

CITY OF ANN ARBOR
AIRPORT LEASE AGREEMENT

This lease agreement (the “Agreement”) is between the CITY OF ANN ARBOR, a Michigan municipal corporation (“City”), and ENTERPRISE LEASING COMPANY OF DETROIT, LLC d/b/a Enterprise Rent-A-Car and National Car Rental, a Delaware limited liability company (“Lessee”).

In consideration of the mutual promises below, City and Lessee agree as follows:

1. **LEASE:** The City leases to Lessee property in Pittsfield Township, Washtenaw County, Michigan, described in attached and incorporated Exhibits A, B and C (these being the “Premises”) (the lease being the “Lease”).
2. **TERM:** The term of this Agreement is from July 1, 2019 to June 30, 2024, or until it is lawfully terminated, whichever is earlier. If the Agreement is not terminated, and if Lessee has not breached the Agreement, Lessee may, at its option, extend the Agreement’s term up to 3 times for 5-years each, subject to and in accordance with the terms and conditions herein, including those in Section 6 (Renewal Notices and Termination). Notwithstanding the foregoing, nothing herein shall be construed to extend or allow extension of the Agreement’s term beyond June 30, 2039.
3. **CITY TERMINATION:** The City may terminate the Agreement in the event of any breach of it by Lessee that remains uncured 15 days after the City gives Lessee written notice of the same by delivering to Lessee a written notice of termination, upon delivery of which, termination is effective. The City’s post-termination acceptance of money from Lessee shall not rescind any termination or waive any of the City’s rights.
4. **RENT:** On July 1 of each year of the term of this Agreement, Lessee shall owe the City rent in the amount of \$33,155.25, plus any applicable rent escalations, payable to the City in monthly installments, due the first day of each month, of no less than one twelfth of the total amount owed.

Rent due under this Agreement shall escalate each July 1 by the percentage increase in the “Consumer Price Index” published by the Bureau of National Statistics of the United States Department of Labor, U.S. City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers (1967 = 100) (“CPI”). The CPI shall be calculated by using 12-month period (April to April) preceding each July 1st.

If a substantial change is made in the manner of computing the CPI, then the CPI applicable to this section shall be that which would have resulted had the manner not changed. If the CPI (or, if the CPI is discontinued, a successor or substitute index) is unavailable, a reliable governmental or other non-partisan publication evaluating the information used in determining the CPI will be used. Delays in computing the CPI by either party will not impair the continuing obligation of the Lessee to pay rent adjustments.

5. **LATE PAYMENTS:** Any amounts due under this Agreement but not made timely paid by Lessee shall accrue interest at 10 percent per annum, or the highest rate lawful, whichever is

lower.

6. RENEWAL NOTICES and TERMINATION:

- (A) Termination: Lessee may terminate this Agreement effective upon not less than 6 months' advance written notice to the City, and upon payment of an amount equal to 6 monthly installments of the then current rent, in addition to any rent due and payable or that will be due and payable by the end of the Agreement's term, and any other non-rent amounts due under this Agreement, as consideration and compensation for Lessee's exercise of this termination option.
- (B) Renewal: At least 90 days before the expiration of the term of this Agreement, Lessee shall give the City written notice of Lessee's intent to exercise any right it has to extend the term, which notice shall, at the City's option, be binding on Lessee. Should Lessee fail to provide such notice, any right it would have otherwise had to extend the term is forfeited, in which case the City may show the Premises to prospective lessees and install signs indicating the Premises are or will be available for rent.

7. HOLDOVER: If, for any reason, Lessee remains in possession of the Premises after the Agreement's term, Lessee will be a holdover tenant on a month-to-month basis, and all Agreement terms shall apply to the fullest extent lawful.

