or the Contractor we would immediately get it ready for bid.

Discussion Item (ID # 1386)

2014 SIDEWALK & CURB PROGRAM

Attachments:

2014 Curb and Sidewalk Program.xlsx (PDF)

SIDEWALKS						
Number	Street Name	ADA Ramp	ADA \$/Each	Sidewalk Length	Sidewalk Width	Square Feet
1	1101 N. Independence Street	1		30	4	120
2	1003 N. Independence Street	2		30	4	120
3	Independence Street Ash to bridge	1		165	4	660
4	Independence Street Vine to bridge	1		165	4	660
5	100-204 W. Washington St			236	4	944
6	200 East Washington St	1		10	4	40
7	401-405 E Washington	1		146	4	584
8	Washington at Wirt			25	4	100
9	2400 Ridgewood Rd			29	4	116
10	2302 Ridgewood Rd			24	4	96
11	2204 Ridgewood Rd			35	4	140
12	2102 Ridgewood Rd			41	4	164
13	2408 Douglas			45	4	180
14	2611 Quail	1		10	4	40
15	2610 Quail	1		10	4	40
16	Brandon @ Christopher	1		10	4	40
17	Ridgewood Cir @ Meghan	1		10	4	40
	TOTALS	11		1021		4084
				BASE BID	ADD ALT. 1	ADD ALT. 2
Sidewalk						
Curb and Gutter						
Total Estimate						
Curb and Gutter						
Number	Street Name	Curb	Length	Unit Cost	Cost	
1	2611, 2607 Quail	CG1	100			
2	2610,2611 Quail	CG1	100			
3	502-700 Halsey	CG2	219			
4	Douglas Cir 2404,2402,2405,2406,2408	CG2	827			
5	Brandon @ Christopher	CG2	165			
6	Ridgewood Cir 2612,2614,2616	CG2	50			
ADD-1	Meadowlark at Meghan on N. side	CG2	200			
ADD-2	304 Brookridge	CG2	10			
ADD-2	303 Brookridge	CG2	20			
ADD-2	103 Brookridge	CG2	62			
ADD-2	109 Brookridge	CG2	25			
ADD-2	115 Brookridge	CG2	25			
ADD-2	Brookridge at Pearson Cir. both sides of street	CG2	60			
Estimate Curb and Gutter Base NO. 1-6				1461		1461
Estimate Curb and Gutter ADD-1				200		
Estimate Curb and Gutter ADD-2				202		

Attachment: 2014 Curb and Sidewalk Program.xlsx (2014 SIDEWALK & CURB PROGRAM)



TO: Public Works Committee
FROM: Eric Patterson, Asst. Director
DATE: April 23, 2014
SUBJECT: 2014 ASPHALT & MICROSURFACE PROGRAM

Type of Item: *Approval*

Attached is Staff's recommendation for streets to receive treatment in this years Asphalt Overlay Program. As you will notice not all the streets that are proposed will be the normal 2" Mill & Overlay. With budgetary restraints and higher costs, Staff is recommending doing more Micro-Pave like we did last year. In the coming years Staff will continue to seek ways to stretch our funds, while they may not have the same longevity as a 2" Mill & Overlay they will help to extend the life of the street and it resembles asphalt in look. Something else to consider according to the new ADA requirements, if we do our normal 2" Mill & Overlay we must improve the sidewalks and ramps alongside those streets.

Discussion Item (ID # 1385)

2014 ASPHALT PROGRAM

Attachments:

2014 Asphalt Program March 27 2014.xlsx (PDF)

Asphalt Overlay				Sq. Yds.	PCI
	Street Name	From	To	Sq. Yds.	PCI
1	Ridgewood Rd	Meghan	Brookridge	2600	60
2	Lauren Lane	Beth Blvd	Cul De Sac	1650	60
3	Butler Drive	Wall St	Pearl St	450	70
4	Butler Terrace	Wall St	Pearl St	425	65
5	Continental Ave	Galaxie Ave	end of roadway	1500	65
6	Fairlane St	Galaxie Ave	Continental Ave	2500	60
7	Pearl St	(End of Road)	Price	1450	60
8	Ridgewood Ct	Ridgewood	Cul De Sac	675	60
9	Twin Oaks Drive	Crane	Outlook Dr	1350	60
ALT	Bird Terrace	Bird Ave	Cul De Sac	825	55
ALT	Logan St	West St	Oakland St	2100	50
				15525	
MICRO SURFACE	Street Name	From	To	Sq. Yds.	PCI
1	Jil St	Walker Dr	Joy St	1650	60
2	Kirk St	Jill St	Kay St	2125	75
3	Thunderbird Dr	Elm St	Falcon St	1400	85
4	Thunderbird Dr	Falcon St	Continental Ave	1125	85
5	Thunderbird Dr	Continental Ave	Maverick Trail	850	85
ALT	Twin Oaks Drive	Outlook Dr	Bird Ave	1350	75

8500



STAFF REPORT

TO: Public Works Committee
FROM: Jerry Gibbs, Director
DATE: April 22, 2014
SUBJECT: Sales Tax - Reprioritize of Street Maintenance Dollars

Type of Item: Report

Introduction - The sales tax would not only have funded street projects but provided \$200,000 in additional street maintenance dollars. Approximately \$75,000 of existing funds would have been able to set aside to begin funding a storm water program. This program would not only have benefited new project, but begin replacement of existing storm sewers. In the last ten years new mandates have been handed down with respect to ADA compliance of sidewalks (new & existing) and storm water. The mandates include an asset management component requiring an inventory of the asset and a program to maintain.

On storm water issues, the current approach is a wait and see. A surface deformation needs to occur and be reported to begin a response. Staff digs down to the subsurface pipe and patches. Sidewalks are replaced by sections based on settlement, slope and possible trip hazard. The economy of scale is adversely impacted due to the small square footage in each run and jumping all over town. Curb and gutter have a similar approach as sidewalks. Replaced sections vary in length.

The Street Department in either the CIP or operating budget utilizes the following project amounts \$150,000 for Overlays and seals, \$90,000 for chip seals annually and \$90,000 every other year for curb & gutter/ sidewalks. The current asset inventory includes 33.7 miles of asphalt streets, 25.4 miles chip & seal, 36 miles of curb and gutter, 33 miles of sidewalk, 3.5 miles of concrete roads and 11 miles of galvanized/concrete storm sewer pipe (predominantly galvanized). The capital investment is well over \$30M.

Discussion - ADA mandates require an agency to have a program to bring exiting sidewalks into ADA compliance, provide ADA connections where known deficiencies exist, improve sidewalks as a part of any overlay resurfacing projects, and maintain a complete inventory of their system. The Street Department is trying to meet the intent but is limited to their resources on hand. The new MS 4 Storm water requirements will monitoring every discharge point and inventorying all of the assets. A condition assessment can be done the employs similar technology to sanitary sewers. The difficulty is in access where boxes did not have a manhole lid access and directional changes were not always accessible.

Budget discussion begin in July. Priorities should be based on value of maintaining an asset and less about keeping an asset from failing. Other issues is resolving outstanding storm water request. Staff will be recommending programming the funds as a whole and applying on best

value. This would replace a fixed amount do perform a type of treatment. An example would be less overlay/seals and more sidewalk curb replacement. This would allow the department to determine the proper mix for any given year and not what projects will fit the amount available.

Discussion Item (ID # 1383)

Sales Tax - Re-prioritize of Street Maintenance Dollars

Attachments:

Next steps (DOCX)

M E M O R A N D U M

TO: Jerry Gibbs, Director of Public Works**FROM: Rodney Jacobs, Superintendent of Streets****DATE: April 15, 2014****SUBJECT: Next Steps after Transportation Tax Vote****Type of Item:** Information

Sir,

With the failure to pass the Transportation Tax and \$200,000 in maintenance dollars, the question of where from here requires a summary of where we are now pertaining to major infrastructure needs in Harrisonville; they include roadways, storm water and sidewalks /curbs.

Roadways: Each year City staff inventories street conditions using a formula which grades our roadways and scores them with a Pavement Condition Index number. Using this system, as of December 2013, the City's 146 lane miles of streets had 15 miles below 70%, or a satisfactory rating on the Pavement Condition Index verifying our streets are slowing degrading. While this is not really news nor is the fact that we are not getting the life out of our Street Programs due to poor road subgrade we need to continue to work to maintain our roadways with current resources. These include our current methods of patching and overlay programs but also should include the use of chip sealing in areas traditionally not done before. Due to the high cost of road oil and aggregate, the Street Department staff has projected chip sealing of about 4 lane miles of roadway at a cost of \$90,000 in materials which is a reduction from last year. Staff plans on performing major asphalt patching on Ash Street and patch other failed road sections using funds from the chip and seal line item if needed. Concrete streets have their own particular requirements which will be addressed with patching at that time. The budgeting of the Asphalt Overlay Program has been a great asset.

Storm water The city streets will continue to be a challenge to keep up at current levels but an equally pressing problem is the existing storm water structure sand culverts. We have old steel culverts with a life span of 25 years in place now for 50 years. A system on James Street near Blueberry is a prime example; the three foot diameter culvert has been patched till now there is not a bottom in the pipe and sink holes appear in the yard after a rain storm. The project has been listed for replacement for years, but limited funding prevented the repair. To address the problem staff plans on replacing the 120 foot section of culvert this fall using maintenance funds for material cost. It will be a major project for the Street Department, but in comparison to the hundreds of feet on Halsey Ave, Chapel Drive, Maple Lane and Oakvale this is a small project.

Curbs and Sidewalk The Curb and Sidewalk Program has been a great asset, but current levels are not keeping pace with the need. We have in the 2014 CIP a list of 1,863 linear feet of curb and 4,044 square feet of sidewalk. With this budgeted, we will still be of need to replace 1,200 feet of curb on Brandon, and thousands of feet on Stacy which we have temporally patched with asphalt until it can be replaced. The Street Department does replace curb and sidewalk, but in limited volume due to time restraints. Continued improvement of existing sidewalk is also a priority to be in compliance with the Federal ADA guidelines. Another major priority is a sidewalk to the Community Center on Jefferson Parkway.

Recommendations - Street Department Staff's recommendations:

Continue to fund the Asphalt Overlay Program, the continued funding along with the Street Departments chip sealing will not remedy the problems of the slow decline of our roadways but it will help to keep them passable till a funding source is establish. More chip sealing on curbed roadway will be needed though this may not be popular but a better aggregate should remedy dust problems many people relate to a gravel road. An increase in the Street Department Maintenance Budget should be considered as the cost of road maintenance supplies continue to increase.

Funding Storm Sewer repair is very important due to the liability risk. The section of culvert on James Street which City staff is planning on replacing is but a part of the James Street sewer improvements defunded in the 2015 CIP. The Street Department will continue to patch and replace when feasible but a funding source should be a priority.

Continue to fund the Sidewalk & Curb Program as outlined in the 5 Year CIP with the addition of funding sidewalk and curb in 2016 CIP. The Street department has the ability to replace curb and sidewalk but it is time consuming and more time is being spent on other projects. Currently staff replaces up to 1000 feet a year curb and sidewalk on emergency bases.

There is good news; Staff feels that the City of Harrisonville is fortunate to have resources to continue to offer services to residents though at a declining level due to funding. The Street Department will strive to produce a good service and appreciates the support by leadership with a vision to keep Harrisonville moving forward.



