

AIRPORT OPERATIONS AND MANAGEMENT AGREEMENT

THIS, AGREEMENT, made and entered into as of this ___ day of _____, 2010, at Susanville, California, by and between the City of Susanville, a general law city, political subdivision of the State of California, and municipal corporation, hereinafter referred to as "City," and STEVEN K. DATEMA, of Susanville, California, hereinafter referred to as "Manager."

ARTICLE 1. TERM OF CONTRACT.

Section 1.01. This Agreement will become effective _____, 2010 and shall continue for a period of five (5) years thereafter, to and including _____, 2015 unless otherwise extended as herein provided..

Section 1.02. If this agreement is not extended as herein provided City shall, at least six (6) months prior to _____, 2015 submit the airport management agreement for applicable public bid (or request for proposals) procedures, in order to afford Manager adequate notice (at least 90 days) if the airport management agreement is awarded to someone other than Manager.

ARTICLE 2.

MANAGER'S RESPONSIBILITIES

Section 2.01. Manager is hereby designated by City as Manager of the Susanville Municipal Airport, located in Lassen County, State of California, approximately four miles east of Susanville, hereinafter referred to as "Airport," and the parties hereto agree that Manager is subject to the terms and provisions of this Agreement, and further that the Manager is subject to all ordinances, rules and regulations presently existing or hereafter adopted; Manager is directly and primarily responsible for the management and operation of the Airport under the direction and supervision of the City Administrator of the City of Susanville who shall act with approval of the City Council. Manager shall operate the airport and provide Unicom services from 8:00 a.m. to 5:00 p.m., seven days a week. Manager shall be ordinarily personally present during those hours of operation at least five days per week, excepting vacation time of four weeks per year, which may be taken at reasonable times by Manager, upon reasonable notice to the City Administrator.

Section 2.02. Manager may provide a mobile home in which Manager or Manager's

employee shall reside. Manager shall provide (through Manager or his employee), after hours aircraft fueling service and caretaker service at the airport premises during non-business hours, seven days a week. Maintenance, repair, upkeep, and utilities of the mobile home shall be at the sole expense of Manger. Manager shall maintain said mobile home in good repair. City shall designate the placement and location of any mobile home installed on the airport premises by Manager, and City shall have the right to approve the mobile home installed on the airport by the Manager. City shall provide the mobile home space at a rent of \$416.00 per month plus managers separately metered utilities excluding water to the Manager while used by himself or his employee. Any sub-rental of the mobile home space to a third party not described herein must be approved by City Administrator. Manager would remain responsible to City for the space rent stated herein and the sub-tenant would be responsible for his or her own utilities plus water.. Manager shall have the right, within thirty (30) days after termination of this Agreement to remove any mobile home owned by Manager from the airport premises. In the event that said mobile home is not removed within the thirty (30) day period, then said mobile home shall become the property of the City of Susanville, and Manager shall have no right, title, or interest to said mobile home. Manager shall provide insurance coverage for any and all of Manager's personal property (whether mobile home and/or its contents).

Section 2.03. Manager shall furnish prompt and efficient management services to users of the Airport.

Section 2.04. Manager shall perform such maintenance and repairs at the Airport as are hereinafter in this paragraph specified, namely:

(a) Insure that the beacon is on and the runway lights operate by radio frequency from dusk until dawn of each day, and insure that wind indicators are operating properly; inform the Federal Aviation Administration of all interruptions of the usual and customary services at the airport;

(b) Remove snow from runways, aprons, and taxiways with proper equipment provided by City and maintained by City.

(c) Perform janitorial work in the administration building. City shall provide janitorial supplies to Manager for this function.

Section 2.05. Manager shall report to the City Administrator, or his/her designee, any non-permitted activities and the existence of any conditions in or around such buildings as may create a fire hazard or be dangerous to the public health, and whether or not such conditions have

been remedied by the owners thereof after being notified by either the City Administrator or the Fire Chief of the City of Susanville. Manager shall, as to Manager's structures, permit them to be inspected by the City Administrator or by the Fire Chief, or their designee, at all reasonable times, and Manager will within fifteen (15) days of being notified that a condition exists in Manager's structures which constitutes a fire hazard or a danger to the public health, correct and remedy such situation forthwith.

Section 2.06 Manager will determine the method, details and means of performing the above-described services.

Section 2.07. Except for the provision that Manager is to be ordinarily personally present at the airport premises five (5) days a week (see Section 2.01 herein), Manager may, at Manager's own expense, employ such employees Manager deems necessary to perform the services required of Manager by this Agreement. City may not control, direct, or supervise Manager's assistants or employees in the performance of those services. Manager's employees are not employees of the City. Manager shall notify City of such arrangements and shall also notify City of Manager's extended absence from the Airport.

Section 2.08. Manager shall obtain City Council permission before installing or erecting any structure on the airport premises; in the event the structure (or any residence installed thereon by Manager in compliance with Section 2.02) is still remaining on the premises thirty (30) days after the expiration or sooner termination of this Agreement, then said structure, structures, or residence shall become the property of the City and Manager shall have no right therein or title thereto, nor shall City be required to pay to Manager any sum whatsoever therefor.

Section 2.09 Manager shall not permit dumping or disposal of hazardous waste at the airport premises.