8. IMPROVEMENTS/REPAIRS/ALTERATIONS:

- (A) The City shall maintain and keep in repair the exterior roof, walls, and doors and building structure of the Premises.
- (B) Lessee shall maintain, replace, and repair the interiors of the Premises, all facilities and fixtures in the Premises, and pavement at or near the Premises.
- (C) Lessee shall make the improvements to the Premises prescribed in Exhibit D to this Agreement in accordance with the schedule therein.
- (D) If the City requires Lessee to vacate the building pursuant to Section 15(D) during the first 10 years of the Agreement's term, then the City shall reimburse Lessee a prorated portion (e.g., vacation at the start of year 10 would result in a prorated portion of 10%) of Lessee's reasonable and City-approved costs to connect the Premises to the public sanitary sewer system and the water system and to install in or on the Premises anything appropriate for such connections and the oil/water separator. Any such reimbursement would be conditioned upon Lessee providing the City a detailed breakdown of said costs, which may include construction/restoration costs, connection fees and permits, but not those for improvements inside the building or monthly/quarterly fees for services.
- (E) Lessee shall not damage, or make any alterations, additions, or structural changes to the Premises, without the City's advance written consent and shall be liable to the City for the cost of remedying any breach of this obligation. All such additions, alterations, or structural changes, City approved or otherwise, shall become the property of the City upon expiration of the Agreement's term.

- 9. USE AND OCCUPANCY:** The Premises may be used and occupied for the rental, leasing, storage, parking of motor vehicles used in the Lessee's business operations, for the cleaning and preparation of such vehicles, for office, administrative and other uses incidental or related thereto and for any other legal use or such other uses to which Landlord gives its written consent, which consent will not be unreasonably withheld, conditioned or delayed. In no event will Tenant be restricted in using any trade name.
- 10. ASSIGNMENT:** Absent advance written approval by the City's Administrator, the Lessee shall not to assign, delegate, transfer, encumber or otherwise convey any rights or duties under this Agreement and any assignment, delegation, transfer, encumbrance or conveyance in violation of this section shall be void.
- 11. BANKRUPTCY AND INSOLVENCY:** Lessee shall not: (1) allow the leasehold arising from this Agreement to be subject to any remedies provided by law or equity for creditors, (2) become or be declared bankrupt, (3) become insolvent, (4) permit appointment of a receiver over it or the leasehold, or (4) makes any assignment for the benefit of creditors.
- 12. RIGHT TO MORTGAGE/SUBORDINATE:**
- (A) The City may subject and subordinate this Agreement and Lease to the lien of any security interest on property that includes the Premises. Should the City elect to exercise this right, Lessee shall, upon City's demand, execute and deliver all instruments necessary to effect any such subordination. Further, Lessee irrevocably appoints the City as Lessee's attorney-in-fact to the extent necessary to allow the City's exercise of its rights under this section.
 - (B) The Agreement is subject and subordinate to any agreement between the City and the United States related to operation or maintenance of the City's Airport.
 - (C) Lessee may mortgage its interest under the Agreement, provided that no such mortgage may extend or purport to extend beyond the term of this Agreement.
- 13. TENANT TO INDEMNIFY:** To the fullest extent lawful, Lessee shall indemnify, defend and hold harmless the City from and of any liability related to or arising from the Premises, this Agreement, or Lessee's rights or obligations related to either. Notwithstanding the foregoing, Lessee shall not be liable for damages resulting from the City's sole or gross negligence, nor shall Lessee be liable for damages resulting from structural defects at the Premises that Lessee did not cause.
- 14. INSURANCE:** Lessee shall procure and keep in effect during the Agreement's term any and all insurance required by any Commercial Use Permit that it has been issued by the City, and commercial general liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 aggregate by location, and property damage insurance for the Premises in the amount of \$1,000,000.

Any commercial general liability policy that Lessee is required to procure and maintain shall (a) name the City as a named additional insured, (b) be endorsed to provide that it may not be canceled or materially changed for any reason except on 30 days' prior notice to the City, and (c) include a clause or endorsement that insurance coverage is primary, non-contributory

and the insured shall have no right to recovery or subrogation against the City.