STAFF REPORT

TO: Public Works Committee
FROM: Eric Patterson, Asst. Director
DATE: April 23, 2014
SUBJECT: PUBLIC WORKS UPATE MAY 2014

Type of Item: Report**WATER SYSTEMS**

- KC Water Transmission Main:**
 - Waiting for a copy of the hydraulic model. Sent correspondence Hennessey requesting further explanation of available capacity.
- Water Treatment Plant Upgrades Phase 1**
 - Filter evaluation technical memo completed.
 - Completing Capital Facilities Plan based on Board comments
- East Washington/South Lexington Waterline Improvements-**
 - Hettinger completed West Washington. New main has been put into service and resident connections on the north have been made
 - East Highland (Lexington to Highland) main completed
 - Project is on schedule

SANITARY SEWERS

- Ann Street Sanitary Sewer:** Lining completed. Only the invert construction remains
- CCTV - GPS of Manholes** is almost complete, Meeting with Redzone to discuss next phase and completion of line segments from phase 1. Considering televising the total system
- Eastwood Sanitary Sewer Reroute:** Powers Excavating has been awarded the contract
- Clark Sewer** - work is complete. Requested Clark sign a letter stating the work was done to his satisfaction
- WWTP sludge removal** - 2013 and 2014 removal will be combined.

STORMWATER

- Morningview Storm Drainage Improvement Project:** Four easements acquisitions are required before the project can be bid.
- Chateau** - Reviewing survey proposal

GENERAL/TRANSPORTATION

- Energize Missouri:**
 - Siemens Audit report completed and met with City Staff
 - Anticipate an annual shortfall of approximately \$11,000 beginning 2014
 - Shortfall for 2013 was only \$800 due to length of project and the ability to count savings during construction
 - Siemens has an option to implement other energy savings measure at their cost.
- Mechanic Street-**
 - Tentative bid date spring 2015
- 291Partners in Progress-**
 - MODOT bid letting date 5-23-14
 - Electrical Relocation is underway
- North Independence Bridge -**
 - Structural slab is complete
 - Sidewalks complete
 - Open to traffic by mid-May
- 2013 Sidewalk Program:** Construction is about 66% done...

Discussion Item (ID # 1384)

PUBLIC WORKS UPATE MARCH 2014



City of
Harrisonville^{est. 1836}
STAFF REPORT

TO: Public Works Committee
FROM: Jerry Gibbs, Director
DATE: April 24, 2014
SUBJECT: APRIL AIRPORT REPORT

Type of Item: *Report*

LAWRENCE SMITH MEMORIAL AIRPORT REPORT

By James Green

Hangar and Tie Down Space:

- All Hangars are Full, 14 confirmed people on the waiting list
- 7 Tie down spots available

Fuel:

- Potential jet fuel sales - approx. 200 gallons
- 100LL - our current price is \$5.70 per gallon
- Fuel prices in our service area:

Lee's Summit	\$5.31 per gal.
Ottawa	\$5.55 per gal.
Gardner	\$5.65 per gal.
Johnson County	\$6.30 per gal.
Butler	\$5.70 per gal.

AVGAS Sales: (March 26 to April 24)

- Price \$5.70 per gallon
- Gallons Sold 641.95
- Revenue \$3,659.12
- Profit \$449.37

ALP & AGIS Project:

The AGIS Data is almost completely loaded into the FAA's database. Once complete the ALP Update will begin.

Land Lease:

Attached is a draft land lease as well as a draft Fixed Base Operator (FBO) agreement. MoDOT's comments are attached as well for your review.

Life Flight Jet Fuel Tank:

Life Flight has indicated that they may be interested in getting rid of their Jet fuel tanks and purchasing fuel from the city, their ultimate goal is to reduce their facility costs by not operating their own fuel tank any longer.

They have not offered a price for their tank and it will require some maintenance and moving costs which are being researched. This may be an economical way to offer jet fuel at the airport to our customers.

Discussion Item (ID # 1387)**APRIL AIRPORT REPORT**

Attachments:

Airport Land Lease Agreement 4-14 (PDF)

Harrisonville Airport Fixed Base Operator Agreement 4-14 (PDF)

MoDOT Comments Land FBO Doc 4-14 (PDF)

**AIRPORT LAND LEASE AGREEMENT
FOR**

HARRISONVILLE MUNICIPAL AIRPORT

2014

Attachment: Airport Land Lease Agreement 4-14 (APRIL AIRPORT REPORT)

LAND LEASE AGREEMENT

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EXHIBIT A25

Attachment: Airport Land Lease Agreement 4-14 (APRIL AIRPORT REPORT)

LAND LEASE AGREEMENT

THIS LEASE AGREEMENT, is made this ___ day of _____, 2014, between the City of Harrisonville, Missouri, hereinafter called "City", and _____, hereinafter called "Lessee".

WITNESSETH

WHEREAS, City operates the Harrisonville Municipal Airport hereinafter called "Airport", located in the City of Harrisonville, Cass County, Missouri; and

WHEREAS, City has the right, title and interest in and to the real property on the Airport, together with the facilities, easements, rights, licenses, and privileges hereinafter granted, and the City has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, Lessee desires to lease certain property and to construct a centralized aircraft storage hangar thereon upon the terms and conditions hereinafter stated, and the City is willing, upon the terms and conditions stated herein, to lease said property to the Lessee for this purpose.

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, City leases to Lessee and Lessee leases from City the following described leased premises, and all described rights incident thereto, subject to the following:

SECTION 1. LEASED PREMISES

Subsection 1.01. Description of Leased Premises. The term "leased premises", as used in this Agreement, shall include real estate located at Harrisonville Municipal Airport, in Cass County, Missouri, as detailed on the attached Exhibit "A", and any improvements, together with the easements and rights appurtenant thereto or as may be hereafter separately granted to effectuate the purposes of this lease, including the right of ingress thereto and egress therefrom.

SECTION 2. OBJECTIVES AND PURPOSE OF LEASE

Subsection 2.01. Use of Leased Premises. Unless otherwise specified in this agreement, Lessee shall use the leased premises only for the construction of an aircraft storage hangar for aircraft at the Airport. After construction of the aircraft storage hangar, the Lessee must use the leased premises only for continuing flight operations in order to be eligible for the lease renewal options set forth under Subsection 5.02(A) of this Agreement.

Subsection 2.02. Prohibited Uses. The following activities are expressly prohibited:

- A. Lessee will not perform any aviation-related services for others, or rent or sublease the leased premises or portions thereof to others for any such purposes unless the Lessee or

Attachment: Airport Land Lease Agreement 4-14 (APRIL AIRPORT REPORT)

Sublessee has executed, in addition to this Agreement, a separate Fixed Based Operator Agreement or General Services Provider Agreement with the City for performance of aviation-related services or operations on the leased premises. Lessee shall have the right to rent or sublease part of or all of its hangar space to others for the storage of aircraft only, without the prior written consent of the City. However, the Lessee is prohibited from renting or subleasing part or all of its hangar space to any person or entity that leases hangar space at the Airport.

- B. Lessee will not conduct, rent or sublease all or any part of the leased premises or the improvements located thereon for any non-aviation activity or purpose other than the storage of aircraft and/or the provision of engineering services.
- C. Lessee will not park aircraft in excess of 12,500 pounds gross weight except in areas and on surfaces specified by the airport manager.
- D. Automobiles, trucks and vehicles are prohibited from parking on the ramps or taxiways or in such a manner as to restrict aircraft movement on public taxiways.
- E. Lessee will not park or store aircraft except in hangars or designated aircraft parking tiedown locations. In addition, there shall be no outside storage of any items by Lessee.
- F. Lessee will not sell or dispense aviation fuels and lubricants.

SECTION 3. CITY'S REPRESENTATIONS AND WARRANTIES

Subsection 3.01. Title and Authority. The City represents and warrants that it has good and merchantable fee simple title to the leased premises and good authority to enter into this Agreement.

Subsection 3.02. Condition of Leased Premises. The City makes no representations or warranties concerning the existence or absence of any surface or subsurface conditions above, on, under or about the leased premises, or regarding the suitability of the leased premises for the construction of the improvements proposed by the Lessee. The Lessee shall perform, at its own expense, all inspections, surveys and tests necessary to satisfy itself and the City concerning these matters, and the City shall make the leased premises reasonably available to the Lessee for the conducting of all such activities. The Lessee shall have a 30 day period, prior to taking possession of the leased premises, in which to perform any such inspections. The discovery of the presence or absence of any such unforeseen conditions upon the leased premises affecting the construction of the improvements by the Lessee shall not be considered grounds for termination or rescission of this Agreement by the Lessee after the issuance of a notice to proceed with construction to the Lessee by the City; although the discovery of such unforeseen conditions prior to the issuance of the notice to proceed may be considered grounds for termination of the Agreement by either party.

SECTION 4. LESSEE'S CONSTRUCTION REQUIREMENTS

Subsection 4.01. Requirement for Improvements on Leased Premises. Lessee shall, at its sole expense, construct on the leased premises, as provided in this Section, such buildings, structures, roadways, utility lines, additions, and improvements in furtherance of the purposes set forth in Section 2, and Lessee shall install herein and thereon such equipment and facilities as Lessee or City may deem necessary or desirable. However, no building, structure, roadway, utility lines, addition or improvement of any nature shall be made or installed by Lessee without the prior written consent of the City as herein provided. Lessee can make internal improvements to the leased premises without City consent as long as said changes meet the City of Harrisonville code requirements in effect at the time of such proposed change, including any requirement to obtain permits.

Subsection 4.02. Construction Dates. Construction of improvements shall begin as soon as possible after the communication by the City to the Lessee of a notice to proceed with said construction. This notice to proceed with the commencement of construction shall be delivered following the City's approval of final detailed plans, as described in the following Subsection 4.03, and the readiness of the leased premises for the commencement of the project. The project shall be completed within two hundred ten (210) days from the date of the issuance of the City's notice to proceed. In the event a notice to proceed is not issued by the City within ninety (90) days from the date of the execution of this Agreement, whether it be because of the actions or omissions of the Lessee or of the City, either the City or the Lessee, at its option, may declare the contract terminated, without fault, liability, or further obligation to either party.

In the event that construction of the building is not substantially completed within said two hundred ten-day (210) period due to causes or conditions beyond the control of Lessee (hereinafter referred to as "Force Majeure"), as, by way of example but not limitation, strikes, acts of God, inability to obtain labor or materials, governmental restriction, enemy action, civil commotion, fire or other casualty, or failure of the City to carry out its obligations, then the period for completion of construction shall be extended by the number of days of delay resulting from the Force Majeure.

Subsection 4.03. Approval of Plans. Lessee covenants and agrees that prior to the preparation of detailed construction plans, specifications and architectural renderings of any such building, structure, roadway, addition or improvement, it shall first submit sets of plans as required to meet required City ordinances and regulations showing the general site plan, design and character of improvements and their locations, including drainage and roadways to City for approval. Lessee's plans shall meet City of Harrisonville design standards for the type of development proposed. Lessee covenants and agrees that prior to the installation or construction of any such building, roadway, structure, addition or improvement on the leased premises, it shall first submit to the City for approval, final detailed construction plans and specifications, and architectural renderings prepared by registered architects and engineers as required to meet required City ordinances and regulations, and that all construction will be in accordance with such plans and specifications. Approval of any general or detailed plans or specifications shall not relieve or excuse the Lessee from compliance with any applicable Federal, state, county,

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municipal or other statutes, ordinances, rules or codes regarding any building, safety or environmental matters related to the construction.

Lessee agrees to submit to the Federal Aviation Administration, FAA Form 7460-1, Notice of Proposed Construction or Alteration, and receive a favorable determination prior to any commencement of any construction or alteration, as required by Part 77 of the Federal Aviation Regulations.

Subsection 4.04. Extension of Utilities or Special Facilities. Lessee shall construct, at its expense, all necessary utility lines for the leased premises. The City shall allow the Lessee access across City property, if necessary, to connect to the existing utilities at their nearest suitable locations to the leased premises. Lessee shall construct for the leased premises, at its expense, connecting roadways and taxiways to the existing roadway and taxiway system.

