



*** All present are expected to conduct themselves in accordance with our City's Core Values ***

OFFICIAL NOTICE AND AGENDA

of a meeting of a City Board, Commission, Department, Committee, Agency, Corporation, Quasi-Municipal Corporation, or sub-unit thereof.

Meeting of the: **AIRPORT COMMITTEE**
Date/Time: **Wednesday, Thursday, June 30, 2016 @ 6:00 pm.**
Location: **Wausau Downtown Airport Terminal Building Conference Room**
Members: Sherry Abitz (C), Karen Kellbach, Pat Peckham, Lisa Rasmussen, Doug Diny, Bob Mohr, Fred Prehn

AGENDA ITEMS FOR CONSIDERATION (All items listed may be acted upon)

- Call to Order/Roll Call
 - 1 Public Comment
 - 2 Select Vice Chair
 - 3 Consider minutes of previous meeting - February 10, 2016
 - 4 Discussion and Possible Action Regarding Airport Manager Contract Renewal – Alfonso
 - 5 Discussion and Possible Action Regarding FBO Contract Renewal - Alfonso
 - 6 Discussion and Possible Action Concerning Adjustment of Rental Rate Under Hangar Ground Lease with Dr. Glenn Burt/Aviation Medical Examiner Report – Burt
 - 7 East Hangar Development Area Update - Chmiel
 - 8 Kocourek Hangar Construction Update – Chmiel (sewer & water install/storm sewer moved)
 - 9 Proposed 2017 Airport CIP Review - Chmiel
 - 10 Discussion and Possible Action Regarding Making East Hangar Development Area a TIF
 - 11 Discussion and Possible Action Regarding Installation of A7 Corsair in Alexander Park - Chmiel
 - 12 Discussion and Possible Action regarding Alexander Park Update/Run the Runway 5K Race- Chmiel
 - 13 Airport Manager Report - Chmiel
 - 14 Airport Budget Review - Groat
- Adjournment

Sherry Abitz, Chair

IMPORTANT: FOUR (4) MEMBERS NEEDED FOR A QUORUM: If you are unable to attend the meeting, please notify Mary by calling (715)261-6621 or via email mary.goede@ci.wausau.wi.us

This Notice was posted at City Hall and faxed to the Daily Herald newsroom on 06/22/16 @ 9:30 am.

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids & services. For information or to request this service, contact the City Clerk at (715) 261-6620.

Other Distribution: Media, Council (Wagner, Nutting, Neal, Gisselman, McElhane, Gehin, Smith) Mielke, Chmiel, Groat,*Alfonso, Duncanson, Swanborg

AIRPORT COMMITTEE

Time and Place: Wednesday, February 10th, 2016 at 6:00 p.m. at the Wausau Downtown Airport Terminal Conference Room

Members Present: Nagle, Mohr, Mielke, Gehrt, Abitz, Prehn, Kellbach

Members Excused:

Others Present: John Chmiel, Airport Manager, Josh Holbrook, Becher Hoppe Engineering

In accordance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and copy Chairman Nagle called the meeting to order at 6:02 p.m.

Public Comment

No public comments were made.

Consider Minutes of Previous Meeting, November 11, 2015

Mielke made a motion to approve the minutes. Mohr second. All approved 7-0. Nagle questioned the result of question for the State of WI regarding whether the “Chicken Drop” was determined to be a game of skill. Chmiel confirmed that indeed the contest was determined to be a game of skill. Chmiel also stated that Alfonso created a “hold harmless” form which is signed by each participant of the contest, relieving the City of any liability in the contest which is sponsored by Wausau Flying Service, Inc.

East Hangar Development Area Update

Josh Holbrook informed the committee that FAA funding for the East Hangar Development Area will not be released until July 2016. Therefore, bids for the project won't be allowed until July and that construction won't be able to begin until September. This means that pavement will not be able to be installed until November. November is not the optimum time of year to pave. There are two options: 1. Delay breaking ground on the project until summer of 2017; or 2. Construct up to stone on the project in 2016 except the pavement, then complete paving in spring of 2017.

Chmiel expressed that he felt option #2 is the best. Chmiel stated that everything would have had to gone perfect on the project in order to complete it in 2016 anyway, since the plan is not to break ground until after the balloon rally. Mohr stated this would give the sight a year to settle, and probably be better for pavement letting it settle for that time before paving. Chmiel stated that this would allow the paving to be done before balloon rally 2017.

Holbrook stated that the delay would allow more GA entitlement funding to be available in 2017 if needed. The downside is that “taxilane” projects are not urgent projects in the ranking system which may make it more difficult for funding.

Mohr reiterated his position about completing construction up to pavement in 2016 and he felt that is the direction that Chmiel should direct BOA/FAA to follow.