Lessee shall deliver proof of its compliance with this section upon the City's demand. If Lessee fails to comply with this section, upon 5 days' written notice to Lessee, the City may obtain the required insurance at Lessee's sole expense. In addition to the rent, Lessee shall pay as additional rent any increase in insurance premiums against loss by fire that may be charged during the Agreement duration on the amount that is now carried by the City for the Premises. If Lessee the City procures insurance as permitted in this section, the City need not carry insurance on Lessee's personal property, trade fixtures or improvements.

15. RESERVATIONS:

- (A) The City may further develop or improve the landing area of the City's airport as it sees fit, regardless of the desires or view of the Lessee, and without its interference or hindrance.
- (B) The City may, but need not, maintain its airport's landing area and all publicly-owned facilities of the airport, and may direct and control all activities of Lessee in this regard. Lessee has no right or privilege to prevent any person, firm or corporation operating aircraft on the airport from performing any services on its own aircraft with its own regular employees (including but not limited to, maintenance and repair) that it may choose to perform.
- (C) Notwithstanding any other provision of this Agreement, Lessee shall not erect nor permit erection of any structure or object on the Premises above a mean sea level elevation of 845 feet. If Lessee breaches this duty, the City may enter the Premises and remove the structure or object at Lessee's expense.
- (D) The City may require demolition by Lessee of buildings and parking areas rented through this Agreement provided that 180-days' written notice is given. However, should the required demolition be related to safety concerns, the City shall give Lessee 90-days' written notice of such requirement. Any request to vacate the Premises by the City shall not affect the remainder of the Agreement and the City shall use its best efforts to find an alternate place for Lessee to wash vehicles.
- (E) The City reserves for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation on the Ann Arbor Municipal Airport.
- (F) City may set off any amounts due from it under this Agreement any amounts due to it from Lessee.

16. SERVICES NOT EXCLUSIVE: Lessee shall not prevent or attempt to prevent the any other person's provision or performance of any services or other activities at the City's airport.

17. ACCESS TO PREMISES: The City may enter and inspect the Premises, for any purpose, at all reasonable hours after providing at least 3 days' written notice to Lessee. In the case of

an emergency, the City may enter the Premises at its discretion. If the City deems appropriate, and demands, any repairs to the Premises, and if the Lessee fails to commence and complete them with reasonable dispatch, the City may make or cause to be made the repairs without any liability to Lessee for any loss that may accrue as a result, in which case Lessee shall, upon receipt of an invoice from City, reimburse the City for its costs arising from or related to such repairs. Repairs referenced in this section are limited to the repairs as identified in Section 8(B).

18. **CARE OF PREMISES:** Lessee shall not injure or damage the Premises, or create a nuisance or menace to anyone near the Premises. Lessee shall keep the Premises clean and free from rubbish and dirt, snow and ice, including by keeping all grass reasonably mowed. In the event Lessee breaches any of these obligations, then the City, after 7 days' written notice, may the Premises and cure Lessee's breach, in which case Lessee shall reimburse the City on demand for the City's costs arising from or related to such cure.
19. **COMPLIANCE WITH LAWS, ORDERS, REGULATIONS, OR ORDINANCES:**
 - (A) The Lessee shall at its own expense promptly comply with all statutes, codes, ordinances, administrative rules, regulations and policies and the orders and directives of any Municipal, County, State, and Federal authority affecting the Premises and the cleanliness, safety, occupation, and use of the Premises.
 - (B) The Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.
 - (C) The Lessee shall not do or permit any act that will invalidate or conflict with any insurance policy carried it by the City with respect to the Premises or that might subject the City to any liability to any third party.
20. **CONDITION OF PREMISES AT TIME OF AGREEMENT:** The Premises are leased as is. Lessee represents and warrants that it has examined Premises, knows their condition, and that no representations as to the Premises' condition have been made by the City, or its agents. The City shall not be liable to Lessee for the acts or omissions of persons occupying any part of adjoining buildings or any part of the Premises or for any loss or damage resulting to the Lessee or its property from bursting, stoppage, or leaking of water, gas, sewer or steam pipes. This section shall not be construed to make Lessee liable for environmental conditions that Lessee did not cause.
21. **GAS, WATER, SEWAGE, HEAT, ELECTRICITY AND TAXES:** Lessee shall promptly pay when due all charges related to the portion of the Premises depicted in Exhibit C for gas, water, sewage, heat, and electricity. Lessee shall pay all taxes assessed against the Premises or its contents.
22. **SIGNS AND ADVERTISING DISPLAY:** All signs and advertising displayed in and about the Premises shall only advertise the business carried on upon the Premises. All signs shall conform to the standards of the municipality having jurisdiction over such and shall have prior written approval of the City. No awning or signs shall be installed or used on the exterior of the building on the Premises unless awning, signs, and wording is consented to in writing by

the City.