Subsection 4.05. Construction of Additional Facilities. Lessee may construct additional buildings or facilities on the leased premises with the prior written approval of the City, which may be given or withheld at its sole discretion. Prior to such construction, Lessee agrees to submit to the City for approval, final plans, specifications and architectural renderings prepared by registered architects and engineers, and comply with all other requirements of Subsection 4.03 of this Section.

Subsection 4.06. Alterations or Repairs to Premises. Lessee shall not remove or modify any of the buildings or improvements leased hereunder or hereafter constructed without prior written approval of the City. Lessee shall submit for approval by the City its plans and specifications for any such proposed project and comply with any other conditions considered by the City to be necessary. Lessee may make internal improvements to the leased premises without City consent as long as said changes meet the City of Harrisonville building code requirements, including any requirement to obtain permits.

Subsection 4.07. Lien Indemnification. In the event any person or corporation shall attempt to assess a Mechanic's Lien against the leased premises arising from or connected with any of the Lessee's uses of or activities upon the leased premises, Lessee shall indemnify and hold the City harmless from such claim, including the cost of defense.

Subsection 4.08. Cost of Construction and Alterations. Within thirty (30) days of completion of the initial construction or any subsequent alterations, Lessee shall present to City for examination and approval a sworn statement of the construction and/or alteration costs. Construction and/or alteration costs for the purpose of this Subsection, are hereby defined as all money paid by Lessee for actual site preparation, construction or alteration, including architectural and engineering costs plus pertinent fees in connection therewith.

With the presentation to the City of the sworn statement of construction and/or alteration cost referenced above, the Lessee shall also present to the City for its examination supporting itemized documentation of the cost of each item of construction, materials, and/or design, including all change orders made after City approval of final detailed plans for the construction

or alteration.

In the event that Lessee makes further improvements or alterations on the leased premises, the use thereof shall be enjoyed by Lessee during the term hereof without payment of additional rental therefore, but such additions, alterations or improvements shall become the property of City upon the completion of the term.

Subsection 4.09. As-Built Drawings. Within ninety (90) days following completion of the initial construction and any subsequent additions, alterations or improvements thereafter during the lease term, Lessee shall present to the City two complete sets of "as-built" drawings including, but not limited to, architectural renderings, specifications, plumbing, and electrical plans.

Subsection 4.10. Mortgage of Leasehold Interest. Lessee shall have the right to place a first mortgage lien upon its leasehold interest and, in such event, all lease obligations owing to the City shall be binding on the lender, or any assignee of its interest. The terms and conditions of any such mortgage loan shall be subject to the prior written approval of the City, and if the conditions set forth in Subsections A-D below are met, the City will not arbitrarily withhold such approval. Lender's duties and rights are as follows:

- A. The Lender shall have the right, in case of default, to assume the rights and obligations of Lessee herein, with the further right to assign the Lessee's interest to a third party, provided that, any assignee proposed by the Lender shall be subject to the prior written approval of the City.
- B. As a condition precedent to the exercise of the right granted to Lender by this paragraph, the Lender shall notify the City of all action taken by it in the event payments on such loans shall become delinquent. Lender shall also notify the City, in writing, of any change in the identity or address of the Lender.
- C. All notices required by Subsection 16.16 to be given by the City to Lessee shall also be given to Lender at the same time and in the same manner. Upon receipt of such notice, Lender shall have the same rights as Lessee to correct any default.
- D. The Lessee shall also remain responsible to the City following any assignment of its interests or obligations hereunder for the performance of all requirements under this Agreement.

Subsection 4.11. Ownership of Improvements. During the term of this Agreement, including any renewal terms exercised, but excluding any holdover tenancy period, as defined in Subsection 5.03, ownership and title to the buildings, fixtures and improvements constructed by the Lessee shall reside in the Lessee. Upon completion of the Agreement term, including any renewal terms exercised, or upon the earlier termination of the Agreement, any building, fixture, structure, addition or improvement, excluding personal property as defined in Subsection

13.02, on the leased premises shall immediately become the property of the City, as owner, and shall remain the property of the City thereafter with the sole right, title and interest thereto.

SECTION 5. TERM

Subsection 5.01. Term. The term of this Agreement is twenty (20) years (240 months), commencing on the first day of the month of the issuance of the occupancy permit, and terminating in twenty years thereafter. Prior to the beginning of the Agreement term, Lessee shall have the right to occupy the leased premises for the purpose of construction, subject to the provisions of Sections 4, 10 and 16.

Subsection 5.02. Options to Renew.

- A. The Lessee shall have the option to renew this Agreement for five additional five-year (60-month) periods. The Lessee shall be deemed to have exercised its option to renew this Agreement for the first additional five-year (60-month) term when the Lessee shall give the City written notice of Lessee's intention to renew the term of this Agreement not later than one hundred eighty (180) days prior to the expiration of the initial twenty (20) year (240-month) term and receives approval from the City not later than ninety (90) days prior to the expiration of the term. Receipt of the City's approval is contingent upon the Lessee's continuing use of the leased premises for flight operations.
- B. Should the Lessee renew the term of this Agreement for the first five-year (60-month) additional term, the Lessee shall be deemed to have exercised its option to renew this Agreement for the second additional five-year (60-month) term when the Lessee shall give the City written notice of the Lessee's intention to renew the term of this Agreement not later than one hundred eighty (180) days prior to the expiration of the first five-year (60-month) renewal term and receives approval from the City not later than ninety (90) days prior to the expiration of the term. Receipt of the City's approval is contingent upon the Lessee's continuing use of the leased premises for flight operations.
- C. Should the Lessee renew the term of this Agreement for the any subsequent five-year (60-month) additional term, the Lessee shall be deemed to have exercised its option to renew this Agreement for any such additional five-year (60-month) term when the Lessee shall give the City written notice of the Lessee's intention to renew the term of this Agreement one not later than hundred eighty (180) days prior to the expiration of the *current* five-year (60-month) renewal term and receives approval from the City not later than ninety (90) days prior to the expiration of the term. Receipt of the City's approval is contingent upon the Lessee's continuing use of the leased premises for flight operations.
- D. Rentals for the renewal term(s) shall be established as described in Subsection 6.01.B. herein.
- E. At the end of the full forty-five year (540 month) term (initial plus renewal terms) of this Agreement, or, if Lessee does not exercise one or more of the renewal term options, at the

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end of the initial lease term or the renewal term thereafter, the Lessee shall have no further rights to the premises, or to extend the Agreement.

Subsection 5.03. Holding Over.

- A. In the event Lessee shall continue to occupy the leased premises beyond the initial lease term or any extension thereof without the City's written consent thereto, such holding over shall not constitute a renewal or extension of this Agreement, but shall create a tenancy from month to month which may be terminated at any time by City or Lessee by either party giving thirty (30) days written notice to the other party. During the holdover period, Lessee shall pay, in advance, on the first day of each month, an amount as rent equal to one-sixth (1/6) of the established annual rent for the immediately preceding term or renewal term. Both parties shall perform and maintain their other obligations under this Agreement during any holdover period.
- B. Lessee further agrees that upon the expiration of the term of this Agreement or sooner cancellation thereof, the leased premises will be delivered to the City in good condition, reasonable wear and tear and matters covered by insurance excepted.

SECTION 6. RENTALS, FEES AND RECORDS

Subsection 6.01. Rentals for Leased Premises.

- A. During the first five years of this Agreement, commencing upon the date referenced in Subsection 5.01, Lessee agrees to pay to the City rentals for the leased premises encompassing _____square feet, more or less, at _____ cents per square foot per annum, for a total annual rent of \$_____.
- B.
 1. Rental fees shall be adjusted following five years of the initial term of this Agreement, and every five years thereafter, with each such adjustment to become effective upon the sixth, eleventh, and sixteenth annual anniversary dates of the Agreement, respectively. Rental fees will also be adjusted at the beginning of each optional extension term if renewed by Lessee. The rents shall be adjusted by the total change in the Consumer Price Index for All Urban Consumers, (CPI-U) all items, published by the United States Department of Labor, Bureau of Labor Statistics (1982-84 equals 100) or a successor index appropriately adjusted. This shall be measured by finding the difference between the CPI-U figure for the month immediately prior to the commencement date of the Agreement or of the previous five year measuring period, and the CPI-U index figure for the same month immediately prior to the commencement of the next measuring period, as described in the example below.
 2. The percent increase in the Consumer Price Index during the measuring period shall be multiplied times the annual square footage rental rate to determine the annual rent or fees to be paid for the next five year period. This same process shall be applied

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to affect all future increases in rents throughout the initial term of this Agreement. The annual rent increases shall be cumulative. For example:

FORMULA	EXAMPLE
NEW CPI (9/99)	156.91
- OLD CPI (9/94)	149.44
CPI CHANGE+	7.47
 CHANGE IN CPI = % CPI	 7.47 = (5.00%)
OLD CPI	149.44

(% CPI + 1) X CURRENT RATE = (0.05 + 1) X \$0.12 = \$0.126
 NEW RATE

3. Notwithstanding the adjustment calculation methodology stated above, at no time during the term of this Agreement, including any options, renewals or extensions thereof, will the annual square feet ground rental rate decrease. In the event the adjustment calculation methodology described above would result in a decrease in the annual rental rate, the Lessee shall, for that measuring period under the initial Agreement term, or for the said renewal term, pay an annual rental rate in the same amount as that assessed for the renewal term or measuring period immediately prior to the period or renewal term involving the calculated or appraised decrease. In the event that the City causes a decrease in the total square feet of the leased premises, the total rental amount would decrease proportionately.

Subsection 6.02. No Exclusive Use. Lessee does not lease and is prohibited from using any aircraft parking apron or taxiway for its exclusive use. Any commercial use of aircraft operational areas by Lessee shall be by separate agreement and payment of appropriate fees. Nothing in this Section, however, shall prohibit Lessee from the joint use with others of the Airport interior and exterior roadways serving the leased premises in accordance with Airport rules, regulations and/or restrictions.

Subsection 6.03. Time and Place of Payments. The foregoing fixed rental payments shall be payable annually, in advance, on or before the first business day of each year of the term of the lease, including renewal terms, at the office of the City of Harrisonville Collector's Office, City Hall, 300 East Pearl, Harrisonville, Missouri 64701.

Subsection 6.04. Audit. There are no audit requirements under this Agreement.

Subsection 6.05. Delinquent Rentals. There shall be added to all sums due the City and unpaid, as may be established by the City, an interest charge of one and one-half percent (1 1/2%) of the principal sum for each full calendar month of delinquency computed as simple interest. No interest shall be charged upon that portion of any debt which, in good faith, is in dispute. No interest shall be charged upon any account until payment is thirty (30) days

overdue, but such interest when assessed thereafter, shall be computed from the due date.

SECTION 7. OBLIGATIONS OF LESSEE

Subsection 7.01. Net Lease. The use and occupancy of the leased premises by Lessee will be without cost or expense to the City. It shall be the sole responsibility of Lessee to maintain, repair and operate the entirety of the leased premises and any improvements and facilities constructed thereon at Lessee's sole cost and expense.

Subsection 7.02. Maintenance and Operation. Lessee shall maintain the leased premises at all times in a safe, neat and attractive condition, and shall not permit the accumulation of any trash, paper, or debris on any Airport property. Lessee shall repair all damages to the leased premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all equipment thereon, including any buildings and improvements, and shall repaint the buildings as necessary.