No further action taken.

Discussion and Possible Action Construction 60'X80' Private Hangar in East hangar Development Area

Chmiel stated that action is not necessary by the committee on this issue. This is an FYI for the committee. Dr. Tom Turner has decided on a specific location for new hangar construction once the East Hangar Development Area is complete. Dr. Turner has chosen the location in the phase I area on the far southwest corner as indicated on the proposed layout map. Dr. Turner had expressed that he wanted his new hangar to face south, but Chmiel had informed him that hangars in the new development area will face east/west to facilitate snow removal and give the most efficient use of airport property for future development.

Prehn asked what Dr. Turner would do with his hangar in the west hangar area. Chmiel stated that Dr. Turner has two standing offers on his west hangar but is unable to enter into a sales agreement until he is able to secure a location to the east and begin construction.

Prehn questioned whether Turners proposed hangar would be the largest hangar on the airport. Chmiel confirmed that it will be the second biggest private hangar on the airport if Kocourek builds the hangar he has been approved for.

Discussion and Possible Action to Approve 60'X66' Hangar in the West Hangar Development Area

Chmiel explained this is a house cleaning issue. The recorded minutes of previous meetings never mentioned the specific dimensions of Dr. Siebert's hangar. Mohr moved to approve construction of a 60'X66' Hangar in the West Hangar Development Area by Dr. Derek Siebert. Second by Prehn. All approved 7-0.

Alexander Park Upgrade Plan – Chmiel

Chmiel explained that the Southeast Side Neighborhood group wanted to make some upgrades to Alexander Park. Chmiel had been placed on the advisory committee for the group. The group decision was to recommend an aviation theme for the park. Chmiel presented the committee with picture. Features will include: path layout like runways/taxiways; a "control tower" jungle gym; an aviation themed mural on the practice tennis "bang board"; a walking path around the perimeter with body weight exercise stations for adults; a hangar-shaped shelter for picnics; and educational stations reviewing aviation fact questions/answers.

The advisory committee has presented their plan to Park Director, Bill Duncanson, the Mayor, and City Council president and it appears there is support for the modifications.

The committee is currently trying to coordinate the “crown jewel” for the park which includes moving the A7 Corsair currently stewarded by the VFW at Riverside Park. The plan includes: moving the airplane to the park as an Air National Guard exercise; & mounting the aircraft in the park on a pedestal 10’ in the air (simulating is taking off and climbing away from the “runway”). Merrill Iron & Steel are being commissioned to construct the pedestal and help with mounting. Duncanson had suggested finding someone to preserve and paint the airplane also. Chmiel stated that he is in the process of providing cost estimates for this work. The committee is also in the process of securing funding for this part of the project. Chmiel presented pictures of the proposed layout (provided by Becher Hoppe) of the park. Also included were 3D scaled pictures of how the airplane will look in the park.

Prehn confirmed whether the airplane mounted will not be able to be climbed upon by users of the park. Chmiel stated that is the intent, since the airplane will be considered a memory to veterans, and part of our agreement will be to not allow the airplane access by the public other than viewing. Also the airplane will be mounted high enough also so that it does not interfere with intersection traffic. Funding for the airplane could come from the Alexander Judd Foundation. Prehn & Nagle also stated their opinion that an “airplane” of some sort should be available for the kids to climb on.

Chmiel stated there are political channels to go through to get final approval. No further action taken.

Airport Manager Report – Chmiel

Chmiel explained the airport manager report and placed on file. Fuel flow for 2015 end with a 33% increase and rental ended 14% higher than 2014. Chmiel stated that he does not anticipate a decrease in the future. Chmiel announced that L & S Electric has moved their PC12 to Wausau. Also another PC12 has been purchased and will arrive in Wausau in August. Wausau Flying Service, Inc. has hired another pilot service pilot. Chmiel anticipates further growth in 2016/17 and most likely an additional pilot service pilot will be hired in fall of 2016.

Prehn asked if WFS provides charter. Chmiel stated that WFS does not fly FAR 135 but they WFS does make referrals to WI charter companies. Chmiel stated that WFS specializes in providing pilot services.

Chmiel also explained to the committee how “active” Wausau airplanes are determined.

Abitz questioned whether Dr. Bert has provided business history report for his first year in business for the committee. Chmiel stated that he hasn’t seen one. Abitz stated that she would contact Bert about providing information to the committee on his one-year anniversary, since his lease rate was based on the volume of activity.

Prehn recommended that Chmiel provide the committee with an aircraft accident history for the Wausau Downtown Airport sometime in the future. The report may be useful for future airport planning.

Airport Budget Review

Groat was unable to attend the meeting. No report was given. No action taken.