23. **RE-ENTRY:** In addition to any other rights it may have under this Agreement, if there is an uncured breach of this Agreement, or if the Premises are deserted or vacated, then it shall be lawful for the City to re-enter into and repossess the Premises and remove and put out each and every occupant, including Lessee.
24. **EXPENSES-DAMAGES RE-ENTRY:** If City shall obtains possession of the Premises by re-entry, summary proceedings, or otherwise, Lessee shall pay the City any resulting or related costs and expenses.
25. **CASUALTY LOSS:** Lessee shall give the City written notice of any fire or other casualty on the Premises and shall immediately and diligently attempt to contact the Airport Manager (by all means available, including telephone, fax and email) to inform the City of the casualty. Lessee shall be liable to City for any such fire or other casualty to the extent the same is caused by Lessee. If the Premises are damaged or destroyed in whole or in part by fire or other casualty during this Agreement's term, the City may repair and restore the Premises to reasonable tenantable condition with reasonable dispatch. Rent may be prorated based on the extent of any damage or destruction to the Premises not caused by Lessee.
26. **QUIET ENJOYMENT:** The City promises that the Lessee, so long as it is not in breach of this Agreement, but subject to the terms of this Agreement, may peacefully and quietly have, hold and enjoy the Premises for the term of the Agreement.
27. **REMEDIES NOT EXCLUSIVE:** To the fullest extent lawful, the rights, remedies and benefits provided by this Agreement are cumulative, not be exclusive.
28. **DISCRIMINATION:** Lessee shall not discriminate against any person or class of persons by reason of race, color, creed, national origin, marital status, age, condition of pregnancy, religion, physical limitations, source of income, family responsibilities, educational association, or sexual orientation or sex shall be bound by the non-discriminatory provisions as required by the all applicable law, as well as the Code of Federal Aviation Regulations, and as Regulations may be amended.
29. **NOTICES:** Whenever notice under this Agreement is allowed or required, such notice shall be sufficient if sent by mail, postage prepaid, addressed to:

Notice to Lessee:

Enterprise Leasing Company of Detroit, LLC
29301 Grand River Avenue
Farmington Hills, MI 48336

With a copy to:

Enterprise Holdings
Airport Properties and Relations
600 Corporate Park Drive
St. Louis, MO 63105

Notice to City:

**Ann Arbor Municipal Airport
City of Ann Arbor
801 Airport Drive
Ann Arbor, MI 48108
Attn: Airport Manager**

Notwithstanding the foregoing, any notice of any breach related to this Agreement shall be sent as above, but by certified mail or overnight carrier.