Lessee shall be responsible for and perform all maintenance, including but not limited to:

- A. Janitorial services, providing janitorial supplies, window washing, rubbish, and trash removal.
- B. Supply and replacement of light bulbs in and on all buildings, obstruction lights and replacement of all glass in building, including plate glass.
- C. Cleaning of stoppages in plumbing fixtures, drain lines and septic system to the first manhole outside the leased premises.
- D. Replacement of floor covering.
- E. Maintenance of all building and overhead doors and door operating systems including weather stripping and glass replacement.
- F. Building interior and exterior maintenance, including painting, repairing and replacement.
- G. Repair or replacement of equipment and utilities to include electrical, mechanical and plumbing in all buildings, including but not limited to air conditioning and heating equipment. All repairs to electrical and mechanical equipment are to be made by licensed personnel. Other repairs are to be made by craftsmen skilled in work done and performing such work regularly as a trade.
- H. Lessee shall be responsible for all snow removal on the leased premises and shall do so in a manner which does not interfere with airport operations or damage to property.
- I. Lessee shall maintain and replace all landscaping and grounds as originally approved and

installed, and will not allow the removal of trees without permission of City.

- J. Lessee shall advise the City and obtain the City's consent in writing, including any required permits, before making changes involving structural changes to building or premises, modifications or additions to plumbing, electrical or other utilities. Any penetration of the roof shall be considered a structural change.
- K. Lessee is responsible for maintaining electric loads within the designed capacity of the system.
- L. Lessee shall maintain and re-lamp all lights in and on the building and on the leased premises.
- M. Lessee shall provide and maintain hand fire extinguishers for the interior of all buildings, shop parking and storage areas in accordance with applicable safety codes.
- N. Lessee shall perform all maintenance on Lessee-constructed structures, pavements, and equipment; and utilities to the point where connected to the main source of supply or the first manhole outside of the leased premises, or to the utility corridor.
- O. Lessee shall comply with all federal, state, and local building codes and architectural standards applicable to the leased premises, as may now be in effect or may be hereafter enacted during the term of this lease, and shall further comply with any such requirements as may be imposed by any such authorities as a requirement or prerequisite for the City to obtain funding for Airport improvement or planning projects. The Lessee shall also comply with all codes, regulations, laws and architectural standards relating to access to or use of the premises by persons with physical disabilities, including but not limited to the requirements of the federal Americans With Disabilities Act, and any such state or local laws or ordinances.
- P. Lessee shall comply with all federal, state, and local laws, rules, regulations, and ordinances, and those rules and policies of the City, as may now be in effect or may hereafter be enacted, in its handling, use, storage, transportation, and disposal of any materials or substances deemed under any such authority to be dangerous or hazardous substances or wastes, or to otherwise constitute a threat of harm to the environment (including but not limited to all fuel, lubricants, and/or other petroleum products). Lessee shall comply with and conform its activities in all respects to any applicable requirements of any such entities with respect to the protection of the environment.

Subject to Subsection 16.13 herein, the City, at its discretion, shall be the sole judge of the quality of maintenance; and Lessee, upon written notice by the City to Lessee, shall be required to perform whatever maintenance the City deems necessary. If said maintenance is not undertaken by Lessee within thirty (30) days after receipt of written notice, the City shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. No waste shall be committed or damage done to the

property of the City.

Subsection 7.03. Utilities. Lessee shall assume and pay for all costs or charges for utilities services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefore.

Subsection 7.04. Trash, Garbage, Etc. Lessee shall pick up, and provide for, a complete and proper arrangement for the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of its business. Lessee shall provide and use suitable covered receptacles approved by the City for all such garbage, trash, and other refuse.

Piling of boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the leased premises, shall not be permitted.

Subsection 7.05. Signs. Lessee shall not erect, maintain, or display upon the outside of any improvements on the leased premises any billboards or advertising signs; provided, however, that Lessee may maintain on the outside of said buildings, its own name(s) on signs, the size, location and design of which shall be subject to prior written approval by the City and in accordance with City ordinances.

Subsection 7.06. Nondiscrimination. Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that (A) 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; (B) that in the construction of any improvements on, over, or under such land and the furnishing of services thereof 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; (C) that 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, to the extent that said requirements are applicable, as a matter of law, to Lessee.

Subsection 7.07. Observance of Statutes, etc. The granting of this Agreement and its acceptance by Lessee is conditioned upon the right to use the Airport facilities in common with others authorized to do so, provided, however, that Lessee shall observe and comply with any and all requirements of the constituted public authorities and with all Federal, State or Local statutes, ordinances, regulations and standards applicable to Lessee for its use of the leased premises, including but not limited to, rules and regulations promulgated from time to time by the City for the administration of the Airport. The Lessee shall also defend, reimburse, indemnify and hold harmless the City, including costs of defense, from any claims, demands, penalties or liability which may accrue to it because of any alleged violation or noncompliance

with any such statute, ordinance, rule or standard by the Lessee or resulting from Lessee's activities hereunder.

Subsection 7.08. Hazard Lights. Lessee shall, at its expense, provide and maintain hazard lights on any structure erected by Lessee on the leased premises, if required by the City or Federal Aviation Administration regulations. Any hazard lights so required shall comply with the specifications and standards established for such installations by the FAA.

Subsection 7.09. Airport Security. Lessee recognizes City's required compliance with Federal Air Regulations concerning airport security and agrees to comply with City directives currently in effect or as may be hereafter enacted concerning airport security in relation to its use of the leased premises.

Subsection 7.10. Nonpublic Self Fueling. Lessee is prohibited from selling or dispensing aircraft fuels. Any violation by the Lessee of this subsection shall constitute a material breach of this Agreement, and shall constitute cause for immediate termination of the Agreement, and repossession of the leased premises by the City pursuant to Subsection 12.03 herein.

SECTION 8. OBLIGATIONS OF THE CITY

Subsection 8.01. Operation as a Public Airport. The City reserves the right to discontinue use of the Airport as an airport. The City covenants and agrees that as long as the City continues to use the Airport as an airport it will operate and maintain the Airport facilities, as defined hereinabove, consistent with and pursuant to the Sponsor's Assurances given by the City to the United States Government under the Federal Aviation Act, subject to the City's Reservations set forth in Section 9 of this Agreement.

Subsection 8.02. Ingress and Egress. Upon paying the rental hereunder and performing the covenants of this Agreement, Lessee shall have the right of ingress to and egress from the leased premises for the Lessee, its officers, employees, agents, servants, customers, vendors, suppliers, patrons, and invitees over the roadway serving the area of the leased premises. Airport roadways shall be used jointly with other tenants on the Airport, and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as City deems necessary.

SECTION 9. CITY'S RESERVATIONS

Subsection 9.01. Improvement, Relocation or Removal of Structures. The City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area and other portions of the Airport (including, without limitation, the leased premises), including the right to remove or relocate any structure on the Airport as it sees fit, and to take any action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any buildings or other structures on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.

In the event the City reasonably requires the leased premises for expansion, improvements, or other development of the Airport, or if the City discontinues use of the Airport as an airport, the City reserves the right, upon six (6) months prior written notice, to terminate this Agreement, in which case the City will compensate the Lessee for its remaining interest under this Agreement in the premises and improvements thereon by paying the Lessee a proportionate share of its total cost of construction, as defined in the preceding Subsection 4.08, and as limited herein, in the same ratio as said proportionate share is to the total cost of construction as the number of years remaining in the term of this Agreement, including any optional renewal terms or portions thereof remaining at the time of the termination, is to the total number of years of the term of the Agreement, including the optional renewal terms. Said allowable construction costs shall include the cost items defined in Subsection 4.08 comprising the total cost of the initial design and construction of the improvements in accordance with the final detailed plans approved by the City under Subsection 4.03 hereinabove. Said allowable costs shall not include any increases in costs due to any changes in construction or design of the improvements made by the Lessee after the City's detailed plan approval, unless specifically agreed to be included in writing by the City prior to the time of the change, although changes resulting in decreases in the total cost shall be included. Said allowable costs shall also not include the cost of any improvements or alterations to the premises made by the Lessee after the commencement of the Agreement term, unless otherwise agreed to by the City in writing. Payment shall be made according to the formula set out below:

Compensation due = (remainder of term left/term +options) x allowed construction cost
Said payment shall be considered compensation in full to the Lessee for any and all of its actual or potential claims, losses, or damages resulting from or related to the termination of the Agreement by the City under this Subsection. In the event of such termination, the City would also have no obligation to relocate or replace the Lessee's improvements at any other location on Airport premises, or to offer the Lessee another site for relocation.

Subsection 9.02. Inspection of Leased Premises. The City, through its duly authorized agent, shall have at any reasonable time, the full and unrestricted right to enter the leased premises for the purpose of periodic inspection for fire protection, maintenance and to investigate compliance with the terms of this Agreement.

Subsection 9.03. Subordination to U.S. Government. This Agreement shall be subordinate to the provisions of any existing or future agreement(s) between City and the United States, relative to the operation and maintenance of the Airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to the City for Federal funds for the development of the Airport.

Subsection 9.04. War or National Emergency. During the time of war or national emergency, the City shall have the right to lease the Airport or any part thereof to the United States Government for military use, and if any such lease is executed, the provisions of this Agreement insofar as they are inconsistent with the lease to the Government shall be suspended.

SECTION 10. INDEMNITY AND INSURANCE

Subsection 10.01. Indemnification. Lessee agrees to protect, defend, indemnify, and hold the City, its employees, officers and agents, completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to reasonable attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the leased premises, or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused solely by the negligence or willful misconduct of the City, or its officers and employees. This duty shall also extend to claims of damages to the environment caused by Lessee, including but not limited to the investigation, field study, and clean up costs assessed by any federal, state or local agency against the City or any of its agents or employees, as well as any civil fine or penalty. The City shall give to the Lessee reasonable notice of any such claims or actions. The provisions of this Section 10 shall survive the expiration or early termination of this Agreement. The duties of the Lessee specified herein shall not be limited by the amount of any insurance coverage required to be provided by the Lessee herein, but shall extend to the full amount of any such claim or liability. This duty shall also not be limited by the provision of any workers' compensation coverage.

Subsection 10.02 General Liability Insurance. Lessee shall, at its expense, procure and keep in force at all times during the term of this Agreement, and during the construction of any improvements upon the leased premises, from a financially sound and reputable company acceptable to the City, public liability insurance, with independent contractor's coverage and contractual liability endorsement, including but not limited to aircraft liability, airport premises liability, and automobile liability coverage insuring Lessee and the City of Harrisonville for personal injury and property damage, and such other insurance necessary to protect the City from all such claims and actions described in the preceding Subsection 10.01. Without limiting its liability, Lessee agrees to carry and keep in force insurance with single limit liability for personal injury or death and property damage in a sum not less than \$1,000,000 per occurrence. If the Lessee subleases all or any part of its hangar space to others for the storage of aircraft not owned or leased by Lessee, the Lessee shall obtain and keep in force at all such times appropriate hangar keepers liability coverage, in a minimum amount of not less than \$100,000 per aircraft and \$1,000,000 per occurrence with the City of Harrisonville as additional insured parties. Lessee shall furnish the City with a certificate of insurance as evidence of coverage. Said insurance policies shall not be cancelled or materially modified or non-renewed except upon thirty (30) days advance written notice to the City. Coverage is to be written on the broadest liability form which is customarily available at reasonable cost. Operator recognizes that the required amounts of coverage set forth above are the minimum limits, and may not reflect the Operators actual risk. Operator further agrees to name the City as an additional insured on all applicable policies.

