ACTION FORM
BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING:	May 14, 2013	**DATE SUBMITTED:**	May 1, 2013
DEPARTMENT OF ORIGIN:	Economic Dev.	**SUBMITTED BY:**	Kevin Russell

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
☐ BCD	☐ PUBLIC HEARING	☐ 1ST READING	☐ PUBLIC SAFETY
☐ SPECIAL	☐ CONSENT	☐ 2ND READING	☒ SERVICE
☒ REGULAR	☒ STATUTORY		☒ ECONOMIC DEVELOP.
☐ WORKSHOP	☐ REGULAR		☐ INFRASTRUCTURE
			☐ QUALITY OF LIFE

AGENDA ITEM DESCRIPTION: Consideration of a month to month lease form for Box Hangars at Coulter Airfield (Coulter).

SUMMARY STATEMENT: Staff is requesting that the City Council approve a standard monthly lease form for hangar H3 and hangar C1 respectively. Currently, hangar H3 houses PHI Medical for their maintenance operations, Brazos Valley Flight Services maintenance operations, and a space for one ultra-light aircraft. The leases in hangar H3 were assumed when the City of Bryan (City) took over the management of Coulter in 2010. These leases are now expiring.

Hangar C1 replaced the Quonset Hut destroyed in a fire. This facility has not previously had its own lease as it was recently constructed. Additionally, since this space will be used primarily for aircraft storage, a lease form will be necessary so as to capture rent revenue and to comply with grant assurance requirements.

Adopting a standard lease form for the box hangars will allow the City to remain in compliance with grant assurance requirements and allows for month to month leases as exists with T-Hangars.

STAFF ANALYSIS AND RECOMMENDATION: Staff recommends approving the lease form. By approving the lease form, the Airport Manager will have the ability to enter into leases without having to bring items back for City Council consideration. This will keep the City in compliance with grant assurance requirements and provide the ability to be more business friendly.

OPTIONS (In Suggested Order of Staff Preference):

- Approve the Standard Monthly Lease for Box Hangars
- Modify the Standard Monthly Lease for Box Hangars, which may require consideration at a future City Council meeting
- Deny the Standard Monthly Lease for Box Hangars and provide direction to staff

ATTACHMENTS: Proposed lease

FUNDING SOURCE: N/A

APPROVALS: Hugh R. Walker, 05/03/2013

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register 05/03/2013

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K Hampton, 05/06/2013

Revised 04/2013

COULTER FIELD AIRPORT
STANDARD MONTHLY LEASE
FOR BOX HANGAR

This Lease is made between the CITY OF BRYAN, (the City), a municipal corporation of the State of Texas, and Lessee. In consideration of the mutual covenants contained in this Lease, the parties agree as follows:

1. Summary of Terms.

Lessee: _____

Effective Date: _____

Term: Month to Month

Hangar Number: _____

FAA "N" number: _____

Serial number: _____

Registered Owner/ Aircraft lessee: _____

Registered Owner's/ Aircraft lessee's Address: _____

_____

Registered Owner's/Aircraft lessee's Phone Number: _____

Registered Owner's/ Aircraft lessee's email address: _____

Registered Owner's/Aircraft lessee's cell/ emergency number: _____

2. Leased Premises and Airport Use.

2.1. The City leases to Lessee and Lessee leases from the City the Box Hangar (Leased Premises) listed above, located at the Coulter Field Airport (Airport).

2.2. Lessee has inspected the Leased Premises, has completed the attached Property Condition Addendum, and accepts the Leased Premises on an "as is" basis.

2.3. Lessee may use the Leased Premises solely for the purpose of storing Lessee owned or leased active and operational aircraft and for performing minor maintenance on the aircraft.
Lessee shall not conduct or allow any commercial activity such as pilot instruction, aerial spraying, charter flight, air taxi, sightseeing, skydiving, aircraft engine or airframe repair, avionics repair, or any other commercial activity within the Leased Premises or at the Airport without the prior written consent of the City Council. Lessee shall not operate any non-aviation related business or activity within the Leased Premises or Airport without the prior written consent of the City Council. Any approved commercial operation or non-aviation related business must be in accordance with a separate contract agreement with the City.