Nagle announced that if there is not going to be an airport committee meeting in March, this meeting will be his last since he is not running for re-election. The committee thanked Bill Nagle for his service to the city council and the airport committee.

Mohr moved to adjourn the meeting, second by Mielke. Motion carried unanimously and meeting adjourned at 6:42 p.m.

Respectfully Submitted by John P. Chmiel, Airport Manager



Office of the City Attorney

TEL: (715) 261-6590
FAX: (715) 261-6808

Anne L. Jacobson
City Attorney

Tara G. Alfonso
Assistant City Attorney

COMMENTS REGARDING
PROPOSED AIRPORT MANAGEMENT AGREEMENT AND FIXED
BASE OPERATOR AGREEMENT FOR
WAUSAU DOWNTOWN AIRPORT

- The City has been requested by Wausau Flying Service, Inc. ("Flying Service") to renegotiate the Airport Management Agreement and Fixed Base Operator Agreement at the Wausau Downtown Airport. The current agreements were entered into on March 20, 1998. The current agreements each provide for a 20 year term with an option to renew for 10 years. The current agreements do not expire until March 19, 2018.
- Copies of the current agreements and all amendments are attached, along with a summary of each agreement.
- Due to the age of the current agreements it was in the City's best interests to make certain additions and modifications to the substance and form of the current agreements. The proposed agreements, however, were drafted using the current agreements as the starting point.
- The sole source of these agreements was considered and approved by the Finance Committee at its June 14th meeting.
- Highlights or unresolved issues with respect to the proposed draft agreements are as follows:

MANAGEMENT AGREEMENT:

- A ten (10) year term with the City having an option to extend the term for two (2) additional ten (10) year periods, upon approval by the Common Council.
- A monthly management fee to the Flying Service of \$5,668.41 which is to be adjusted annually on the anniversary date of the agreement based upon the CPI specified in the agreement.
- Payment for snow removal and grass cutting at \$15.00 per hour. This rate is in addition to the monthly management fee and was negotiated in 2009, remaining the same since that time. The Flying Service has requested an increase in this rate to \$25.00 per hour.
- The current agreement provides for an operational audit of the Flying Service's performance on an annual basis. The Flying Service, as well as the Finance Department has indicated this audit in practice is being done every five (5) years and would like to conduct the operational audits on that basis. Neither the current agreement nor the proposed agreement specifies details as to the contents of, or inquiries to be made, with respect to an operational audit.
- The City's insurer, CVMIC, has recommended/advised that the Flying Service's airport liability insurance amount be increased from \$2,000,000.00 to \$5,000,000.00.

The Flying Service would like to maintain the amount at \$2,000,000.00 notwithstanding CVMIC's recommendation.

- The agreement contains standard indemnification, hold harmless and release language in addition to the insurance provisions.
- The agreement would be permitted to be terminated in the event of an event of default. There is no termination for convenience provision.
- It appears there is still some review/coordination to be finalized by DPW and the Flying Service between the time of the Airport Committee meeting and the Finance Committee meeting to ensure the services provided under the agreement compare with actual practice at the airport.

FIXED BASE OPERATOR AGREEMENT:

- A ten (10) year term with the City having an option to extend the term for two (2) additional (ten) 10 year periods, upon approval by the Common Council.
- The lease fee to be paid by the Flying Service to the City for the lease of the premises under this agreement is \$1,000.00 per month which is to be adjusted annually on the anniversary date of the agreement based upon the CPI specified in the agreement.
- **Significantly, the Flying Service is requesting that the City undertake improvement to the airport parking lot. No provision relating to that is included in this agreement.**
- The Flying Service has a security deposit in the amount of \$750.00 under the current agreement. Although an increase in that security deposit to match the lease payment would be typical, the Flying Service has requested the security deposit remain at \$750.00 based upon its past performance.
- The City's insurer, CVMIC, has recommended/advised that the Flying Service's airport liability insurance amount be increased from \$2,000,000.00 to \$5,000,000.00. The Flying Service would like to maintain the amount at \$2,000,000.00 notwithstanding CVMIC's recommendation.
- The current agreement provides for an operational audit of the Flying Service's performance on an annual basis. The Flying Service, as well as the Finance Department has indicated this audit in practice is being done every five (5) years and would like to conduct the operational audits on that basis. Neither the current agreement nor the proposed agreement specifies details as to the contents of, or inquiries to be made, with respect to an operational audit.
- The agreement contains standard indemnification, hold harmless and release language in addition to the insurance provisions.
- The agreement would be permitted to be terminated in the event of an event of default. There is no termination for convenience provision.
- The current agreement provides that the City shall have the right to review and approve the fee schedule charged by the Flying Service for tie down, storage, parking and ramp assistance to non-fueling customers. The Flying Service has requested the review and approval provision be removed.
- Services provided by the Flying Service are similar to the current services.