Subsection 10.03. Contractor's Insurance Requirements. If Lessee contracts with a third party (the Contractor) to perform construction or modifications on the leased premises, the Contractor

shall procure and maintain, at the Contractor's expense, insurance of such types and in no less than the minimum amounts as are required herein. Contractor shall provide certificate(s) of insurance confirming the required protection on standard ACORD forms. Said insurance must be in effect from the date of the Contractor's receipt of a Notice to Proceed until acceptance of the entire work by the Lessee, and apply to all partners and employees working on the project. The Contractor shall require all subcontractors to provide insurance for themselves, their partners and employees to be engaged in such work unless the subcontractor's employees are covered by the Contractor's coverage. The Contractor and all subcontractor's shall maintain a minimum of the following: Commercial General Liability in the amount of \$500,000 each occurrence and aggregate (including completed operations and explosion, collapse and underground if applicable), automobile Liability limit of \$500,000 Each Accident, bodily injury and property damage, combined single limit arising out of the ownership or use of any owned, hired, and/or non-owned vehicle; and Worker's Compensation applicable to the State's laws for Statutory limits including Employers Liability.

Subsection 10.04. Fire and Extended Coverage Insurance. Lessee shall, at its expense, procure and keep in force at all times during the term of this Agreement with a company suitable to the City and Lessee, insurance on the improvements on the leased premises against loss and damage by fire, tornado, wind, earthquake, natural disaster, or aircraft and extended coverage perils. Lessee shall furnish evidence of insurance in an amount no less than the outstanding balance of the mortgage secured by the lease, and in no event less than 80% of the replacement cost of the improvements.

Subsection 10.05. Application of Insurance Proceeds. If the fixed improvements placed upon the leased premises shall be totally destroyed or extensively damaged and if the City and Lessee shall elect not to restore the same to their previous condition, the proceeds of insurance payable by reason of such loss shall be apportioned between the City and Lessee, with the City receiving the same proportion of such proceeds as the then expired portion of the Agreement term bears to the full Agreement term, and Lessee receiving the balance. The Agreement shall then be cancelled. If the damage results from an insurable cause and the Lessee shall elect to restore the same with reasonable promptness, it shall be entitled to receive and apply the entire proceeds of any insurance covering such loss to said restoration, in which event this Agreement shall continue in full force and effect, with no abatement in any payments due hereunder.

Subsection 10.06. Performance Bonds. Lessee shall deliver to the City a surety bond in the amount of 25% of the building construction costs, within thirty (30) days after the execution date first above mentioned. Said bond shall be conditioned on the faithful performance of all terms, conditions and covenants of this Agreement, and shall be kept in full force and effect through the complete construction of the hangar.

At Lessee's option, an irrevocable letter of credit may be deposited with the City in lieu of said Performance Bond.

In lieu of said surety bond or letter of credit, Lessee may deposit with the City, Bonds of the

United States of America, or such other securities or bank certificate of deposit, acceptable to the City, in the name of the City or assigned to the City in the above amount, as security for faithful performance by Lessee as hereinabove provided, and Lessee may have the right to reserve to itself payable on said U.S. Bonds or such other securities.

In addition at any time that Lessee undertakes construction of any additional facilities, Lessee shall, at its own cost and expense, cause to be made, executed, and delivered to the City separate bonds, as follows:

- A. Prior to the date of commencement of construction, a contract surety bond in a sum equal to the full amount of the construction contract awarded.

Said bond shall be drawn in a form and from such company as approved by City; shall guarantee the faithful performance of necessary construction and completion of improvements in accordance with approved final plans and detailed specifications; and shall indemnify and hold harmless the City against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Lessee to perform completely, the work described herein provided.

- B. Prior to the date of commencement of construction, a payment bond with Lessee's contractor or contractors as principal, in a sum equal to the full amount of the construction contract awarded. Said bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies and equipment used in the performance of said construction contract.

SECTION 11. TERMINATION OF LEASE BY LESSEE

Subsection 11.01. Termination. This Agreement shall terminate at the end of the term, or optional renewal term(s), if exercised, and Lessee shall have no further right or interest thereafter in any of the ground improvements hereby demised, except as provided in Subsection 5.03 and 9.01.

Subsection 11.02. Termination by Lessee. Lessee, in addition to any other rights it has under the law, may terminate this Agreement and terminate its obligations hereunder at any time that Lessee is not in default in the payment of rentals to the City hereunder by giving the City sixty (60) days advance written notice to be served as hereinafter provided, and by surrender of the leased premises, upon or after the happening of any one of the following events:

- A. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport, so as to substantially affect Lessee's use of the system at the Airport, and the remaining in force of such injunction for a period of at least ninety (90) days; provided, however, that such injunction is not due to Lessee's operation at the Airport.

- B. The default by the City in the performance of any covenant or agreement herein required to be performed by the City, and the failure of the City to undertake and be continuing to remedy such default for a period of ninety (90) days after receipt from Lessee of written notice to remedy the same; provided, however, that no notice of termination, as above provided, shall be of any force or effect if the City shall have remedied the default prior to receipt of Lessee's notice of termination.
- C. The assumption by the United States Government or any authorized agency thereof of the operation, control, or use of the Airport and facilities or any substantial part or parts thereof, in a manner as substantially to restrict Lessee for a period of at least ninety (90) days from full use of its leased premises, and in that event, a just and proportionate part of the rent hereunder shall be abated. In the event that this lease agreement is terminated by Lessee pursuant to this Section 11, Lessee shall be compensated in accordance with Section 9 hereof.

SECTION 12. TERMINATION OF LEASE BY CITY

Subsection 12.01. Termination by the City. The City, in addition to any other rights to which it may be entitled by law, may declare this Agreement terminated in its entirety, subject to and in the manner provided in Subsection 12.02 hereof, and subject to the rights of the Lender contained in Subsection 4.10 herein to assume the rights and obligations of the Lessee, upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the leased premises.

- A. The failure to pay all installments of rent then due (with interest) within thirty (30) days after receipt by Lessee of written notice from the City to pay such rent.
- B. The filing by Lessee of a voluntary petition in bankruptcy or the making of any assignment of all or any part of Lessee's assets for benefit of creditors.
- C. The adjudication of Lessee as a bankrupt pursuant to any involuntary bankruptcy proceedings.
- D. The exercise of jurisdiction by a court of competent jurisdiction of Lessee or its assets pursuant to proceedings brought under the provisions of any Federal reorganization act.
- E. The appointment of a receiver or a trustee of Lessee's assets by a court of competent jurisdiction or a voluntary agreement with Lessee's creditors.
- F. The material breach by Lessee of any of the covenants or agreements herein contained, and the failure of Lessee to remedy such breach within thirty (30) days after receipt of written notice of such breach from the City.
- G. The abandonment of the leased premises.

- H. The failure to promptly and diligently replace any improvements which have been destroyed by fire, explosion, wind, etc., from the date of such destruction, except as permitted herein.
- I. The breach of any one of the covenants contained in Subsection 7.10 hereinabove, in which case the provisions of Subsection 12.01.F. concerning notice to the Lessee of the breach and time to cure said breach shall not apply.

Subsection 12.02. Notice to Quit. In the event the City exercises its option to cancel this Agreement upon the happening of any or all of the events set forth in Subsection 12.01 hereof, a notice of cancellation shall be sufficient to cancel this.

The City shall provide written notice of its intent to terminate the Agreement to the Lessee thirty (30) days prior to the date of termination, except for termination as described in Subsection 12.01I., in which case no such prior notice of termination is required.

Subsection 12.03. Possession by the City. Upon a material breach of this lease agreement by Lessee, lender's right to assume the rights and obligations of the Lessee shall be exercised within 30 days of receipt of the notice of cancellation; or, if prohibited from assumption by an order of a court of law, the right to assume the rights and obligations shall be exercised within thirty (30) days of receipt of an order allowing such assumption. Failure of the City to declare this Agreement terminated upon default of Lessee for any of the reasons set forth herein shall not operate to bar, destroy, or waive the right of the City to cancel this Agreement by reason of any subsequent violation of the terms hereof.

In the event that this Agreement is terminated by summary proceedings, or otherwise as provided herein, or if the leased premises shall have been abandoned and whether or not the leased premises are subsequently leased, the entire amount of rent which would be paid to the initial expiration date of this Agreement shall become due and payable. In the event of such termination or abandonment, the City shall be obligated to use its best efforts to mitigate any damages it may have against the Lessee. In the event the leased premises are re-let by the City, the City shall be entitled to recover from the Lessee, and the Lessee shall pay to the City, in addition to any other damages becoming due hereunder, an amount equal to the amount of all rents and additional rent reserved under this Agreement, less the net rent, if any, collected by the City on re-letting the demised premises, which shall be due and payable by the Lessee to the City on the several days on which the rent and additional rent reserved in this Agreement would have become due and payable; that is to say, upon each of such days the Lessee shall pay to the City the amount of deficiency then existing. Such net rent collected on re-letting by the City shall be computed by deducting from the gross rents collected all reasonable expenses incurred by the City in connection with the re-letting of the leased premises of any part thereof, including court costs, attorney fees and litigation expenses incurred in connection with the termination of Lessee's tenancy, enforcement of this Agreement, or the repossession of the leased premises, brokers' commission and the cost of repairing, renovating or remodeling said leased premises.

The obligation of the City to use its best efforts to mitigate any damages it may have against the Lessee shall not preclude the right of the City to obtain by judicial process a judgment for the entire amount of rent which would be paid to the expiration date of this Agreement, plus court costs and attorney fees incurred, if said Agreement is terminated by summary proceedings or otherwise as provided herein. In the event the City obtains a judgment in such manner, the City shall be obligated to use its best efforts to mitigate any damages it may have recovered in accordance with the provisions of this paragraph.

Subsection 12.04. Destruction of Leased Premises - Termination. In the event of damage to or destruction or loss of the building, buildings or other improvements on the leased premises by an insured or uninsured risk, Lessee shall promptly repair, restore and rebuild said building, buildings or other improvements as nearly as possible to the condition they were in immediately prior to such damage or destruction; provided that, if the City and Lessee mutually agree not to restore the building, buildings or other improvements in the event of total destruction or extensive damage, the provisions of Subsection 10.04 shall apply.

If the building, buildings or other improvements shall be damaged in such manner as to render them unusable in whole or in part, for over one hundred twenty (120) days the rental provided to be paid under the terms of this Agreement shall be abated or reduced proportionately during the period from a date one hundred twenty (120) days after the date of such damage or destruction until the work of repairing, restoring or reconstructing said building, buildings or other improvements is completed.

SECTION 13. RIGHTS UPON TERMINATION

Subsection 13.01. Fixed Improvements. Subject to subsection 4.11 herein, the leased premises shall be and remain the property of the City during the entire term of this Agreement and thereafter.

Subsection 13.02. Personal Property. Upon termination of this Agreement, Lessee shall remove all personal property from the leased premises within thirty (30) days after said termination and restore the leased premises to its original condition, with the fixtures, buildings, and fixed improvements to be left in place. If Lessee fails to remove said personal property, the City may take immediate possession of the leased premises, forcibly if necessary, without being deemed guilty of trespassing. Under such action, all rights of Lessee shall be forfeited, and any property remaining on the leased premises shall, at the City's sole option, become the property of the City or same may be removed and/or disposed of in any manner deemed appropriate by the City. The City shall not be liable in any manner for such removal and/or disposal; and the cost and expense of such removal and/or disposition shall be paid by Lessee. Additionally, the City shall have and reserve all of its available remedies at law as a result of said breach of this Agreement.

SECTION 14. ASSIGNMENT, SUBLETTING, AND SALE OF IMPROVEMENTS

Subsection 14.01. Successors and Assignment. Lessee shall not assign this Agreement or any

part thereof in any manner whatsoever or assign any of the privileges recited herein without the prior written consent of the City. In the event of such assignment, Lessee shall remain liable to the City for the remainder of the term of the Agreement to pay to the City any portion of the rental and fees provided for herein upon failure of the assignee to pay the same when due. Said assignee shall not assign said Agreement except with the prior written approval of the City and the Lessee herein, and any assignment by the Lessee shall contain a clause to this effect. The City shall not unreasonably withhold its consent to any assignment, transfer or delegation by the Lessee of its privileges and obligations under this Agreement to any successor, parent organization, wholly owned subsidiary or affiliate of the Lessee.

