COUNTY COUNCIL

OF

TALBOT COUNTY

2019 Legislative Session, Legislative Day No.: June 25, 2019

Resolution No: 276

Introduced by: Mr. Callahan, Mr. Divilio, Mr. Lesher, Mr. Pack, Ms. Price

A RESOLUTION TO APPROVE EXECUTION OF A LEASE OF APPROXIMATELY THREE HUNDRED SIXTY (360) SQUARE FEET OF OFFICE SPACE INSIDE THE TERMINAL AT THE EASTON AIRPORT, 29137 NEWNAM ROAD, EASTON, MARYLAND 21601, TO FLIGHT SUPPORT SERVICES, LLC, D/B/A MARYLAND AIR, FOR A TERM OF FIVE (5) YEARS WITH BASE RENT OF SEVEN HUNDRED DOLLARS ($700.00) PER MONTH WITH THE RIGHT TO RENEW FOR UP TO ONE (1) ADDITIONAL FIVE (5) YEAR TERM

By the Council: June 25, 2019

Introduced, read the first time, and ordered posted, with Public Hearing scheduled on Tuesday, July 23, 2019 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By order: Susan W. Moran

Susan W. Moran, Secretary

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WHEREAS, Local Government Article ("LG") § 10-312, Md. Code Ann., states that the County may dispose of any real or leasehold county property provided that "before the county makes any disposition, grant, or lease of county property, the county shall publish notice of the disposition, grant, or lease once a week for 3 successive weeks in at least one newspaper of general circulation in the county and shall include the terms of compensation to be received and give opportunity for objections."

NOW, THEREFORE, BE IT RESOLVED by the County Council of Talbot County, Maryland that:

1. The County Council finds that:

   (a) The County has duly advertised the proposed transfer and given opportunity for public comment pursuant to LG § 10-312;

   (b) The requirements of LG § 10-312 have been fulfilled; and,

   (c) The subject space is not currently needed for public use and the County is lawfully authorized to lease the space on the terms and conditions set forth herein.

2. The terms of the proposed lease are attached hereto as Exhibit "A", which is incorporated by reference herein, shall be and are hereby APPROVED.

3. The Council President is hereby authorized and directed to execute the same on behalf of Talbot County, Maryland.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its date of passage.

PUBLIC HEARING

Having been posted and Notice, Time and Place of Hearing, and Title of Resolution No. _____having been published, a public hearing was held on _____, 2019, in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

BY THE COUNCIL

Read the second time:

Enacted: _____

By Order: _____
Susan W. Moran, Secretary

Pack -

Divilio -

Callahan -

Price -

Lesher -

Effective:_____

EXHIBIT "A"

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Agreement"), is made this _____ day of _____, 2019, by and between **TALBOT COUNTY, MARYLAND**, a charter county and political subdivision of the State of Maryland (the "County"), and **FLIGHT SUPPORT SERVICES, LLC, d/b/a MARYLAND AIR**, a Delaware limited liability company with its principal office at 29137 Newnam Rd., Unit #5, Easton, Maryland 21601 ("Maryland Air").

WHEREAS, the County owns and operates the Easton Airport located at 29137 Newnam Rd., Easton, Maryland 21601 (the "Airport"); and,

WHEREAS, Maryland Air is a fixed-based operator ("FBO") located at the Airport offering aviation services, including hangar space and fuel; and,

WHEREAS, Maryland Air desires to lease space in the Airport terminal from the County on the terms and conditions herein.

NOW, THEREFORE, WITNESSETH, that for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County hereby agrees to lease to Maryland Air certain property described further below on the terms and conditions herein:

1. Recitals. The above recitals are hereby incorporated as if fully set forth herein.

2. Property. The County agrees to lease the following property to Maryland Air:

> Three Hundred Sixty (360) square feet of office space located in the Easton Airport Terminal Building described as "FLIGHT SUPPORT (MD AIR)" on a drawing titled "EASTON AIRPORT TERMINAL BUIDLING" attached hereto as Exhibit "A" and incorporated by reference herein (the "Demised Premises").