AIRPORT FIXED BASE OPERATION AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2016, by and between the City of Wausau, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City," and Wausau Flying Service, Inc., a Wisconsin corporation, hereinafter referred to as "FBO."

WITNESSETH:

WHEREAS, City owns and operates an airport within the corporate limits of the City of Wausau known as the Wausau Downtown Airport, herein referred to as "Airport," and

WHEREAS, City is desirous of having FBO provide certain aeronautical services to the public, and to that end CITY is desirous of leasing to FBO certain premises on the Airport property and having FBO be its Airport operator, all in return for certain considerations.

NOW, THEREFORE, for and in consideration of the rents, covenants, and agreements herein contained, City and FBO agree as follows:

1. FACILITIES AND LAND. City hereby leases to FBO the portions of the current Terminal Building set forth in the attached "Exhibit A" ("Terminal Building") including office area, classrooms, and rest rooms, Hangars 1 – 4, the tie-down areas, the fuel facilities, the fuel trucks, the radio antenna, and the equipment owned by the City and used for operation of the airport listed in the attached "Exhibit B". Collectively, the Terminal Building and equipment are hereinafter referred to as "Premises."

City and FBO hereby agree that FBO shall operate, manage and maintain Hangars 1 through 4 as shown on the attached "Exhibit C." FBO shall be responsible for 60 percent (60%) of all utilities and other expenses for these hangars FBO shall retain sixty percent (60%) of all rental revenues from these hangars City shall pay forty percent (40%) of costs of hangar operation. City shall receive forty percent (40%) of all rental revenues from the hangars.

Any alterations or additions to any building under the control of the FBO pursuant to this Agreement shall be made only after approval of plans for such alterations or additions by the City at its sole discretion. Title to any such additions, improvements, alterations, personal property, or fixtures constructed or installed, shall immediately upon completion be vested in and become the property of the City.

All moveable equipment which is purchased by FBO shall remain the property of FBO.

2. OPERATIONAL OFFICES AND STATUS OF FBO. The operational offices of FBO shall be located at the Airport.

FBO, in the performance of this Agreement, is acting as an independent contractor and not as an employee, agent, partner or joint venture of City and neither party shall hold itself out as such or knowingly permit another to rely on such belief. Nothing in this Agreement is intended or shall be construed to create any association, partnership, joint venture or employment relationship between the

parties, nor shall either party have any right to enter into any agreement or commitment on behalf of the other. FBO shall bear sole responsibility for all the acts of its employees, agents or subcontractors and for all payroll and employment taxes relating to FBO's personnel.

3. SERVICES TO BE PROVIDED BY FBO. FBO shall provide the following services during the duration of this Agreement:

- A. Provide, sell and dispense aircraft fuel and oil service with a recognized brand of aviation fuel, oil, lubricants and other related aviation petroleum products. All fuel shall be tested for contaminants by FBO, and all fuel storage dispensing and testing shall be conducted by FBO in accordance with federal, state and local laws, rules and regulations.
- B. FBO shall provide daily and routine maintenance of all equipment that is utilized by FBO; however, City shall be responsible for major repairs, including repairs to the overhead doors for Hangars 1 to 4, and/or replacement of these items, unless such repair and/or maintenance is due to the negligence of FBO, in which case the repair and/or replacement shall, in its entirety, be performed by FBO. "Major repairs" is defined as any repair exceeding \$200. City shall not be responsible for any repairs to FBO owned equipment.
- C. Assist individuals in the tie-down, storage and parking of aircraft and miscellaneous ramp assistance. FBO may establish a schedule of fees to be charged for tie down, storage, parking and ramp assistance to non-fueling customers. The fee schedule shall be submitted annually to the City.
- D. Flight instruction, including but not limited to ground school instruction, remedial flight training, and in-flight training, all at rates that are competitive with other general aviation airports in central Wisconsin. FBO shall provide a schedule of current rates annually to the City.
- E. Aircraft rental service for both private pilot use and for flight instruction. Aircraft rental service shall be possible twenty-four hours per day. Aircraft for flight instruction shall be available as needed. FBO shall provide a schedule of current rates annually to the City.
- F. Arrange for aircraft charter and air taxi service to the general public or for hire at rates that are competitive with other general aviation airports in central Wisconsin. FBO shall provide schedule of current rates annually to the City.
- G. Arrange for aircraft maintenance and repair service. Nothing in this Agreement operates to prevent any person, firm, or corporation operating aircraft on the

Airport from performing any services on its own aircraft, subject to the Minimum Standards provisions of Wausau Municipal Code sec. 22.34.