Subsection 14.02. Subletting. The Lessee shall have the right to sublease all or part of the leased premises; however, the Lessee may not sublease all or part of the leased premises to persons or entities that lease hanger space at the Airport. Furthermore, neither the Lessee nor any sublessee may perform services, engage in any aviation-related commercial activity upon the leased premises, or rent or sublease the leased premises or portions thereof for any aviation-related commercial purposes prohibited by Subsections 2.02 or 6.02 unless the Lessee or Sublessee has executed, in addition to this Agreement, a separate Fixed Based Operator Agreement or General Services Provider Agreement with the City for performance of aviation-related services or operations on the leased premises. Any sublease must be approved by the City in advance and in writing.

Subsection 14.03 Right of First Refusal. If the Lessee chooses to sell any or all improvements on leased premises, the City shall have right of first refusal for purchase of said improvements at the same terms and conditions as offered to any proposed buyer. Following notification of such intent, the City shall have ninety (90) days to accept or reject the offer. If the offer is not accepted within this period, the Lessee may offer the improvements, and assignment, if desired, as indicated in Subsection 14.01 above, upon the same terms and conditions as those offered to the City. However, the Lessee agrees that for ninety (90) days after receipt of written rejection by the City, the Lessee will not enter into an agreement with any other private party containing terms and conditions differing from those last submitted to the City. The City retains the right of first refusal if the Lessee changes the terms and conditions under which the improvements are offered for sale.

SECTION 15. QUIET ENJOYMENT

The City covenants that Lessee, upon payment of the rentals reserved herein and the performance of each and every one of the covenants, agreements, and conditions on the part of Lessee to be observed and performed, shall and may, peaceably and quietly, have, hold and enjoy the leased premises for the term aforesaid, free from molestation, eviction or disturbance.

SECTION 16. GENERAL PROVISIONS

Subsection 16.01. Non-Interference With Operation of Airport. Lessee, by accepting this Agreement, expressly agrees for itself, its successors and assigns that it will not make use of

the leased premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the leased premises hereby leased and cause the abatement of such interference at the expense of the Lessee.

The City shall maintain and keep in repair the Airport landing areas, including taxiways and aircraft parking apron and shall have the right to direct and control all activities of the Lessee in this regard.

Subsection 16.02. Attorney's Fees. In any action brought by either party for the enforcement or the construction of the terms of this Agreement, the City, if it is a prevailing party in the action, shall be entitled to recover interest and its reasonable attorney's fees and litigation expenses, including, but not limited, to expert witness fees and expenses.

Subsection 16.03. Taxes. Lessee shall pay any leasehold interest tax assessed and all personal property taxes and other taxes which may be assessed against equipment, merchandise, or other personal property belonging to Lessee located on the leased premises, or other permitted portions of the Airport, or upon Lessee's activities thereupon.

Subsection 16.04. Right to Contest. Lessee shall have the right to contest the validity or amount of any tax, assessment or charge, lien, or claim of any kind in respect to the leased premises. Lessee shall, if the City requires the same in writing and if the taxes or other assessments have not been paid under protest or otherwise escrowed or provided for, furnish reasonable security for the payment of all liability, costs and expenses at the end of the litigation, and Lessee, so long as the matter shall remain undetermined by final judgment, shall not be considered in default hereunder by the nonpayment thereof; provided, however, that Lessee shall not, under these provisions, permit the leased premises or any buildings or improvements situated thereon, to be sold or forfeited, and failure by Lessee to do what is necessary to prevent any such sale or forfeiture within ten (10) days from the publication or receipt of notice for sale or forfeiture, shall be deemed to be a default hereunder, and City may, at its option, pay any such sum as may be required to avoid the sale or forfeiture and seek reimbursement for its cost from Lessee.

Subsection 16.05. License Fees and Permits. Lessee shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

Subsection 16.06. Non Exclusive Rights. It is hereby specifically understood and agreed between the parties that nothing herein contained shall be construed as granting or authorizing the granting of exclusive rights to Lessee or others, as defined in Section 308 of the Federal Aviation Act of 1958, as amended.

Subsection 16.07. Paragraph Headings. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of the

Agreement.

Subsection 16.08. Applicable Law; Venue. This Agreement shall be interpreted in accordance with the laws of the State of Missouri. Should any part of this Agreement be adjudicated, jurisdiction and venue shall be proper only in the Circuit Court of Cass County, Missouri.

Subsection 16.09. Non-Waiver. No waiver of any condition or covenant contained in this Agreement or of any breach thereof, shall be taken to constitute a waiver of any subsequent condition, covenant or breach.

Subsection 16.10. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Subsection 16.11. Binding Effect. This Agreement, including all of its covenants, terms, provisions, and conditions, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

Subsection 16.12. No Partnership. Nothing contained in this Agreement shall be deemed to create the relationship of principal and agent or of partnership or joint venture or any relationship between the City and Lessee other than the relationship of the City and Lessee.

Subsection 16.13. City Administrator. The City Administrator shall be considered the agent and representative of the City with respect to all notices, approvals and matters contained hereunder, and his authority to act for and on behalf of the City in connection with all matters occurring under this Agreement shall not be questioned by the Lessee.

Subsection 16.14. Non-Liability of Individuals. 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 any 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. This Subsection 16.15 shall have no application to any independent guaranty or other assumption of the obligations of Lessee which may be obtained by the City relative to this Agreement. This Subsection 16.15 shall also not apply to the Lessee if the Lessee is an entity other than a corporation in good standing and authorized to conduct business in the state of Missouri.

Subsection 16.15. Notices and Payments. Whenever any notice or payment is required by this Agreement to be made, given or transmitted to the parties hereto, such notice or payment shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, first class, addressed to: City of Harrisonville c/o City

Administrator, 300 East Pearl, Harrisonville, Missouri 64701 and notices, consents and approvals to Lessee addressed to:

or such place as either party shall, by written notice to the other, may designate. Said notices may also be personally hand delivered by each party to the other, at the respective addresses listed above, or in the case of delivery by the City to the Lessee, by posting said item conspicuously on the leased premises. If hand delivered, the date of actual completion of delivery shall be considered the date of receipt. If mailed, or posted on the leased premises, the item shall be considered received the third day after the date of posting.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above mentioned at Harrisonville, Missouri.

CITY OF HARRISONVILLE,

Keith Moody,
City Administrator

ATTEST:

City Clerk

INSERT DATA

BY: _____

Attachment: Airport Land Lease Agreement 4-14 (APRIL AIRPORT REPORT)

EXHIBIT A
LEGAL DESCRIPTION

Attachment: Airport Land Lease Agreement 4-14 (APRIL AIRPORT REPORT)

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**FIXED BASE OPERATOR
AGREEMENT**

Between



And

**THE CITY OF HARRISONVILLE
for the
HARRISONVILLE
MUNICIPAL AIRPORT**

_____ **201411**

Attachment: Harrisonville Airport Fixed Base Operator Agreement 4-14 (APRIL AIRPORT REPORT)

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FIXED BASE OPERATOR LEASE AGREEMENT

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Attachment: Harrisonville Airport Fixed Base Operator Agreement 4-14 (APRIL AIRPORT REPORT)

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FIXED BASE OPERATOR LEASE AGREEMENT

THIS LEASE AGREEMENT, is made this ___ of _____, 2011, between the City of Harrisonville, Missouri, acting by and through its Mayor, hereinafter called "City," and _____, a _____ organized and existing under the laws of the State of Missouri and authorized to do business in the State of Missouri, hereinafter called "Operator".

WITNESSETH

WHEREAS, City operates the Harrisonville Municipal Airport, hereafter called "Airport," located in the City of Harrisonville, Cass County, Missouri; has the right, title and interest in and to the real property comprising the Airport; and has full power and authority to enter into this Agreement;

WHEREAS, Operator has met the Minimum Standard Requirements for Airport Aeronautical Services adopted by the City for fixed based operators at the Harrisonville Municipal Airport and agrees to abide by the Harrisonville Municipal Airport Rules and regulations;

NOW, THEREFORE, in consideration of the terms contained herein, City deems it advantageous to the City and to the operation of the Airport to lease to Operator certain privileges, rights, uses and interests, as set out herein.

SECTION 1. LEASED PREMISES

Subsection 1.01. Description of Leased Premises The leased premises referenced in this Agreement are legally described under separate land lease agreement with the Operator. Upon request from the Operator and approval by the Airport Manager, aircraft tie-downs may be leased, under separate agreement, as needed for those aircraft that are owned or leased back to Operator for use in its operations.

SECTION 2. PURPOSE OF AGREEMENT

Subsection 2.01. Use of Leased Premises.

A. Purpose of Agreement: Purpose of this Agreement is to enable the Operator to perform Aeronautical Services as a Fixed Base Operator (FBO).

B. Conditions of Granting Fixed Base Operator Status: Granting Operator the status of Fixed Based Operator is conditioned upon the following covenants:

Attachment: Harrisonville Airport Fixed Base Operator Agreement 4-14 (APRIL AIRPORT REPORT)

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(1) That the right to use the public airport facilities as well as all of Operator's rights as a fixed Base Operator shall be exercised subject to and in accordance with the laws of the United States of America including regulations promulgated by the Federal Aviation Administration (FAA), the State of Missouri, and the City of Harrisonville, now in force or afterwards ordained or promulgated including environmental legislation and regulations.

(2) That Operator shall obtain an business license from the City prior to commencement of its Aeronautical Services.

(3) That Operator shall provide the City with appropriate certificates of insurance in accordance with Subsection 8.02 and all relevant FAA certificates for types of services provided.

C. Aeronautical Services. Upon execution of this agreement, the Operator is authorized to undertake and provide the following proposed Aeronautical Services: Aircraft Sales, Aircraft and Powerplant and avionics maintenance, repair and inspection, Flight Instruction, Aircraft Rental, Professional pilot services, (including but not limited to sight seeing, aerial photography and patrol) and on-demand Blank (FAR Part 135) passenger and/or cargo operations. The rights granted by this agreement will be exercised in such a way as to not interfere with or adversely affect the use, operation, maintenance or development of the Airport.

Subsection 2.02. No Exclusive Right. It is understood and agreed that nothing contained herein shall be construed to grant or authorize the granting of an exclusive **right within** the meaning of Section 308 of the federal Aviation Act of 1958.

Subsection 2.03. Prohibited Activities. The following activities are expressly prohibited:

- A. Operator will not paint, dope or spray paint aircraft or any other items, other than minor repairs, within the leased premises unless specific modifications or additions have been made to the leased premises which provide an approved, suitable environment for such operations. All minor repair painting will be in accordance with appropriate safety and ventilation guidelines for materials used;
- B. Operator agrees not to use the Premises or permit the use thereof in such manner as to make void or increase the rate of insurance thereon.
- C. Under this Agreement, the Operator is prohibited from selling or dispensing aircraft fuels to any other airport users. Operator may dispense fuel and lubricants to any aircraft which is wholly owned by, leased by, or under the operational control of the Operator. With respect to such aircraft, the fuel provided by Operator must be used in connection with flights by the Operator. Any violation by the Operator of this subsection shall constitute a material breach of this Agreement, and shall constitute cause for immediate termination of the Agreement and repossession of the leased premises by the City.

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SECTION 3. TERM

Subsection 3.01. Term. Except as noted in Subsection 4.05 below, the term of this Agreement is two (2) years (24 months), commencing on the _____ day of _____, 2011, and terminating _____, 2013. The Operator may renew this Agreement as often as desired, with the written consent of the City, in increments of two (2) year (24 month) periods. The Operator shall give the City written notice of the Operator's intention to renew this Agreement not later than ninety (90) days prior to the expiration of the first two-year (24-month) term or any subsequent two (2) year term.