Active and operational aircraft is defined to mean:

(a) Airworthy aircraft as defined by the Federal Aviation Regulations;

(b) FAA registered aircraft with airworthiness certificate in a continuing and reasonably progressive process of overhaul and repair with the intent to restore it to full flight status within 1 year; or

(c) Final assembly of aircraft in preparation for airworthiness certification. Final assembly of aircraft must be completed within 1 year from the date of the project beginning.

2.4. Lessee warrants that Lessee is a registered owner of or is leasing the aircraft to be stored on the Leased Premises. Lessee shall immediately notify the Airport Manager, in writing, of the description of any aircraft hangared on the Leased Premises that is different from the aircraft described above or of any change in the registered ownership of the aircraft. On or before the commencement date of this Lease, Lessee shall provide a copy of the permanent FAA Certificate of Aircraft Registration establishing the ownership of the aircraft being stored. If ownership is evidenced by a lease, such lease must be an exclusive-use lease wherein Lessee is the ONLY authorized user of the aircraft. Upon request, Lessee shall provide a copy of said lease to the Airport Manager.

2.5. If the aircraft is owned or leased by multiple parties, a corporation, or other legal entity, each owner/lessee, partner, and officer must sign and execute this Lease at the time of entry into this Lease. If the ownership of the aircraft changes during the term of this Lease, any and all additional and current owners, partners, officers, and lessees must sign and execute a new Lease within 30 days from the date of sale or lease, and provide new proof of aircraft ownership as stated above.

2.6. If the Lessee no longer owns the aircraft, the Lessee may be permitted to continue to lease the Leased Premises for no longer than 90 days without owning an airplane by still complying with the other requirements of this Lease. Such a request must be in writing and must be received by the Airport Manager within 5 days from the date Lessee no longer owns the aircraft registered under this Lease. If Lessee fails to replace the aircraft within this time period, Lessee shall be deemed to have abandoned the Leased Premises, and the City may immediately terminate this Lease.

2.7. Lessee is granted non-exclusive use of all portions of the Airport that are open for use by the public for the purpose of landings, takeoffs, and taxiing of aircraft, on the same terms and conditions as are applicable to the public.

2.8. Maintenance and repair of aircraft located on the Leased Premises shall be limited to minor routine maintenance and repairs generally required for normal operation of the aircraft as recommended by the aircraft's manufacturer, such as changing filters, lubricants, spark plugs and tires. Conducting repairs or maintenance that requires the substantial disassembly or assembly of the aircraft's airframe, power plant, and/or avionics, or that requires the stripping and/or painting of aircraft parts, is prohibited on the Premises. Lessee may store aviation oil inside the hangar for use in his/her aircraft so long, and only so long, as such oil is contained in marked, approved containers. Such storage will be with the written approval of the fire marshal and in accordance with local fire codes. Lessee further agrees that it shall, before storing aircraft on the Premises, provide a metal drip pan to be placed under any part of the aircraft which may leak fuel or lubricants. If any hazardous material spills or leaks are discharged on or from the Leased Premises arising from the acts or omissions of Lessee or Lessee's invitees or agents, Lessee must immediately make all repairs necessary to prevent further spills, leaks, or discharges and must immediately clean up the spill, remove any contaminated soil and promptly dispose of the same in accordance with the applicable law. Upon termination of this Lease, Lessee must at Lessee's cost, remove any equipment utilized in connection with any Hazardous Materials and clean up, detoxify, repair and

restore the Leased Premises to a condition free of Hazardous Materials, to the extent the Lessee or Lessee's agents, contractors, employees, licensee or invitees caused the condition.

2.9. The Lessee must not place or permit the placement of any sign, banner, flag, or placard or similar advertising device on the Leased Premises so as to be visible outside of an enclosed building, unless approved in writing in advance by the City Manager or his designee. Any sign approved by the City Manager or his designee that is governed by the City's sign regulations must comply with those regulations, including the requirement to obtain a permit.

2.10. This Lease will be reviewed periodically by the City Council and all Lease terms and provisions are subject to change at the sole discretion of the City Council on 60 days advance notice to Lessee. Lessee and City will enter into an amended Lease prior to the effective date of the change.

3. Term and Termination.

3.1. The term of this Lease is month-to-month, beginning on the effective date. This Lease automatically renews for additional one month terms unless terminated as provided below.

3.2. Lessee may terminate this Lease at any time, for any reason, by providing 30 days written notice to the City.

3.3. City may terminate this Lease at any time, for any reason, by providing 30 days written notice to the Lessee.

3.4. This Lease will immediately terminate on the date of the damage or destruction if the improvements on the Leased Premises are so damaged or destroyed so that they may not be used for their intended purpose, as determined by the City.