- H. Provide such other aeronautical services which are consistent with the minimum requirements for aeronautical services set by either federal, state, or local ordinance, policy or regulation, but that City, before enacting any new or additional ordinances or regulations or policies regarding the operation of said Airport, shall meet and consult with FBO.
- I. "High quality customer service representation" shall be provided to City and general public at all times.
- J. All service shall be provided in a courteous and friendly manner.
- K. Operational audit of performance of FBO shall be conducted by City every 5 years.

4. FUEL FLOW FEE. The price of all fuel sold at Airport shall be a price which encourages utilization of the Airport by air traffic (a current schedule of fuel prices shall be provided to City), and a \$0.12 per gallon fuel flow fee shall be paid by FBO to City, on a monthly basis, for every gallon of fuel sold, and all appropriate and necessary reports concerning fuel flow shall be furnished by FBO to City upon request. This fuel flow fee specifically applies to all sales of petroleum products, including gasoline.

5. LEASE FEES. FBO shall pay to City for the lease of the Premises an initial amount of One Thousand Dollars (\$1000.00) per month, which monthly payment shall be received by the City of Wausau Finance Department no later than, the fifth day of the month for which the monthly payment is due. This lease fee shall be adjusted annually on the anniversary date of this Agreement based upon any increase in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for the Midwest Region, All Items Index. FBO shall provide, or has previously provided, a security deposit in the amount of Seven Hundred Fifty Dollars (\$750.00) that will be refundable upon termination or expiration of this Agreement.

6. TERM OF AGREEMENT. The term of this Agreement shall be for a period of ten (10) years commencing on the date above first written. The City, upon approval by the Common Council, shall have the option to extend the term of this Agreement for two (2) additional ten (10) year periods subject to all of the provisions of this Agreement, upon providing FBO with sixty (60) days advance written notice before the last day of the current term.

7. SALE OF AIRCRAFT. FBO shall have the right to sell aircraft on a commercial basis.

8. FBO's AIRCRAFT. FBO shall have available for use at Airport, either owned or leased by FBO, at least one currently airworthy aircraft, which must be equipped for and capable of flight

instruction; additional aircraft shall be based at the Airport in sufficient number to accommodate public demand for such aircraft; all aircraft must meet minimum federal and state safety standards.

9. AUTOMOBILE PARKING LOT. The automobile parking lot located on Airport is not for the exclusive use of FBO, however, FBO's customers, suppliers and guests may use the parking lot area along with other members of the public, and any other individuals utilizing the Airport for lawful purposes.

10. T-HANGARS. City shall operate and maintain the T-Hangars as shown on the attached Exhibit C, and collect all rents therefrom, and FBO shall have no responsibility whatsoever with respect to the management thereof, although FBO agrees to maintain a list of current tenants and shall refer prospective tenants to the proper personnel of the City. FBO has first option of rental when a T-Hangar becomes available at the then current rental rates charged by the City for such T-Hangar. Such option must be exercised in writing by the FBO within 30 days of notice of vacancy or shall be deemed to have been waived by FBO.

11. HOURS OF OPERATION. Hours of operation shall not be reduced below the following:

Summer Hours (Memorial Day through Labor Day)

Monday through Friday - 8:00 a.m. to 6:00 p.m.

Saturday and Sunday - 8:00 a.m. to 5:00 p.m.

Winter Hours

Sunday through Saturday - 8:00 a.m. to 5:00 p.m., except for in the event of inclement weather.

Availability of FBO services outside of the foregoing hours shall be on an on-call basis, as requested by airport patrons and at the discretion of the FBO.

12. MINIMUM STANDARDS. FBO shall provide all aeronautical services in accordance with the minimum standards set forth in Wausau Municipal Code sec. 22.34 ("Minimum Standards"), and in compliance with all federal, state and local laws, codes, regulations, rules, orders and policies.

13. FBO'S EMPLOYEES. FBO shall employ and have on duty, an adequate number of qualified and trained personnel as necessary to meet the required hours of operation, on-call hours, the Minimum Standards, and otherwise perform the services required under this Agreement at FBO's sole expense. In the event that the City desires, or is required by state or federal law, or any regulation or order of a federal or state agency to change any Minimum Standards, it shall first consult and meet with FBO.

14. USE OF PREMISES. FBO shall make use of the Premises only in furtherance of and pursuant to the provisions contained within this Agreement, and no other business of any kind shall be conducted at the Airport by FBO, its employees or agents, other than that which is conducted pursuant to this Agreement. No portion of the FBO building shall be used or occupied as sleeping or lodging

quarters, except on a temporary basis for FBO patrons and employees as is customary at FBOs as an amenity for aircrews.