3. Placement of Furniture and Decorations. Maryland Air may place furniture and other decorations in the Demised Premises in a manner subject to approval by the Airport Manager.

4. Use. The Parties agree that the Demised Premises shall be used by Maryland Air solely for the purpose of supporting its FBO aviation services and activities reasonably related thereto.

5. Term. The term of the Agreement shall be for five (5) years beginning on August 1, 2019 (the "Effective Date") and ending on June 30, 2024 thereafter (the "Expiration Date") unless earlier terminated.

6. Rent. Through June 30, 2020, the rental for the Demised Premises shall be Seven Hundred Dollars ($700.00) per month. Beginning on July 1, 2020 and each July 1st thereafter, the monthly rental shall be adjusted by multiplying the then current monthly rental rate by one hundred percent of the annual (12 months preceding the July 1st anniversary date) percentage increase in the Consumer Price Index (CPI) for all Urban Consumers and for Urban Wage Earners and Clerical Workers: U.S. City average, all items, as published on the internet or in the most recent Bureau of Labor Statistics publication, The Monthly Labor Review. If such index is discontinued, its successor or, if no successor is designated, any other index acceptable to the County and Maryland Air shall be used. In any case, the rent computed in accordance with the preceding guidelines shall not be less than the current rent then being charged, nor shall any increase exceed five percent (5%) per year. Rent for any partial month shall be prorated on a daily basis.

Rent shall be paid on a monthly basis in advance on the first day of each month. A late fee of 1.5% will be assessed if payment exceeds ten (10) days overdue.

7. Renewal. Provided Maryland Air is not in default under this Agreement, Maryland Air shall have the right to renew this Agreement for one (1) additional five (5) year term. To exercise this right, Maryland Air must provide the County written notice of its intent to renew at least sixty (60) days in advance of the Expiration Date.

8. Utilities and Taxes. Through February 28, 2020, Lessee shall pay a fixed rate of Fifty-One Dollars and Seventy-Four Cents ($51.74) per month for its share of the Airport terminal water, heat and air conditioning utility bills. The amount shall be reviewed annually and recalculated March 1 of each year at four percent (4%) of the provider's previous years' service. The new rate will then begin on July 1 of that year. Maryland Air shall be solely responsible for any real estate or other taxes assessed as a result of its occupancy and use of the Demised Premises.

9. Quiet Enjoyment. Maryland Air shall have exclusive possession of the Demised Premises and the use and quiet enjoyment thereof, provided, however, that its use of the Premises shall not unreasonably interfere with Airport operations or other tenants' quiet enjoyment of their space in the terminal.

10. Signage. Maryland Air may locate its logo and/or sign as mutually agreed between Maryland Air and the Airport Manager, it being understood and agreed that such logo and/or sign must be compatible with other signs in the terminal building lobby and subject to approval by the Airport Manager.

11. Maintenance. Maryland Air shall maintain the Demised Premises free of trash and debris in clean, tenantable and serviceable condition, subject to normal wear and tear. Talbot County reserves the right to access the stairway and equipment closet located in the Demised Premises with adequate notice.

12. Alterations and Improvements. Maryland Air shall make no alterations or improvements to the Demised Premises, nor erect any without the express permission of the Airport Manager.

13. Insurance. Maryland Air shall maintain insurance covering its FBO operations in accordance with the Easton Airport *Rules and Regulations* and *Minimum Standards and Requirements for the Conduct of Commercial Services and Activities at the Easton Airport*, as amended from time to time. Maryland Air shall take all necessary and appropriate steps to extend such insurance coverage to include operations at the Demised Premises. Maryland Air shall name Talbot County, Maryland as an additional insured on such updated insurance policies and shall deliver a certificate demonstrating the same to the Airport Manager promptly following the Effective Date.

14. Indemnification. Maryland Air, on behalf of itself, its heirs, successors and assigns, shall indemnify and hold harmless the County, its departments (including the Airport), boards, commissions, officials, employees, volunteers, agents, and contractors from and against any and all claims, demands, charges, costs, suits, liabilities, damages, or judgments (including attorney's fees) of any kind or nature whatsoever arising out of, or related to, any breach of this Agreement by Maryland Air or Maryland Air's use of the Demised Premises, except to the extent caused by the County's gross negligence or willful misconduct.