3.5. This Lease will automatically terminate as of the effective date of a City Council adopted amendment if Lessee fails or refuses to sign an amended Lease prior to the effective date of the amendment.

3.6. Upon termination of the Lease, the Lessee must immediately remove all personal property from the Leased Premises and must surrender the Leased Premises in substantially the same condition as existed at the beginning of the Lease, normal wear and tear excepted.

4. Rentals, Payments, and Deposits.

4.1. Lessee must pay to the City a rental payment of $_____ each month. If Lessee fails to pay rent to the City by the tenth calendar day following the due date, Lessee must also pay a delinquency penalty of $25.00 plus $5.00 a day until the rent is paid. Rental cost and delinquency penalties will be reviewed periodically by the City Council and are subject to change at the sole discretion of the City Council on sixty (60) days advance notice to Lessee.

4.2. As a condition of the City executing this Lease, the Lessee must pay the first month's rent and a deposit equal to one month's rent.

4.3. For the second month and for each month thereafter, Lessee must pay the City the monthly rental before the first City business day of the month.

4.4. Each month's rent must be paid without notice or billing from the City or designee and must be delivered to the Airport Manager at the Terminal Building, Coulter Field Airport, 6120 East Highway 21, Bryan, Texas.

4.5. Upon termination of this Lease, the deposit paid by Lessee will be applied to any unpaid rental, unpaid utility charges, penalty fees, or repairs to the Leased Premises for which Lessee was liable under the Lease, and for the cost of any removal or disposal of trash, debris, signs, or property left on the Leased Premises by Lessee. The Lessee is liable to the City for any remaining rental due and the cost of repairs or cleanup in excess of the amount of the deposit. Any monies from the deposit remaining after all lawful deducts are made by the City will be returned to the Lessee.

5. Improvements, Repairs, and Maintenance.

5.1. The Lessee must not make any structural or permanent modifications or improvements to the Leased Premises without the prior written consent of the City. The Lessee must obtain required permits from the City prior to commencement of structural or permanent modifications or improvements to the Leased Premises. Any structural or permanent improvements or modifications of the Leased Premises approved by the City becomes the property of the City upon termination of the Lease.

5.2. Lessee must make any repairs to the Leased Premises arising from normal wear and tear that does not exceed $200 per repair except for hangar super-structure, roofing, doors and walls.

5.3. Lessee must, to the satisfaction of the City Manager or his/her designee, keep and maintain the Leased Premises in a clean and sanitary condition. The City will provide commercial solid waste containers at the airport for the use of all tenants. The City Manager may issue and Lessee must comply with any written directive regarding the type, location, and screening of trash containers maintained by the Lessee or its contractor outside any building.

5.4. Lessee must comply with all state, federal and local laws pertaining to the disposal of special waste. Special waste includes: aircraft system liquids (i.e. oil, gas, fuel, hydraulic fluids, brake fluids); aircraft servicing lubricants; solvents and cleaners; paints, primers, and adhesives. The City will provide special waste containers at the Airport for used oil and oil filters.

6. Taxes, Utilities, Insurance, and Indemnification.

6.1. Lessee must pay, before they become delinquent, all taxes, assessments, and fees assessed or levied upon Lessee's property or leasehold interest.

6.2. Lessee must pay for all telephone, electric, television, gas and other telecommunication or utility services for the use and enjoyment of the Leased Premises that are individually metered and billed directly to the Lessee.

6.3. During this Lease, at Lessee's sole expense, Lessee is required to provide and maintain the following insurance:

(a) Aircraft Liability Insurance and/or Excess Coverage, Bodily Injury and Property Damage, with a minimum limit of $1,000,000.00 single limit each occurrence and $100,000 per passenger, which shall include but not be limited to the following extensions:
    (1) Aircraft Physical Damage;
    (2) Premises and operations;
    (3) Contractual, including coverage for assumption of liability set forth in this Lease;

All policies (primary and excess) and Certificates of Insurance shall be provided by the named insured to the City evidencing the required limits. All policies shall be primary coverage for all claims and losses arising from the use, occupancy and operation of the Leased Premises and the Airport. All policies must name, and Certificates show by separate endorsement that policies name, the City, its agents and employees as Additional Insured; provided however, any other insurance available to the City shall be excess and shall not contribute with this insurance. A current copy of the policy must be provided to the City by the Effective Date of this Lease and a supplemental copy provided to the City by January 1 of each year.