15. SEAPLANE BASE. FBO may improve or further develop a seaplane base, upon the advance written approval of City, at its sole discretion, and at an expense to be negotiated with and agreed upon by the City, with said expenses to be split between the parties hereto as is mutually agreeable between them. Title to any improvements, personal property, or fixtures constructed or installed to develop a seaplane base shall be vested in and become the property of the City upon completion.

16. SIGNS. FBO agrees that no signs, lighting, or advertising matter, shall be erected without the written consent of City. All signs, lighting or advertising matter shall conform to the requirements of the Wausau Municipal Code. It shall be allowable to affix posters and other similar temporary notices announcing events and activities at the Airport to the walls and doors of the Terminal Building provided they are removed when the time for the event or activity has passed and they are arranged in a way that does not give the appearance of clutter or disarray.

17. INSURANCE. FBO shall maintain in effect at all times during the term of this Agreement, and at its sole expense, airport liability insurance coverage issued by a company licensed to do business in the State of Wisconsin and satisfactory to the City in an amount not less than two million dollars (\$2,000,000.00); provided that this limit shall be increased at FBO's expense, if additional amounts are required by any federal or state regulations. If the City desires higher limits of liability, and if such higher limits are available, it may require the FBO to obtain such higher limits provided that the City shall be responsible for payment of any increase in premium for such higher limits beyond the cost of the \$2,000,000.00 limits provided by the FBO's insurer of choice that meets the requirements of this section. Such coverage shall be primary. FBO shall furnish the City a Certificate of Insurance and upon request, certified copies of the required insurance policy or policies. The Certificate of Insurance shall name the City, its employees, agents, representatives, and elected or appointed officials as additional insureds. The policy of insurance shall state that coverage shall not be cancelled by the insurer in less than thirty (30) days after the insured and the City have received written notice of such cancellation. FBO shall also maintain Workers' Compensation Insurance as required by Wisconsin law.

18. HOLD HARMLESS.

- A. FBO shall defend, indemnify and hold harmless, release and forever discharge City, its employees, agents, representatives, officers and officials whether hired, appointed or elected, from and against any and all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees and other reasonable costs of defense, of any kind or of any nature whatsoever which may be imposed, incurred, sustained or asserted against the City, its employees, agents, representatives, and elected or appointed officials as a result of any act or omission on the part of the FBO, its employees, agents, or others whose services are engaged in by the FBO or anyone directly or indirectly employed by or

controlled by the FBO, arising directly or indirectly in the course of the performance of this Agreement.

- B. City shall indemnify, defend, and hold harmless FBO, its employees and agents, from and against any and all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees and other reasonable costs of defense, of any kind or of any nature whatsoever which may be imposed, incurred, sustained or asserted against FBO, its employees, agents, or representatives, as a result of any act or omission on the part of the City, its employees, agents, elected or appointed officials or others whose services are engaged in by the City or anyone directly or indirectly employed by or controlled by the City, arising directly or indirectly in the course of the performance of this Agreement including any liability arising as the result of and/or due to the presence or replacement of underground fuel or oil tanks at the Airport or on any premises owned by City and adjacent thereto, including claims by the State of Wisconsin, the Wisconsin Department of Natural Resources, or any other agency of the State of Wisconsin, and by any agency of the federal government.

19. RIGHTS IN COMMON WITH OTHERS. FBO shall have the right, in common with others so authorized, to use all common areas of Airport, including runways, taxiways, aprons, roadways, and parking lot.

20. OBLIGATIONS OF CITY.

- A. City shall provide snow plowing, grass cutting, and weed cutting in all areas outside the security fence of the Airport.
- B. City shall provide snow removal services in the areas inside the security fence as shown on Exhibit C and as further described in the Airport Management Agreement of even dated _____, 201_.
- C. City shall provide bulbs for runway and taxiway lights to FBO at its sole expense; the City shall be responsible for maintaining the runway lights and taxiway lights, other than routine replacement of bulbs which shall be the responsibility of the Airport Manager
- D. City shall maintain the surface of the runways, hangar areas, taxi lanes, tie-down areas, and necessary areas of the parking lot in a condition which is reasonable, taking into consideration the required use.

21. OUTSIDE STORAGE AND REMOVAL OF TRASH. FBO will not store in a location susceptible to view by the public, any equipment, materials, supplies, or damaged or partially dismantled aircraft or other vehicles on the Airport property. Any screens or other devices used to keep equipment, materials or supplies from public view shall be subject to prior consent by City.

FBO further agrees to remove or cause to be removed at FBO's expense, any trash, garbage or debris generated by FBO's use of the Premises or Airport property and agrees not to deposit any trash, garbage, or debris on any part of Airport or the Premises except temporarily in connection with collection or removal of the same.

The dumpsters servicing the property may be placed in the parking lot outside the security fence, behind Hangars 2 and 3.