COMPENSATION

Section 3.01. In consideration for the services to be performed by Manager, City agrees to pay Manager the sum of One Thousand Six Hundred Dollars Five and 25/100 (\$1,605.25) a month in advance, on the first day of each and every month beginning _____ 2010 through _____ 2015, and increasing each year of the agreement pursuant to the Consumer Price Indexes Pacific Cities and U.S. City Average, West - B/C, Urban Wage Earners and Clerical Workers (CPI-W) for the year ending March of the contract year, effective May 1 of each

contract year during the term of this Agreement until _____,2015. In addition to the aforesaid compensation, Manager shall also receive the following amounts and consideration:

- (a) The right to conduct, at no fee (other than as set forth in the FBO contract Manager will make separate from this agreement), commercial activities upon the airport, including but not limited to the aeronautical activities specified in Section 2.02 of this Agreement.
- (b) The Airport Manager may be included in the City of Susanville's group health insurance plan, Laborer's Special Plan III at his own expense.

ARTICLE 4. OBLIGATIONS OF MANAGER

Section 4.01. Manager shall immediately notify the Director of the City Public Works Department, and/or the City Administrator of the City of Susanville, of any hazardous or dangerous condition existing upon the Airport which, under the terms of this Agreement, it is the responsibility of the City to remedy. Manager shall immediately notify the Director of the City Public Works Department, and/or the City Administrator, of any hazardous materials or hazardous waste at the Airport.

Section 4.02. Manager agrees to provide workers compensation insurance for Manager's employees and agents and agrees to hold harmless and indemnify City for any and all claims arising out of any injury, disability, or death of any of Manger's employees or agents.

Section 4.03. Manager agrees to maintain a policy of liability insurance in the minimum amount of One Million Dollars (\$1,000,000.00) to include City as an additional insured party, to cover any and all claims or demands for injuries to persons or damage to property arising out of the conduct of Manager under the separate Fixed Base Operator agreement or the operations of Manager and City at the Airport; Manager shall provide City with satisfactory evidence of the existence of such insurance in the above amount. There shall be one policy for both contracts.

Section 4.04. This Agreement may not be assigned by Manager.

Section 4.05. Manager has no authority to lease or to rent City premises hereunder, other than as approved in writing by City. Any lease or rental or permission to use City property at the Airport shall be at the direction and approval of the City Council.

Section 4.06. City reserves the right to further develop or improve the airport as it sees

fit, and Manager shall not interfere with that right. Manager will be included in any planning or discussions regarding major changes at the airport.

Section 4.07. This Agreement shall be subordinate of the provisions and requirements of any existing or future agreement between City and the United States, relative to the development, operation or maintenance of the Airport.

Section 4.08. Manager agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the airport, or in the event of any planned modification or alteration of any present or future building or structure situated on the premises.

Section 4.09. This Agreement and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

ARTICLE 5. OBLIGATIONS OF CITY

Section 5.01. City shall be responsible for maintenance and repair of the administration building, the airport runways and taxiways, tie-down areas, beacon tower, airport lighting, major perimeter fencing and roadways, and other City structures.

Section 5.02. City and Manager shall pay electricity, propane and other utility charges not otherwise mentioned herein as set forth in the separate Fixed Base Operator agreement..

ARTICLE 6. TERMINATION OF AGREEMENT

Section 6.01. Unless otherwise terminated, this Agreement shall continue in force for a period of five (5) years. This agreement may be extended by the parties mutual agreement for one additional five (5) year term without the necessity of putting it to public bid by a request for proposal. Said mutual extension is also contingent upon reaching agreement on the separate agreement between the parties entitled "FIXED BASE OPERATORS LICENSE AGREEMENT".

Section 6.02. In the event that Manager shall fail to perform any of the duties or obligations of this Agreement, City may give Manager notice of such failure or breach and if the same event is not remedied or corrected within fifteen (15) days, City, at its option, and without further demand or notice may terminate this Agreement.

Section 6.03. This Agreement shall terminate automatically on the occurrence of any of the following events:

- (a) Bankruptcy or insolvency of the Manager;
- (b) Assignment of this Agreement by either party without the prior written consent of the other party;
- (c) Continued long term absences of Manager from the Airport. A long term absence is at least one hundred twenty (120) days, whether caused by illness, by abandonment of duties, or otherwise. The determination of what constitutes long term absences shall be in the complete discretion of the City and the City's determination in that regard shall be final.

ARTICLE 7. GENERAL PROVISIONS

Section 7.01. Any notices to be given hereunder by either party to the other may be affected by personal delivery, in writing, or by mailed, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses below:

City of Susanville
Attn: City Administrator
66 North Lassen Street
Susanville, CA 96130
Mr. Steven K. Datema
471-920 Johnstonville Road
Susanville, CA 96130

Each party may change the address by written notice in accordance with this paragraph.

Section 7.02. This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Manager for City, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be

charged.

Section 7.03. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

Section 7.04. Neither party hereto shall have any responsibility for the maintenance and repair of hangars or buildings owned by third parties and located at the Airport.

Section 7.05. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any relief to which that party may be entitled.

Section 7.06. The property interest herein of Manager may be subject to property taxation of the possessory interest created thereby, and, if created, Manager, by reason of said possessory interest, may be subject to the payment of property taxes levied on said interest. In the event said taxes are so levied, Manager shall be responsible for payment thereof.

Section 7.07. This Agreement will be governed by and construed in accordance with the laws of the State of California.

CITY OF SUSANVILLE

MANAGER:

Kurt Bonham, Mayor

Steven K. Datema

Attest:

Debra A. Maggini, City Clerk

Approved as to Form:

Peter M Talia
City Attorney