30. **OWNERSHIP OF FIXTURES AND IMPROVEMENTS:** Notwithstanding any other provisions in this Agreement, any improvement, not-practically-removable fixture, or building on the Premises shall become the sole property of the City upon expiration of the Agreement's term unless the City notifies Lessee that the City wants any such improvement, building, or fixture removed, in which case Lessee shall remove the same at its own expense. Lessee shall not encumber the applicable property in any way beyond the Agreement term. At the end of the Agreement's term, Lessee shall restore the Premises so that it is substantially the same as before Lessee took possession of the Premises under this Agreement, normal wear and tear excepted.
31. **CONSENT:** In all cases requiring written consent from the City, consent shall not be unreasonably withheld, and in all cases in which the repairs are necessitated by the willful or negligent conduct of the Lessee, its employees, customers or agents, the repairs shall be the responsibility of the Lessee.
32. **WAIVER:** Rights arising from this Agreement are not waived unless the party to whom the rights belong expressly waives them in a writing (a) that it signs, and (b) that specifically identifies the waived rights. Any such waiver by the City shall not be construed as a waiver of any other rights. Consent by the City to any act requiring the City's consent does not constitute a waiver of the requirement of the City's consent with respect to any similar or subsequent act.
33. **AMENDMENTS:** This Agreement is the full and complete agreement between the parties with respect to its subject matter and all prior verbal or written agreements or understandings are merged into and superseded by this Agreement. This agreement may only be modified or amended, in writing, signed by both parties. There may be no oral modification or amendment of this Agreement, whether or not supported by consideration.
34. **HEADINGS:** The numbering and headings are not a part of the substance of this Agreement, but are included merely to assist in locating relevant substantive terms.
35. **CONSTRUCTION AND INTERPRETATION:** This Agreement shall be construed in accord with Michigan law. If any term or terms of this Agreement are held invalid, illegal, or unenforceable, the term or terms shall be enforced to the fullest extent permitted by law, and the remainder of the Agreement shall remain unaffected by such holding. This Agreement has been negotiated at "arm's length" and reviewed by both parties and therefore should not be construed against the City under the doctrine of *contra proferentem*. Exercise of a right under this Agreement shall not be deemed any election of any remedies or a waiver of any right or

claim. Use of the words “include” or “including” is intended to be illustrative and not exhaustive.

36. AUTHORIZED AND BINDING: The Lessee and each person executing this Agreement on its behalf warrant and represent that Lessee is validly organized, existing, and authorized to do business under Michigan law, Lessee has full power and lawful authority to enter into this Agreement, and that execution of this Agreement by the individual who has signed below is legally binding on Lessee in accordance with its terms. The City and each person signing on its behalf represent and warrant that the City has the full power and authority to enter into this Agreement and that that its execution by the individual who has signed below is legally binding on the City.

37. SURVIVAL: Lessee’s insurance, monetary, and indemnity obligations shall survive expiration of the Agreement’s term.

WITNESSETH our hands and seals this _____ day of _____, 2019.

CITY OF ANN ARBOR

ENTERPRISE LEASING COMPANY OF
DETROIT, LLC d/b/a Enterprise Rent-A-
Car, and National Car Rental

Christopher Taylor, Mayor

By: _____
Its: _____

Jacqueline Beaudry, City Clerk

Approved as to Substance:

Howard S. Lazarus, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

EXHIBIT A

AUTOMOBILE PARKING LOT LOCATION

(33,000 s.f.@ initial rate of \$0.390 per s.f.)

