

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: March 25, 2014	DATE SUBMITTED: February 25, 2014
DEPARTMENT OF ORIGIN: Coulter Airfield	SUBMITTED BY: James Brown

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input checked="" type="checkbox"/> INFRASTRUCTURE
			<input type="checkbox"/> QUALITY OF LIFE

AGENDA ITEM DESCRIPTION: Consideration of an agreement with Cary Smith and Thomas Kahlden. The proposed agreement allows for the construction and finish out of the restroom facilities and office area in the C1 Hangar at Coulter Airfield.

SUMMARY STATEMENT: The City of Bryan (City) currently owns and operates the C1 Hangar at Coulter Airfield. The area designated for aircraft storage is complete; however, the funds received from TxDOT Aviation were not sufficient to complete the restroom facilities or office space in this hangar. The proposed tenants have agreed to complete the office space and restrooms under the terms of this agreement.

The proposed term of the agreement is five (5) years. Resolution Number 3485, adopted on May 14, 2013, set the monthly rental rate at \$2,000.00 per month. The first two (2) years of the proposed agreement discounts the rent \$1,500.00 per month. The tenant will pay \$500.00 per month. Years three through five discounts the rent to \$500.00 per month. The tenant will pay \$1,500.00 per month. After the five year agreement expires, the tenant will be responsible to pay the current adopted rental rate for the C1 Hangar. If approved over the five (5) year term, the discounted amount of rent will be \$54,000.00.

Under this agreement, the proposed tenant will be responsible for obtaining all necessary building permits and all improvements must meet the current building, electrical, mechanical, and plumbing codes. The agreement allows for the waiver of building permit fees. In addition, the improvements must be complete within ninety (90) days from the execution of this agreement. Once the improvements are installed, the improvements become the property of the City. The tenant will be required to obtain a Certificate of Occupancy for the improvements. Lastly, if the tenant opts to vacate the C1 Hangar before the end of the five (5) year term, the tenant will be considered fully reimbursed for all improvements.

STAFF ANALYSIS AND RECOMMENDATION: Staff recommends approving this agreement as it will allow for the completion of the improvements in the C1 Hangar without any expenditure by the City. In addition, this agreement will allow Coulter Airfield to generate revenue now with the potential of generating greater revenue in the future as all improvements to the C1 Hangar will be complete. Lastly, Coulter Airfield will have the facilities necessary to hold and support special events.

OPTIONS (In Suggested Order of Staff Preference):

1. Approve the agreement
2. Modify the agreement, which may require future City Council consideration
3. Deny the agreement

ATTACHMENTS:

1. Price quote from Champion Construction and Welding for finish out of C1 Hangar at Coulter Airfield
2. Proposed agreement

FUNDING SOURCE: N/A

APPROVALS: Kevin Russell, 3-6-14; Joey Dunn, 3-7-14; Hugh R. Walker, 03/07/2014

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 03-11-2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 03/12/2014

Revised 05/2013

CHAMPION CONSTRUCTION AND WELDING
PO BOX 6718
BRYAN, TX 77805

Estimate

Date 3/17/2014
Estimate # 200952

Name: Address:

Coulter Field
6120 E State Hwy 21
Bryan Tx 77808

fax to: 690-9797

Hangar interior finish-out: A/C Heat, plumbing, electrical, insulation, fixtures, shower unit in one of two restrooms, hallway with door to separate main area from two restrooms. Bid includes all materials, equipment, and labor to finish job in safe and timely manner		64,500.00	64,500.00
Total			\$64,500.00

CHAMPION CONSTRUCTION AND WELDING

979-229-4553
Fax 979-779-6836

*Thank you -
Craig Champion*

STATE OF TEXAS §

COUNTY OF BRAZOS §

CITY OF BRYAN – COULTER AIRFIELD
C-1 HANGAR DISCOUNTED RENT AGREEMENT

This Agreement is made between the City of Bryan, (“City”) a Texas home-rule municipal corporation, and Carey Smith, Thomas Kahlden (“Lessee”) on this the ___ day of _____ 20_.