Subsection 3.02. Holdover. In the event Operator shall continue to occupy the leased premises beyond the initial Agreement term or any extension thereof without the City's written consent thereto, such holding over shall not constitute a renewal or extension of this Agreement, but shall create a tenancy from month to month which may be terminated at any time by either party giving thirty (30) days written notice to the other party. The Operator shall perform and maintain its obligations under this Agreement during any holdover period.

SECTION 4. RENTALS, FEES AND RECORDS

Subsection 4.01. Rentals for Leased Premises. Rent for leased premises is defined in a separate land lease Agreement. Lease of airport owned hangar or office space will be through separate lease agreement as required to meet Operator's needs.

Subsection 4.02 Fuel Purchase Rates: Operator agrees to pay fuel pricing, per gallon, based on the most recently delivered Wholesale Price + Federal Excise Tax (+ State Excise Tax for 100LL) + (any other federally or state mandated taxes or fees) + \$.30 for 100LL and \$.40 for Jet-A per gallon for all aircraft owned or operated by the Operator. Fuel prices shall be rounded up or down to the nearest half cent.

Example:	Jet-A		100LL	
	Wholesale	.668	Wholesale	1.017
	FET	.219	FET	.193
	Fee	<u>.40</u>	State Tax	.090
	Total	1.287	Fee	<u>.30</u>
Rounded to nearest 1/2¢	\$ 1.29		Total	\$ 1.60

All Airport fuel purchases shall be prepaid by cash or credit card.

Subsection 4.03. Delinquent Payments. The Operator agrees to pay all invoices within ten (10) days after receipt. The City may establish an interest charge computed as simple interest, to be collected on the principal of all sums due and unpaid for each full calendar month of delinquency. No interest shall be charged upon that portion of any debt which, in good faith, is in dispute. No interest shall be charged upon any account until payment is ten (10) days

Attachment: Harrisonville Airport Fixed Base Operator Agreement 4-14 (APRIL AIRPORT REPORT)

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overdue, but such interest when assessed thereafter, shall be computed from the due date. The City reserves the right to refuse to provide services, including fuel, or require payment in advance for any fuel or services at any time Operator is thirty (30) days or more delinquent on any payment. Upon payment of any delinquent amounts, the decision to provide services on an advance payment or invoice basis is at the sole discretion of the Airport Manager.

Subsection 4.04 Review and Adjustment of Fuel Fees. Fuel fee listed in Subsection 4.02 above shall be in effect for one (1) year from the effective date. Operator and City agree to review fuel fee and re-negotiate, if needed, for the remainder of the term of this agreement. Upon notification of request for renewal of this Agreement per Subsection 3.01, fuel feeshall be reviewed and re-negotiated as required.

Subsection 4.05 Fees for Ramp tie-downs and Services. Monthly lease for open ramp aircraft tie-downs shall be charged at a rate of fifty percent (50%) of the retail rate. If the Operator requires tie-down space only on an occasional basis, tie-down shall be calculated at fifty percent (50%) of the daily rate, not to exceed seventy-five percent (75%) of the retail monthly rate per tie-down. Operator agrees to pay for other airport provided services, as requested and required, excluding cleaning and washing of multi-engine aircraft, at a rate not to exceed fifty percent (50%) of the posted retail rate. Multi-engine aircraft washing and cleaning and any special services not available or required by other airport patrons will have rates determined on a case by case basis.

Subsection 4.06 Towing. Until fuel trucks are available, City agrees to waive charges for towing aircraft owned or operated by the Operator to or from the Operator’s hangar for purposes of fueling. In addition, until the aircraft parking ramp is completed and usable, City agrees to waive towing charges for positioning aircraft for departures or return aircraft to the hangar following arrivals at the Terminal. City shall not tow aircraft into or out of Operator’s hangar. Operator agrees to move aircraft into and out of the Operator’s hangar. Once the aircraft parking ramp is completed and usable as determined by the Airport Manager, further towing will be available at fifty percent (50%) of the posted retail rate in accordance with subsection 4.06 above.

Subsection 4.07. Books and Records of Operator. There are no books and records requirements under this Agreement.

Subsection 4.08. Audit. There are no audit requirements under this Agreement.

SECTION 5. OBLIGATIONS OF OPERATOR

Subsection 5.01. Operations by Operator: Operator agrees:

- A. To promote aviation activity on the Airport and to conduct operations on the Premises a proper, efficient and courteous manner.

Attachment: Harrisonville Airport Fixed Base Operator Agreement 4-14 (APRIL AIRPORT REPORT)

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- B. That all services shall be furnished on a fair, equal and nondiscriminatory basis to all users, and that only fair, reasonable and nondiscriminatory prices for each unit of sale or service will be charged. Operator may, however, make reasonable and nondiscriminatory discounts, rebates or other similar price reductions to volume purchasers.
- C. To furnish those Aeronautical Services listed heretofore and to receive written approval from the Airport Manager of all Operator's operations, signs, etc. thirty (30) days before start-up of any additional Aeronautical Services or cessation of any or all approved Aeronautical Services.
- D. To supply the Airport Manager with a list of its employees or associated personnel names, job titles and duties, and their emergency telephone numbers and addresses.
- E. To not execute an agreement with any subcontractor to perform its Aeronautical **Services** without written approval of the City and to insert in all subcontracts a provision requiring the subcontractors to comply with applicable provisions of this agreement and further provide in each subcontract a statement "that nothing contained in these conditions shall create any contractual relationship between the subcontractor and the City."
- F. To provide the City with a list by N number and type of all aircraft owned or operated by Operator and to provide a written revision of said list within seven (7) days of any aircraft changes.
- G. To follow the procedures of National Fire Protection Association when draining residual fuel from aircraft tanks incidental to aircraft fuel system maintenance, testing, manufacturing, salvage, or recovery operations
- H. To store any paints, cleaners or other flammable liquids in an approved storage locker.

Subsection 5.02 Nondiscrimination. Operator, for itself, it's personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that (A) 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; (B) that in the construction of any improvements on, over, or under such land and the furnishing of services thereof 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; (C) that Operator 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, to the extent that said requirements are applicable, as a matter of law, to Operator.

Subsection 5.03. Fair Service. The Operator agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly

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discriminatory prices for each unit or service; provided, that the operator may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

Subsection 5.04. Observance of Statutes, etc. The granting of this Agreement and its acceptance by Operator is conditioned upon the right to use the Airport facilities in common with others authorized to do so. The Operator shall observe and comply with any and all requirements of the constituted public authorities and with all Federal, State or Local statutes, ordinances, regulations and standards applicable to Operator for its use of the leased premises, including but not limited to, rules and regulations promulgated from time to time by the City for the administration of the Airport. The Operator shall also defend, reimburse, indemnify and hold harmless the City, including costs of defense, from any claims, demands, penalties or liability which may accrue to it because of any alleged violation or noncompliance with any such statute, ordinance, rule or standard by the Operator or resulting from Operator's activities hereunder.

SECTION 6. OBLIGATIONS OF THE CITY

Subsection 6.01. Operation as a Public Airport. The City covenants and agrees that at all times it will operate and maintain the Airport facilities, as defined hereinabove, as a public Airport consistent with and pursuant to the Sponsor's Assurances given by the City to the United States Government under the Federal Aviation Act.

SECTION 7. CITY'S RESERVATIONS

Subsection 7.01. Free and Unrestricted Flight. There is hereby reserved to the City, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Premises herein leased, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or thereafter used for navigation of or flight in the air using said airspace or landing , taking off from, or operating on or about the Airport.

Subsection 7.02. Subordination to U.S. Government. This Agreement shall be subordinate to the provisions of any existing or future agreement(s) between City and the United States, relative to the operation and maintenance of the Airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to the City for Federal funds for the development of the Airport.

SECTION 8. INDEMNITY AND INSURANCE

Subsection 8.01. Indemnification. Operator agrees to protect, defend, indemnify, and hold the City, its employees, and the City of Harrisonville, and its officers and employees, completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person or damage to any property,

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including all reasonable costs for investigation and defense thereof (including but not limited to reasonable attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the leased premises, or the acts or omissions of Operator's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused solely by the negligence or willful misconduct of the City, or its officers and employees. This duty shall also extend to claims of damages to the environment caused by Operator, including but not limited to the investigation, field study, and clean up costs assessed by any federal, state or local agency against the City of Harrisonville or any of its agents or employees, as well as any civil fine or penalty. The City shall give to the Operator reasonable notice of any such claims or actions. The provisions of this Section shall survive the expiration or early termination of this Agreement. The duties of the Operator specified herein shall not be limited by the amount of any insurance coverage required to be provided by the Operator herein, but shall extend to the full amount of any such claim or liability. This duty shall also not be limited by the provision of any workers' compensation coverage.

Subsection 8.02 General Liability Insurance. Operator shall, at its expense, procure and keep in force at all times during the term of this Agreement from a financially sound and reputable company acceptable to the City, public liability insurance, with independent contractor's coverage and contractual liability endorsement, including but not limited to aircraft liability, airport premises liability, and automobile liability coverage insuring Operator and the City of Harrisonville for personal injury and property damage, and such other insurance necessary to protect the City from all such claims and actions described in the preceding Subsection 8.01.

Without limiting its liability, Operator agrees to carry and keep in force insurance with single limit liability for personal injury or death and property damage in a sum not less than \$250,000 per person and \$1,000,000 per occurrence. Operator shall furnish the City with a certificate of insurance as evidence of coverage. Said insurance policies shall not be canceled or materially modified or non-renewed except upon thirty (30) days advance written notice to the City. Coverage is to be written on the broadest liability form which is customarily available at reasonable cost. In the event the scope of the City's tort liability as a governmental entity described in Section 537.600 through 537.650, RSMo. (Supp. 1993), inclusive, is broadened or increased during the term of this Agreement by subsequent legislative or court action, the City, upon written notice to the Operator, may require the Operator to provide additional coverage sufficient to protect the City of Harrisonville's interests to the extent of any such change. If the City's current limitations upon tort liability are abolished entirely, the City may require the Operator to provide such coverage to protect the City of Harrisonville's interests as may be reasonable and prudent for the risks associated with the activities allowed under this Agreement.

Subsection 8.04 Additional Insurance. Operator shall carry and maintain Aircraft Liability insurance on all owned or leased aircraft, including bodily injury, property damage and Passenger Legal Liability Insurance. Operator further agrees to increase its Products and Completed Operations liability insurance coverage, if necessary, to ensure coverage for all approved

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Aeronautical Services and if Operator adds any Aeronautical Services not identified in Subsection 2.01 C.

Subsection 8.05 Insurance Notification. Operator shall file a certificate of insurance with the City evidencing that Operator has procured all required insurance coverage and that said insurance coverage will not be canceled without thirty (30) day advance written notice to the City. This agreement will not be executed or renewed by the City until such proof of coverage has been received, reviewed and accepted by the City.

SECTION 9. TERMINATION OF AGREEMENT BY OPERATOR

Subsection 9.01. Termination. Unless renewed by the Lessee as described in Subsection 3.01, this Agreement shall terminate at the end of the term, or at such time as written notice of termination is provided by either party as provided in Subsection 9.02 or Subsection 10.02.