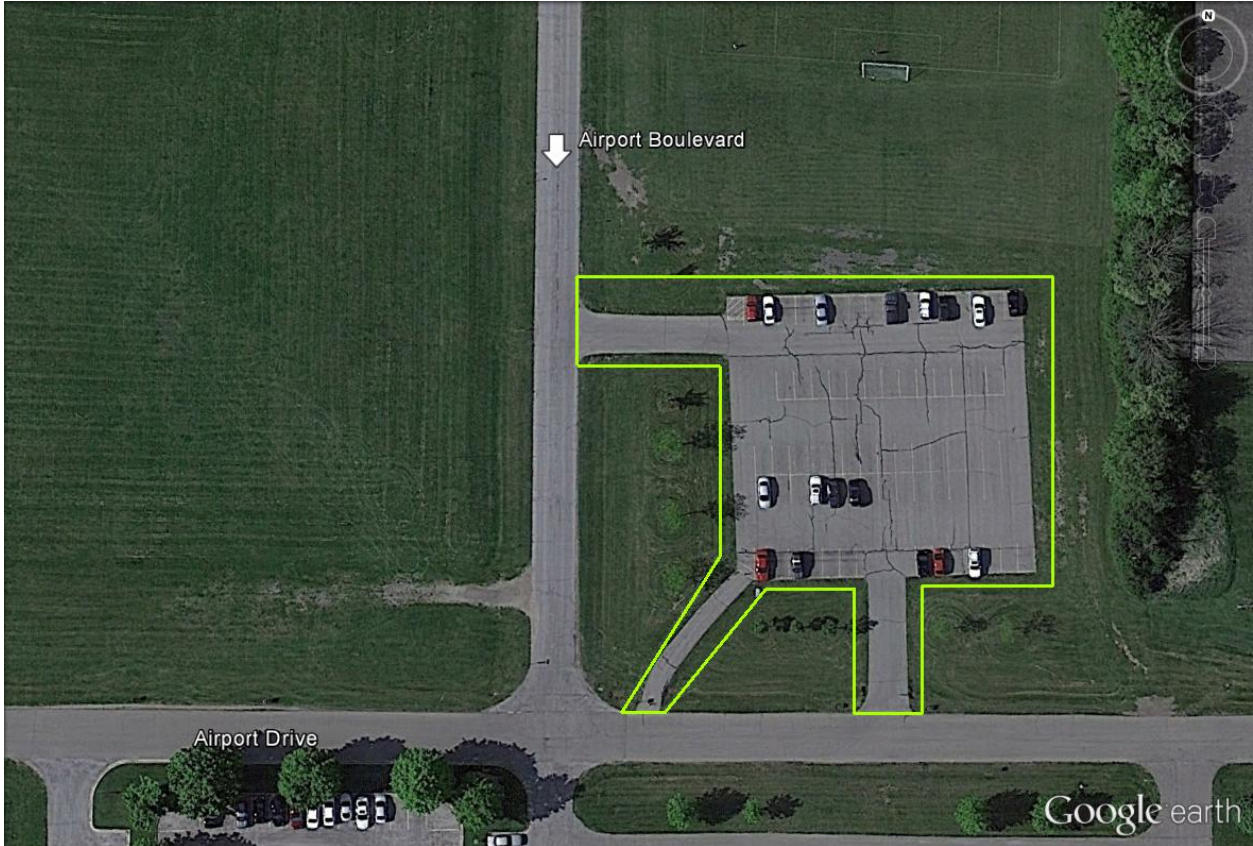


EXHIBIT B

TERMINAL OFFICE AND COUNTER SPACE LOCATION

(327 s.f. @ initial rate of \$20.75 per s.f.)