6.4. The City is not liable for any loss, damage, or injury of any kind or character to any person or property arising from the use of the Leased Premises, whether caused by a defect in any building, structure, or other improvement thereon or in any equipment or facility therein, or caused by or arising from any act or omission of the City, its agents or employees.
Lessee hereby waives all claims and demands against the City for such loss, damage, or injury and hereby agrees to indemnify, defend and save the City, its agents, and employees, harmless from and against any and all liability or loss resulting from claims or court action arising directly or indirectly under this Lease. Lessee agrees that its aircraft and other personal property are stored at Lessee's sole risk.

7. Miscellaneous Provisions.

7.1. Entire Agreements and Amendments. With the exception of any changes to this Lease made in accordance with Sections 2.10 and 4.1, this Lease sets forth all of the understandings of the parties. Any modification of this Lease must be written and signed by both parties.

7.2. Unlawful Use. Lessee and its employees and agents must not use or knowingly allow any other person to use the Leased Premises in violation of any federal, state, county, or local regulation, order, law, or ordinance.

7.3. 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; 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: _____
_____
_____

7.4. Assignment and Subleases. Lessee shall not sell, assign, sublet, or transfer any rights or privileges granted by this Lease without the prior written approval of the City. The City shall have the exclusive option to grant or refuse such approval. The parking of an aircraft not owned or leased by

Lessee within the Leased Premises without the written consent of the City shall constitute a sublease. Any such sublease, assignment, sale, or transfer shall be grounds, at the option of the City, for the City to immediately terminate this Lease.

7.5. Lessee may allow the Leased Premises to be utilized by another aircraft for no more than 72 hours during any 30-day period. Lessee may not charge the owner of the other aircraft a fee or any other consideration for the temporary storage of the aircraft. Five days prior to the arrival of the other aircraft, Lessee must provide the Airport Manager with written notice of the aircrafts' N-number or serial number, proof of insurance and emergency contact information. Lessee will remain responsible and liable for any actions or damage arising from the visiting aircraft, pilot, and passengers.

7.6. Locks. The City will provide Lessee with a key lock for the Leased Premises. If the lock is lost, Lessee will be charged the actual cost incurred by the City to replace the lock. No private locks of any type will be allowed on the doors of the Leased Premises. If private locks are installed, they will be removed by the City.

7.7. Right of Entry. The City has the right, upon reasonable notification, to enter onto the Leased Premises for the purpose of inspecting the Leased Premises, making necessary repairs, additions or alterations as may be necessary for the safety, improvement, or preservation of the Leased Premises. Reasonable notice for non-emergency right-of-entries is 48 hours. No advance notice will be provided for emergency entries.

7.8. Relocation. During the term of this Lease, the City reserves the right to temporarily require the Lessee to relocate his/her aircraft to another hangar or an outside tie-down location for Airport safety, security, or maintenance purposes. In a non-emergency situation, if, after notice by City, Lessee is not available to move the aircraft, City may move the aircraft without liability, using its best efforts to prevent damage.

7.9. Special Events. During the term of this Lease, the City reserves the right to temporarily require the Lessee to relocate his/her aircraft to another hangar or an outside tie-down location for the purpose of allowing the City to sublet the Leased Premises for Special Events. If, after notice by City, Lessee is not available to move the aircraft, City may move the aircraft without liability, using its best efforts to prevent damage. City will provide Lessee written notice 7 days in advance of a Special Event. City reserves the right to sublet the Leased Premises for up to _____ hours per month with no obligation to reduce the monthly rent. In the event the City desires to sublet the Leased Premises in excess of _____ hours, the City will reduce Lessee's monthly rental by $_____ per additional hour sublet.

7.10. Subordination. This Lease is subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation or maintenance of the Airport.

7.11. Interference. Lessee, by accepting this Lease, agrees for itself, its successors and assigns that it will not use the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. If Lessee breaches this covenant, the City may enter the leased Premises and abate the interference at Lessee's expense.

7.12. Non-exclusive. This Lease does not grant or authorize the granting of an exclusive right within the meaning of Section 308a of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).

LESSEE	**CITY OF BRYAN, TEXAS**
By:_____	By: _____
Date:_____	Date:_____