Subsection 9.02. Termination by Operator. Operator, in addition to any other rights it has under the law, may terminate this Agreement and terminate its obligations hereunder at any time that Operator is not in default in the payment of rentals and/or fees to the City by giving the City ninety (90) days advance written notice to be served as hereinafter upon or after the happening of any one of the following events:

- A. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport, so as to substantially affect Operator's use of the system at the Airport, and the remaining in force of such injunction for a period of at least ninety (90) days; provided, however, that such injunction is not due to Operator's operation at the Airport.
- B. The default by the City in the performance of any covenant or agreement herein required to be performed by the City, and the failure of the City to undertake and be continuing to remedy such default for a period of ninety (90) days after receipt from Operator of written notice to remedy the same; provided, however, that no notice of termination, as above provided, shall be of any force or effect if the City shall have remedied the default prior to receipt of Operator's notice of termination.
- C. The assumption by the United States Government or any authorized agency thereof of the operation, control, or use of the Airport and facilities or any substantial part or parts thereof, in a manner as substantially to restrict Operator for a period of at least ninety (90) days from full use of its leased premises, and in that event, a just and proportionate part of the rent hereunder shall be abated.

SECTION 10. TERMINATION OF AGREEMENT BY CITY

Subsection 10.01. Termination by the City. The City, in addition to any other rights to which it may be entitled by law, may declare this Agreement terminated in its entirety as provided in

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Subsection 10.02 upon or after the happening of any one or more of the following events, and may exercise all rights of entry and re-entry upon the leased premises.

- A. The completion of the initial or any subsequent term without written notice of Operator’s intention to enter into a subsequent term extension.
- B. The failure to pay all installments of fees then due (with interest) within thirty (30) days after receipt by Operator of written notice from the City to pay such rent.
- C. The filing by Operator of a voluntary petition in bankruptcy or the making of any assignment of all or any part of Operator's assets for benefit of creditors.
- D. The filing of an involuntary bankruptcy petition against the Operator as a bankrupt pursuant to any involuntary bankruptcy proceedings.
- E. The taking of jurisdiction by a court of competent jurisdiction of Operator or its assets pursuant to proceedings brought under the provisions of any Federal reorganization act.
- F. The appointment of a receiver or a trustee of Operator's assets by a court of competent jurisdiction or a voluntary agreement with Operator's creditors.
- G. The breach by Operator of any of the covenants or agreements herein contained, and the failure of Operator to remedy such breach within 30 days after receipt of written notice of such breach from the City.
- H. The abandonment of the leased premises.
- I. The breach of any one of the covenants contained in Subsection 2.03.C. , in which case the provisions of Subsection 10.01 concerning notice to the Operator of the breach and time to cure said breach shall not apply.

Subsection 10.02. Termination Notice. In the event the City exercises its option to cancel this Agreement upon the happenings of any or all of the events set forth in this Section, a notice of cancellation shall be sufficient to cancel this Agreement; and, upon such cancellation, Operator hereby agrees that it will forthwith cease all FBO services defined and approved herein. The City shall provide written notice of its intent to terminate the Agreement to the Operator a minimum of thirty (30) days prior to the date of termination, except for termination as described in Subsection 10.01I. Failure of the City to declare this Agreement terminated for any of the reasons set out shall not operate to bar, destroy, or waive the right of the City to cancel this Agreement by reason of any subsequent violation of the terms hereof.

SECTION 11. ASSIGNMENT

Subsection 11.01. Assignment. Operator shall not assign this Agreement or any part thereof

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in any manner whatsoever or assign any of the privileges recited herein without the prior written consent of the City. In the event of such assignment, Operator shall remain liable to the City for the remainder of the term of the Agreement to pay to the City any portion of the fees provided for herein upon failure of the assignee to pay the same when due. Said assignee shall not assign said Agreement except with the prior written approval of the City and the Operator herein, and any assignment by the Operator shall contain a clause to this effect. The City shall not unreasonably withhold its consent to any assignment, transfer or delegation by the Operator of its privileges and obligations under this Agreement to any successor, parent organization, wholly owned subsidiary or affiliate of the Operator.

Subsection 11.02. Subletting. The Lessee shall not sublease all or part of the leased premises without prior written approval by the City.

SECTION 12. GENERAL PROVISIONS

Subsection 12.01. The City shall maintain and keep in repair the Airport landing areas, including taxiways and aircraft parking apron and shall have the right to direct and control all activities of the Operator in this regard.

Subsection 12.02. Attorney's Fees. In any action brought by either party for the enforcement or the construction of the terms of this Agreement, the City, if it is a prevailing party in the action, shall be entitled to recover interest and its reasonable attorney's fees and litigation expenses, including but not limited to expert witness fees and expenses.

Subsection 12.03. Taxes. Operator shall pay any personal property taxes and other taxes which may be assessed against equipment, merchandise, or other personal property belonging to Operator located on the leased premises, or other permitted portions of the Airport, or upon Operator's activities thereupon.

Subsection 12.04. License Fees and Permits. Operator shall obtain and pay for all licenses, permits, fees or other authorization or charges as required under Federal, State or local laws and regulations insofar as they are necessary to comply with the requirements of this Agreement and the privileges extended hereunder.

Subsection 12.05. Non-Exclusive Rights. It is hereby specifically understood and agreed between the parties that nothing contained hereby shall be construed to grant or authorize the granting of an exclusive right prohibited by Section 308 of the Federal Aviation Act of 1958, as amended; and the City reserves the right to grant to others the privilege and right of conducting any one or all of the Aeronautical Services listed herein or any other activity of an aeronautical nature.

Subsection 12.06. Paragraph Headings. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of the Agreement.

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Subsection 12.07. Applicable Law; Venue. This Agreement shall be interpreted in accordance with the laws of the State of Missouri. Should any part of this Agreement be adjudicated, jurisdiction and venue shall be proper only in the Circuit Court of Cass County, Missouri.

Subsection 12.08. Non-Waiver. No waiver of any condition or covenant contained in this Agreement or of any breach thereof, shall be taken to constitute a waiver of any subsequent condition, covenant or breach.

Subsection 12.09. Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Subsection 12.10. Binding Effect. This Agreement, including all of its covenants, terms, provisions, and conditions, shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

Subsection 12.11. No Partnership. Nothing contained in this Agreement shall be deemed to create the relationship of principal and agent or of partnership or joint venture or any relationship between the City and Operator other than the relationship of the City and Operator.

Subsection 12.12. Duty to be Reasonable. Wherever in this Agreement the City is to give its consent, approval or otherwise exercise discretion in judgment, such consent, approval or judgment shall not be unreasonably exercised or unreasonably withheld.

Subsection 12.13. City Agent. The City Administrator shall be considered the agent and representative of the City with respect to all notices, approvals and matters contained hereunder, and his authority to act for and on behalf of the City in connection with all matters occurring under this Agreement shall not be questioned by the Operator.

Subsection 12.14. Non-Liability of Individuals. 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 any 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. This Subsection 12.15 shall have no application to any independent guaranty or other assumption of the obligations of Operator which may be obtained by the City relative to this Agreement. This Subsection 12.15 shall also not apply to the Operator if the Operator is an entity other than a corporation in good standing and authorized to conduct business in the state of Missouri.

Subsection 12.15. Notices. Whenever any notice is required by this Agreement to be made,

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given or transmitted to the City, it shall be enclosed in an envelope with sufficient postage attached to insure delivery and deposited in the United States Mail, first class, addressed to:

Airport Manager
Harrisonville Municipal Airport
Harrisonville, Missouri 64701

and notices to Operator shall be addressed to:

or such place as either party shall designate by written notice to the other. Said notices may also be personally hand delivered by each party to the other, at the respective addresses listed above, or in the case of delivery by the City to the Operator, by posting said item conspicuously on the leased premises. If hand delivered, the date of actual completion of delivery shall be considered the date of receipt. If mailed, or posted on the leased premises, the item shall be considered received the third day after the date of posting.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above mentioned at Harrisonville, Missouri.

CITY OF HARRISONVILLE,

Mayor

ATTEST:

City Clerk

OPERATOR: _____

Signature: _____

Title: _____

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MoDOT Comments:

Land Lease Agreement:

1. There are some dates (years) throughout that will need to be revised, and I also noticed the page numbers in the Table of Contents aren't all current.
2. On page 2, in the top paragraph (part of Subsection 2.02.A.), it states that the Lessee can rent or sublease part or all of its hangar space to others for the storage of aircraft only without the City's prior written consent. There could be a potential for future compliance issues if a sublease occurred and the subleasing party used that hangar space for some non-aeronautical use. One option would be for there to be a standard sublease agreement in place that both the Lessee and the City agreed to in advance. That sublease could include the type of language you would need to ensure that you are protected from any compliance issues.
3. Also tying into page 2, the FAA recommends including a provision prohibiting residential dwellings/uses in all ground leases. I'll defer to you on that but something like that would ensure no potential future compliance issues relating to hangar usage.
4. On page 4, Subsection 4.08, why does the Lessee present the statement of cost of construction to the City? Isn't the Lessee solely responsible for the cost to construct? What is that statement used for?
5. On page 6, regarding the Term, a 20 year lease term is fine. However, 5 additional 5 year renewal periods could raise some concerns. The FAA Central Region will not approve a lease over 50 years and they strongly urge against any lease over 30 years (although if you look at the Compliance Manual, it's clear a 50 + year lease is prohibited, not as clear that a 30 + year lease is prohibited). In my experience with compliance issues, the longer the lease term, the more likely there could be complaints from other tenants that they aren't being treated equally. I've seen informal complaints filed because one tenant paid x rent for a 20 year lease while another paid y rent for a 40 year lease...the key is making sure all similarly situated tenants are treated equally, and with long lease terms like that it can be challenging. Just something to think about. If FAA were reviewing they would probably recommend a 30 year maximum term.
6. On page 7, regarding the rent being assessed, can you explain to me how the annual rent was calculated based on the appraisal? I tried to figure it out and wasn't having much luck, but I'm sure I was missing something.
7. Also, this is up to you, but the FAA recommends including a provision that would allow an immediate rent increase when non-conforming conditions are discovered (such as non-aeronautical storage, activities, businesses, etc.) that would remain in effect until the non-conforming condition is cured.
8. On page 8, Section 6.04, I see that there are no audit requirements under the Agreement. Is that because the City maintains all relevant records? I would just think for the FBO there may be some benefit to requiring them to maintain records for a certain period of time.
9. On pages 14-15, I noticed that the insurance coverage requirements are slightly lower than what MHTC requires in our grant agreements. We usually require \$500,000 per claim up to \$3 million per occurrence in commercial general liability and in automobile liability and \$1 million in employers

liability coverage. I think this is actually set slightly above the sovereign immunity cap limits. If the City is ok with the limits in the lease we wouldn't object to them.

10. On page 17, Subsection 12.01, the FAA recommends including a provision allowing for termination if the Lessee does not engage in corrective activity directed by the City and/or the FAA (or MoDOT). It's possible you have language like this in the agreement already and I just missed it because it seems like it would fit best in this Subsection, but I would recommend including a provision like this in the agreement if you haven't already.

11. On page 20, Subsection 14.02, not sure this is really necessary to include, but the FAA Central Region does recommend clarifying that the term of any sublease shall not exceed the term of the original lease between City and Lessee.

12. Also, the FAA Central Region recommends including language to make it clear that the subordination clause must be included in any sublease or assignment as well. If you do include this it seems it would be appropriate to include in Section 14. The subordination provision is probably the most critical from the FAA's perspective in terms of compliance with federal grant assurances so it may not be a bad idea to add this in somewhere.

Fixed Base Operators (FBO) Agreement:

1. On page 3, Subsection 4.02, where are the sales taxes for Jet A captured? In the "any other federally or state mandated taxes or fees" language?
2. On page 4, Subsection 4.06, there are a few references to the "retail rate" or the "retail monthly rate"—how are those terms defined? Is it the current rate for tie-downs at the airport or something else?
3. On page 4, Subsection 4.08, I have the same comment as I made on the ground lease regarding record retention.
4. On page 9, Subsection 10.01.G., it seems like including this paragraph in the ground lease's section on termination would address one of my comments above.