WHEREAS, the City owns and operates Coulter Airfield, a municipal airport located off Highway 21, which includes a number of hangars for aircraft and related activities; and

WHEREAS, the construction of the City’s C-1 hangar is partially unfinished and the cost of completing construction of restrooms, office spaces, and heating and air conditioning systems (collectively the “Project”) exceeds what the City has in its budget for the airfield; and

WHEREAS, the Lessee is interested in not only leasing the C-1 hangar, but will also complete the construction of the Project at its own expense, in exchange for discounted rent which will be applicable over period of time; and

WHEREAS, the City determines that it is in the best interests of the citizens and the patrons of the airport to complete the construction Project while at the same time avoiding the initial cost of construction; and

WHEREFORE PREMISES CONSIDERED, in consideration of the mutual covenants contained in this Agreement the parties agree as follows:

A. Construction

1. Lessee agrees to finish out construction on the back portion of the C-1 hangar, including bathrooms, office space, and HVAC system. All improvements shall be constructed in accordance with all current City building and fire codes. Prior to construction, proposed drawings/plans must be approved by the City, and appropriate permits must be obtained. The City agrees to waive all permitting fees associated with the Project. This includes building permit fees, electrical permit fees, mechanical permit fees, and plumbing permit fees.
2. The Project must be completed and a certificate of occupancy must be obtained from the City within ninety (90) days following execution of this Agreement.
3. Upon completion of the improvement the access door with keypad for the bathrooms shall be made available 24-hours as needed for high volume traffic up to and including field trips, high volume air traffic, game day weekends, and special events or as Airport Manager deems necessary. Due to this it will be the City's responsibility to clean and stock the bathrooms.

Lessee shall design and construct improvement in a way to secure the office space from bathroom facilities by way of a securable entrance door separating the two.

B. Discounted Rent

4. The lease of the C-1 hangar shall be on a month to month term as set forth in the Coulter Field Standard Monthly Lease for Box Hangar, which has been approved by City Council. Lessee must sign and agree to the terms of the hangar lease in conjunction with this Agreement.
5. In City Council Resolution No. 3485, the City set the monthly lease rate at \$2,000.00 per month. As consideration for Lessee's completing the Project at its own cost, Lessee is entitled to a discounted lease rate for the City owned C-1 hangar during the term of this agreement. The Lessee shall only be required to pay \$500.00 per month for the first two (2) years following execution of this Agreement, and \$1,500.00 per month for the final three (3) years of this Agreement.
6. The term of this Agreement is five (5) years, beginning with the execution by both parties. After the expiration of this Agreement, the rental rate for the hangar shall be the generally applicable rental rate established by the City Council.

C. Breach and Termination

7. This Agreement is non-transferable and the discounted rental rate shall not transfer if Lessee cancels his/her hangar lease prior to the ending of this Agreement.
8. In the event that Lessee fails to complete construction and obtain a certificate of occupancy within ninety (90) days, Lessee shall not be entitled to the discounted rental rate on any subsequent rental payments until such time as the Project is completed.
9. In the event of a breach of the terms of this Agreement by either party, the non-breaching party shall give written notice of the breach to the other party. The breaching party shall have thirty (30) days in which to remedy the breach, or if they fail to do so, the non-breaching party may terminate this Agreement.

D. Miscellaneous

10. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this Agreement a provision that is legal, valid and enforceable and that is as similar as possible in terms and substance as possible to the deleted provision.

11. Texas law to apply. This Agreement shall be construed under and in accordance with the laws of the State of Texas and the obligations of the parties created hereunder are performable by the parties in the City of Bryan, Texas. Venue for any litigation arising under this Agreement shall be in a court of appropriate jurisdiction in Brazos County, Texas.
12. Sole Agreement. This Agreement constitutes the sole and only Agreement of the Parties hereto respecting the subject matter covered by this Agreement, and supersedes any prior understandings or written or oral agreements between the parties.
13. Notices. Any notice given under this Lease must be in writing and may be sent by mail; be delivered in person to the Lessee, its officers, employees, or agents; be posted on the Leased Premises; by mail or courier, or by telecopier; addressed as follows, or as the City or Lessee may hereafter designate by written notice:

To the City:

Airport Manager
P.O. Box 1000
Bryan, Texas 77805

With a copy to:

Bryan City Manager
P.O. Box 1000
Bryan, Texas 77805

To Lessee:

Carry Smith
1707 Garahan Rd
College Station, TX 77845

To Lessee:

Thomas Kahliden
P.O. Box 909
Calidwell TX 77936

14. Amendments. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.
15. Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any and all other legal remedies. Said rights and remedies are provided in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
16. No Waiver. Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived.

Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

] Executed to be effective as of the date above written.

CITY OF BRYAN

LESSEE

Jason P. Bienski, Mayor

C. D. Stratta

ATTEST

LESSEE

Mary Lynne Stratta, City Secretary

Mary Lynne Stratta

APPROVED AS TO FORM

Janis K. Hampton, City Attorney