15. Casualty Damage. If the Demised Premises shall be damaged by fire, flood or other casualty to the extent that, in the County's sole judgment, they cannot be restored to their usual business use within sixty (60) days thereafter at reasonable expense, the County may, at its option, terminate or suspend this Agreement.

16. Compliance with Laws. Maryland Air shall comply fully with all applicable federal, State and local laws, ordinances, codes, and regulations, including the Easton Airport *Rules and Regulations* and *Minimum Standards and Requirements for the Conduct of Commercial Services and Activities at the Easton Airport*, as amended from time to time.

17. Vacating Premises. Maryland Air shall, at the expiration or earlier termination of this Agreement, vacate and surrender the premises in a safe, secure and broom-clean condition, subject to normal wear and tear.

18. Waivers. Failure of either Party to insist, in one or more instances, upon strict performance of any obligation of this Agreement or to exercise any right or option herein appearing, shall not be construed as a waiver or a relinquishment in the future from such obligation, right or option but the same shall continue and remain in full force and effect.

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

20. Subordination of Agreement. This Agreement shall be subordinate to the provisions of any existing or future agreement between the County and the United States or the State of Maryland relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or State funds for the development of the Airport.

21. Assignment. Maryland Air will not assign this Agreement or any aspect thereof, nor sublet the whole or any part of the Demised Premises, without first obtaining the written consent of the Airport, which consent shall not be unreasonably withheld. Under no circumstances shall Maryland Air pledge the Demised Premises as security for any loan or allow any lien to be placed thereon.

22. Nondiscrimination. Maryland Air, for itself, its successors and assigns, hereby covenants and agrees that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that, in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that Maryland Air shall use the 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 from time to time. Breach of any of the above non-discrimination covenants is deemed material and, in that event, the County shall have the right to terminate this Agreement and to re-enter and repossess said premises and the facilities located therein.

23. Successors and Assigns. The covenants, conditions and agreements contained herein shall bind and inure to the benefit of the Parties and their respective successors and assigns.

24. Termination. In the event of a material breach of this Agreement, the non-breaching Party may terminate this Agreement, provided that the non-breaching Party first provides the breaching Party written notice of its intent to terminate and no fewer than fifteen (15) days to cure the breach. Except for the payment of rent and utilities, if the breaching Party is diligently pursuing a cure, a reasonable amount of additional time beyond the fifteen (15) days shall be granted to allow completion of all cure activities. In addition to the foregoing, the Parties reserve to themselves all other legal and equitable rights and remedies available under the law with respect to any breach of this Agreement, whether material or not.

25. Entirety of Agreement. This Agreement comprises the entire agreement between the parties relating to its subject matter and no other agreement, representations, understandings or inducements concerning the same, oral and written, shall affect its terms.

26. Terms. The term "including" as used herein shall be interpreted as non-exhaustive, meaning "including without limitation."

27. Law and Waiver of Jury Trial. This Agreement shall be governed by the laws of the State of Maryland. The Parties hereby waive their right to a jury trial in any proceeding arising from or related to the enforcement of this Agreement.

28. Recording. Either Party may record a Memorandum of this Agreement in the Land Records of Talbot County at the recording Party's sole cost and expense. If such Memorandum is recorded, then, following the expiration or earlier termination of this Agreement, Maryland Air agrees to execute such other and further recordable instruments as required by the County in its sole discretion as are necessary to demonstrate that the Demised Premises are no longer subject to a lease.

IN WITNESS WHEREOF, the parties do sign, seal and execute this agreement as of the date first above written.

