

RESOLUTION NO. 4138

**A RESOLUTION AUTHORIZING THE ASSIGNMENT OF A PORTION OF A CERTAIN LEASE AGREEMENT BETWEEN THE CITY OF MILES CITY AND GREG KMETZ AND ALICE KMETZ, TO AILPORT PROPERTIES MONTANA, LLC FOR THE LEASE OF INDUSTRIAL SITE PROPERTY.**

WHEREAS, the CITY currently leases certain property within the Industrial Site west of Miles City, to Greg Kmetz and Alice Kmetz ("Tenant"), described as: Lots 28-32 of Tract "E" of the Industrial Site West of Miles City, Montana;


AND WHEREAS, Tenant desires to assign a portion of said lease to Ailport Properties Montana, LLC, as follows: Lot 28 and Lot 29 of Tract "E" of the Industrial Site West of Miles City, Montana, containing approximately 29,000 square feet each, for a total of 58,000 square feet, more or less;

AND WHEREAS, a "Partial Assignment of Lease Agreement" between the parties has been prepared and presented to the City Council for approval.

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA:**

That the "Partial Assignment of Lease Agreement" attached hereto as Exhibit "A," and made a part hereof, is hereby approved by the City Council of the City of Miles City.

**PASSED AND ADOPTED BY A 2/3 VOTE** of the City Council this 13<sup>th</sup> day of March, 2018.

By:   
John Hollowell, Mayor

Attest:   
Lorrie Pearce, City Clerk

**PARTIAL ASSIGNMENT OF LEASE AGREEMENT**

This ASSIGNMENT, made and entered into this 13<sup>th</sup> day of March, 2018, by and between the City of Miles City, Montana, a Montana municipal corporation, of 17 S. 8<sup>th</sup> Street, Miles City, Montana 59301, hereinafter "CITY," Greg Kmetz and Alice Kmetz, of 21 Water Plant Road, Miles city, Montana, hereinafter "ASSIGNOR," and Ailport Properties Montana, LLC, of PO Box 1048, Glenrock, Wyoming, hereinafter "ASSIGNEE,"

**WHEREAS**, the CITY currently leases certain property within the Industrial Site to ASSIGNOR pursuant to a certain Lease Agreement approved by Resolution No. 3587, for the following real property: Lots 28-32 of Tract "E" of the Industrial Site West of Miles City, Montana, containing approximately 145,000 square feet, more or less;

**AND WHEREAS**, ASSIGNOR desires to assign a portion of this lease agreement, being Lots 28 and 29 of Tract "E" of the Industrial Site West of Miles City to ASSIGNEE, which requires approval of CITY;

**AND WHEREAS**, ASSIGNEE has agreed to comply with all conditions of said Lease Agreement;

**NOW, THEREFORE**, the parties hereto mutually covenant and agree as follows:

**ASSIGNMENT**

The ASSIGNOR hereby assigns, and the CITY hereby approves, a portion of the Lease Agreement between CITY and Greg Kmetz and Alice Kmetz (ASSIGNOR), approved by Resolution No. 3587, to ASSIGNEE; and ASSIGNEE has indicated that it intends to exercise the Option to Renew for their assigned portion of the leasehold pursuant to Paragraph IV of said Lease Agreement. As a result of this Assignment and renewal, Ailport Properties Montana, LLC, shall become the Tenant of Lots 28 and 29, and shall pay annual rent in the amount of \$4,070.00 commencing on July 1, 2018; and Greg Kmetz and Alice Kmetz shall continue leasing lots 30, 31, and 32, which may be renewed pursuant to said Lease Agreement. Upon execution of this assignment, said Lease Agreement shall be treated as two separate lease agreements, one between the City and Ailport Properties Montana, LLC for Lots 28 and 29; and one between the City and Greg Kmetz and Alice Kmetz for Lots 30, 31, and 32. Any payment by Ailport Properties Montana, LLC to Greg Kmetz and Alice Kmetz for the remainder of the 2017-2018 lease year shall be negotiated and paid directly between itself and the ASSIGNOR.

**IN WITNESS WHEREOF**, the parties hereto have executed this ASSIGNMENT OF LEASE AGREEMENT the date and year first hereinabove written.

**CITY OF MILES CITY:**

By:   
John Hollowell, Mayor

Attest:

  
Lorrie Pearce, City Clerk

ASSIGNOR:

  
Greg Kmetz

  
Alice Kmetz

ASSIGNEE:

Ailport Properties Montana, LLC

  
By: \_\_\_\_\_