22. COMPLIANCE WITH LAWS. FBO shall at all times comply with Airport rules and regulations, federal, state and municipal laws, ordinances, codes, and other regulatory measures or orders now in existence or as may be hereafter adopted, modified, and/or amended, applicable to the Airport or the specific type of operations conducted by FBO, or any other activity conducted by the FBO on the Airport property. FBO shall procure and maintain during the term of this Agreement all licenses, permits and other similar authorizations required for the conduct of its operations; and City shall not unreasonably and without notice enact any ordinances nor laws that would adversely affect FBO's operation under this Agreement unless required by federal or state law, regulation, or order.

23. SECURITY. FBO and all agents and employees acting on behalf of the FBO will follow the Airport Security Plan and ensure that all secure and locked areas of the Airport by the FBO are kept secure and locked at all times.

24. CITY'S RIGHT OF ENTRY. City, its authorized employees, representatives, or agents, shall have the right to enter upon Airport property other than Hangars 1 through 4 and the areas of the Terminal Building occupied by Wausau Flying Service, Inc. at any reasonable times to make any inspection it may deem expedient to the proper enforcement of any of the terms of this Agreement. As to Hangars 1 through 4 and those areas of the Terminal building occupied by Wausau Flying Service, Inc. the City shall provide Wausau Flying Service, Inc. 24 hours notice of any inspection, except in case of emergency.

25. LIENS. FBO agrees to promptly pay all sums legally due and payable on account of any labor performed on or material furnished for the benefit of FBO for the Premises or Airport property. FBO shall not permit any liens to be placed against the Premises or Airport property on account of any such labor performed or material furnished and in the event such a lien is placed against the Premises. FBO agrees to save and hold City harmless from any and all asserted claims and liens and to remove or cause to be removed any and all such claims or liens as soon as reasonably possible.

26. REPAIR OF PREMISES. FBO shall, at its expense, keep, maintain, and repair the Premises in its present condition subject to normal wear and tear. In the event FBO fails to comply with this paragraph, City shall give written notice to FBO specifying the nature of FBO's failure. In the event that FBO fails within thirty (30) days' notice to cure such failure, CITY may terminate this Agreement upon thirty (30) days' notice to FBO, or in the alternative, to cure such failure in an efficient, effective and good and workmanlike manner, and to assess the costs thereof against FBO. FBO hereby agrees to pay any and all such assessments, including all costs, disbursements and reasonable attorney's fees incurred by City in curing such failure within thirty (30) days after City's demand therefor.

27. DEVELOPMENT. City reserves the right to further develop or improve the Airport property, including landing and public areas and ramp space as it sees fit, regardless of the desires or views of FBO, and without interference or hindrance. City shall compensate FBO for any loss of income which may occur as a result of such development.

28. SUBORDINATION. This Agreement shall be subordinate to the provisions of any existing or future agreement between City and the United States government or the State of Wisconsin relative to the operation or maintenance of Airport, the execution of which has been, or may be, required as a condition precedent to the expenditure of federal funds for the development of Airport. Should the effect of any such agreement with the United States government or with the State of Wisconsin be to take the Premises or Terminal Building or any portion of either or substantially destroy the commercial value of either, then, within thirty (30) days after the occurrence of such event, City may terminate this Agreement without further obligation to FBO, and FBO, in that event, shall vacate the premises after that thirty (30) day period without recourse to City.

29. INTERFERENCE WITH AIRPORT ACTIVITIES. To the extent that is within FBO's power and authority, FBO shall not make any use of, or conduct any activities on the Airport property which would interfere with or be a hazard to the flight of aircraft over the Airport, or to and from the Airport, or interfere with air navigation and communication facilities presently or in the future serving the Airport and specifically agrees not to permit the height of any structure, object of natural growth, or other obstruction within its control to exceed height limits established in Title 49, Part 77 of the Code of Federal Regulations. To the extent FBO is aware of or should be aware of any such use or conduct on the Airport property, FBO shall immediately provide written notice to the City. FBO shall not create any hazard which would interfere with the use or the safety of air traffic at the Airport contrary to any federal, state, or local law, regulation, or ordinance.

30. TERMINATION BY CITY.

A. City may terminate this Agreement by giving FBO sixty (60) days' advance written notice upon or after any one of the following events of default:

1. The filing by FBO of a voluntary petition in bankruptcy.
2. The institution of proceedings in bankruptcy against FBO and the adjudication of FBO as bankrupt pursuant to such proceedings.
3. The taking by a court of jurisdiction of FBO and its assets pursuant to proceedings brought under the provisions of any federal reorganization act.
4. The appointment of a receiver of FBO's assets or any general assignment for the benefit of FBO's creditors.
5. The abandonment by FBO of the Premises except in connection with its surrender to an assignee, sublessee, mortgagee, or other party succeeding to FBO's interests or portion

thereof hereunder which has been approved by the advance written consent of the City Common Council.

