

ASSIGNMENT AND CONSENT TO ASSIGNMENT

This Assignment and Consent to Assignment (“agreement”) is entered into this _____ day of _____, 2019 by or among the City of Flagstaff, an Arizona municipal corporation (“City” or “Landlord”), Peabody Western Coal Company (“PWCC” or “Assignor”), and Wiseman Aviation, Inc. (“Wiseman” or “Assignee”).

RECITALS:

- A. Pursuant to an Airport Lease Agreement dated November 14, 2000, as amended by the First Amendment to the Airport Lease Agreement dated _____, 2019 (hereafter collectively referred to as the “Lease”), by and between the City and PWCC, the City leases to PWCC certain real property located at the Flagstaff Pulliam Airport as legally described in the Lease (“the Premises”);
- B. PWCC has constructed improvements on the Premises, including a hangar, offices, and a fuel supply farm, which are “Improvements” as defined in the Lease;
- C. City is willing to allow PWCC to assign the Lease to another existing lessee located at the Flagstaff Pulliam Airport, Wiseman;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is acknowledged, it is hereby agreed as follows:

ASSIGNMENT

- 1. Assignor hereby transfer and assigns to Assignee all of its rights, obligations, and liabilities under the Lease.
- 2. Assignor shall indemnify, defend, and hold Assignee harmless from any claims, liabilities or costs (including attorney fees) arising from any Assignor failure to perform obligations or liabilities accruing under the Lease prior to the date of this assignment.
- 3. Assignor shall transfer all Improvements on the Premises to Assignee free and clear of all encumbrances, liens, taxes or assessments, pursuant to a Bill of Sale. The Improvements will remain subject to all terms of the Lease.
- 4. Assignee has read and agrees to be bound by the Lease, and hereby assumes all rights, obligations, and liabilities under the Lease.
- 5. Assignee shall indemnify, defend, and hold Assignor harmless from any claims, liabilities or costs (including attorney fees) arising from Assignee failure to perform obligations or liabilities, accruing subsequent to the date of this assignment.

6. Assignee shall provide to the City a new certificate of insurance, endorsements, and any bonds, licenses, W-9 form or other similar requirements of the Lease within ten (10) days after execution of this agreement.
7. City consents to assignment of the Lease to Assignee, contingent upon all terms and conditions of this agreement.
8. Each party agrees to execute and deliver or cause to be executed and delivered to the other all such other instruments and documents, and to do all such other acts and things, as may be reasonably necessary to effect the transactions contemplated by this agreement.
9. Each party represents that it has authority and all requisite legal, corporate and governmental authorizations necessary or proper to execute this agreement.
10. This agreement shall be construed in accordance with State of Arizona laws.

IN WITNESS WHEREOF, each party hereto has executed this agreement.

CITY/LANDLORD
City of Flagstaff

ASSIGNOR:
Peabody Western Coal Company

By: _____
Coral Evans, Mayor

By: _____

Name: _____

Title: _____

Attest:

By: _____
Stacy Saltzburg, City Clerk

Approved as to form:

By: _____

City Attorney's Office

ASSIGNEE:
Wiseman Aviation, Inc.

By: _____

Name _____

Title _____

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