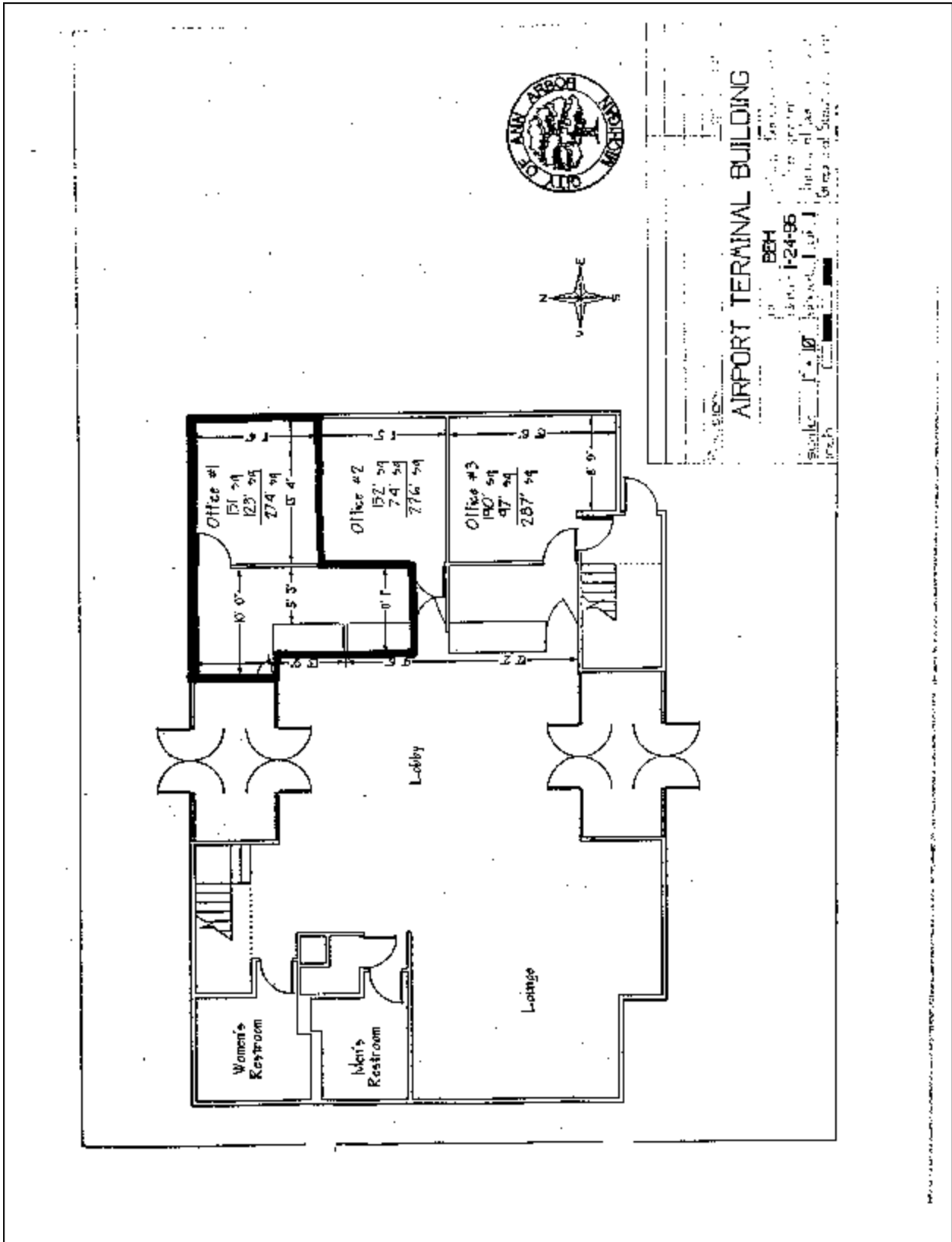


EXHIBIT C

GARAGE WASH SPACE LOCATION

(3,750 s.f. @ initial rate of \$3.60 per s.f.)



EXHIBIT D

LESSEE IMPROVEMENTS TO PREMISES

The following improvements shall be accomplished by Lessee, at Lessee's full cost, within the stated term of each item:

- 1) Automobile Parking Lot
 - a. Crack repair and filling to include routing, blasting, cleaning, filling and sealing of paved surfaces. Subsurface repair as necessary. Work to be completed by November 30, 2019 (initial Agreement term) and within the first six months of any subsequent Agreement term.
 - b. Restripe the entire parking lot. Work to be completed by November 30, 2019 (initial Agreement term) and within the first six months of any subsequent Agreement term.
- 2) Garage Wash Space (718 Airport Drive)
 - a. Sanitary Sewer Connection – The Lessee shall connect the garage building to the Pittsfield Charter Township public sanitary sewer system. The Lessee shall be responsible for all construction/restoration costs, connection fees and permits. Work to be completed by June 30, 2020.
 - b. Potable Water Connection – The Lessee shall connect the garage building to the City of Ann Arbor public water system. The Lessee shall be responsible for all construction/restoration costs, connection fees and permits. Work to be completed by June 30, 2020.
 - c. Fence and Gate Relocation – The Lessee shall provide plans, acceptable to the City, to relocate Gate #3 and the corresponding fencing which results in the removal of the Lessee's access to the garage building from inside the fenced security area. Upon approval by the City, Lessee shall relocate the gate, access controls, lighting and fencing per the approved plan. Lessee shall be responsible for all construction/restoration costs, fees and permits. Work to be completed by May 1, 2020.
 - d. Access Drive – The Lessee shall provide plans, acceptable to the City, to install a gravel or paved access drive to the garage building, outside of the fenced security area, from Airport Drive. Upon approval by the City, Lessee shall install the drive per the approved plan. Lessee shall be responsible for all construction/restoration costs, signage, fees and permits. Work to be completed by May 1, 2020.