ATTEST:

COUNTY

_____

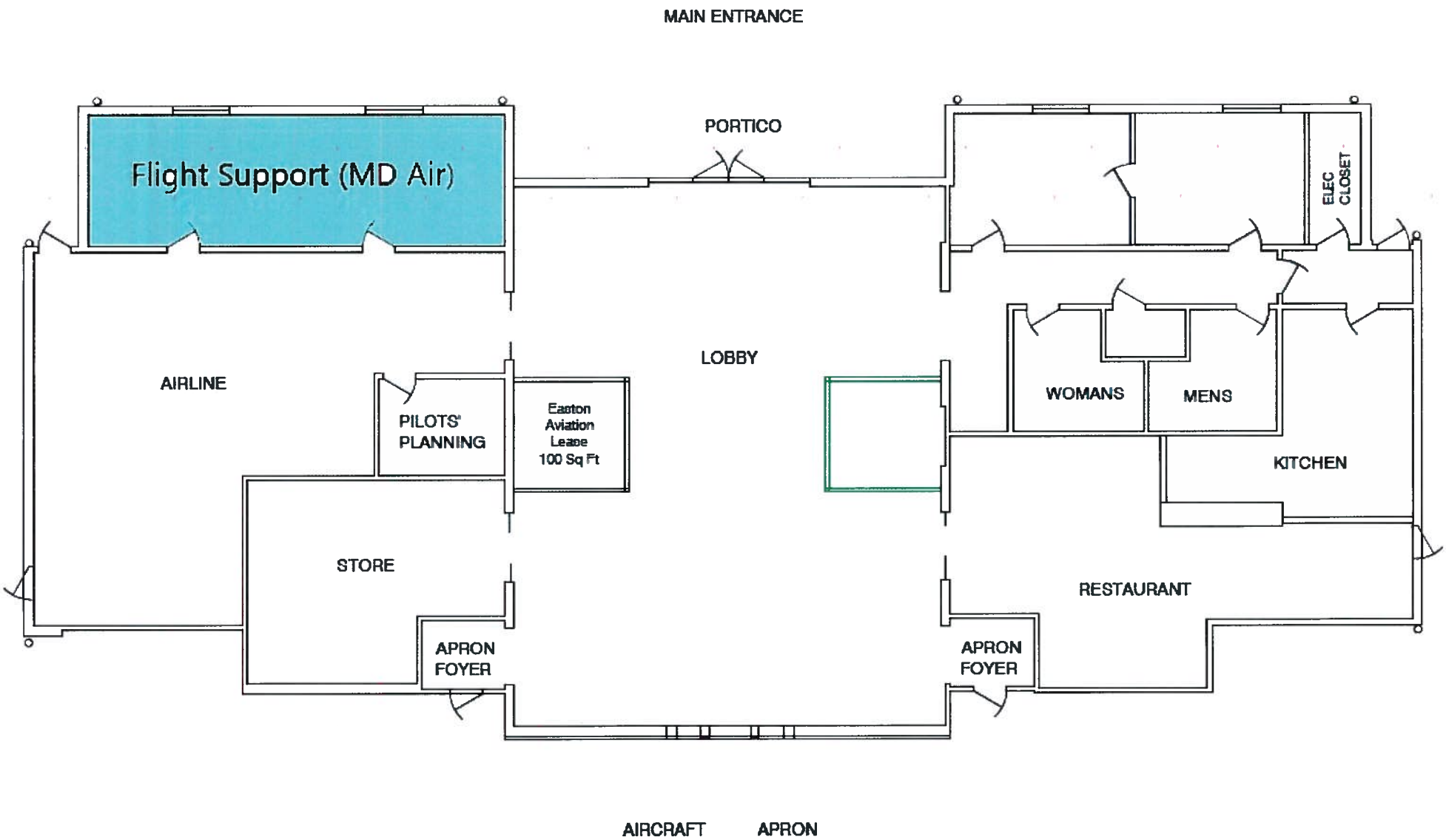
_____
By: Corey W. Pack, President
Talbot County Council

ATTEST:

MARYLAND AIR

_____

_____
By: Michelle Anstatt
Flight Support Services, LLC
d/b/a Maryland Air

EXHIBIT "A" to LEASE AGREEMENT

EASTON AIRPORT
TERMINAL BUILDING