6. The default by FBO in the performance of any obligation required herein to be performed by FBO, and FBO's failure to correct such default within thirty (30) days after notice thereof from City;

In the event of termination for default by FBO, the City shall have the right at once and without further notice to the FBO to take possession of the Premises.

- B. City may terminate this Agreement upon sixty (60) days' written notice to FBO upon the happening of any of the following events:
 1. The lawful assumption by the United States Government or any authorized agency thereof, or by the State of Wisconsin, or any authorized agency thereof, without inducement by City, of the operation, control or use of Airport and facilities, or any substantial part or parts thereof, in such manner as to substantially restrict FBO, for a period of at least sixty days, from operating from the premises leased to Manager under the FBO Agreement.
 2. The termination of that certain Airport Management Agreement entered into by and between the City and FBO, dated _____, 201_, by either party.

The rights and remedies under this paragraph shall be in addition to those otherwise allowed by law or in equity. Any and all rights and remedies which either party may have under this Agreement, at law or in equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two or more of all such rights and remedies may be exercised at the same time insofar as permitted by law. Failure of City to declare this Agreement terminated upon the default of FBO for any of the reasons set out above shall not operate to waive the right of City to terminate this Agreement by reason of any subsequent violation of the terms of this Agreement.

31. **FORCE MAJEURE.** In the event either party is rendered unable, in whole or in part, to perform its duties or obligations hereunder as a result of acts of God, authority of laws, strikes, lockouts, labor disputes, riots or other causes beyond its control, it shall notify the other party of such event in writing and the obligations of such party may be suspended during the continuation of any inability to perform so caused by such event.

32. **CASUALTY.** If, during the term of this Agreement, the Premises or any of Hangars 1 to 4 are partially or totally destroyed or rendered unusable, or rendered partially or totally inaccessible, City may, at its option, repair, rebuild or restore said Premises or structures, provide FBO with suitable alternative facilities, or terminate this Agreement. In the event the City elects to rebuild or restore the Premises or structures, rent payments under this Agreement shall be appropriately reduced to reflect such inaccessibility.

33. NONDISCRIMINATION. All use, occupancy, maintenance and operation of the Premises shall be in compliance with all 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 such regulations may be amended; and pursuant to Section 30, Civil Rights (49 U.S.C. 1730) of the Airport and Airway Development Act Amendments of 1976, as well as all other applicable federal, state and local laws.

34. NONEXCLUSIVE RIGHTS. City retains the privilege of entering into other agreements which may or may not be similar to this Agreement and which may or may not contain similar terms with other entities or individuals for use of Airport facilities; provided, however, that City agrees not to and shall not enter into any such agreement that abrogates FBO's right to quiet enjoyment or that limits or restricts the use of the Premises or Airport by FBO with the exception of a lease between the City and the United States of America for approximately 322 square feet for technical/equipment space located on the first floor of the Terminal Building. City shall include FBO in any negotiations for any Agreements that City may enter into with third parties that would affect the rights of FBO under this Agreement.

35. NONASSIGNMENT. FBO shall not assign its rights or obligations under this Agreement without the advance written consent of the City of Wausau. It is expressly understood and agreed that the shareholders of FBO shall not transfer fifty (50) percent or more (whether collectively or individually) of their ownership interests to any other person or persons without the express written consent of City. Such transfer of ownership without such written consent shall constitute a material breach of this Agreement and shall authorize City, at its option, to declare this Agreement void, terminate the same, and re-enter and take possession of the premises. The current shareholders and their ownership interests are as set forth in the Certificate of Ownership attested to by the Secretary of FBO and attached hereto as Exhibit D.

36. SEVERABILITY. If any portion of this Agreement shall become illegal, null or void, or against public policy, for any reason, or shall be held to be invalid or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.

37. NOTICE. Any notice, demand, request, consent, approval or communication required or desired to be given by either party to the other or to a third party shall be in writing and either delivered personally or sent by certified United States mail, return receipt requested, in a sealed envelope, postage prepaid, and addressed as follows:

TO CITY:

City Clerk
City of Wausau City Hall
407 Grant Street

TO FBO:

Charles P. Turner
Wausau Flying Service, Inc.
Wausau Municipal Airport

Wausau, WI 54403

Woods Place
Wausau, WI 54403

Either party may change its address by notice to the other in accordance with this paragraph. Notice shall be deemed communicated when delivered, if delivered personally, or within 48 hours from the date of mailing, if mailed pursuant to this paragraph.

38. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties and each party understands that there are no other oral understandings or agreements other than those set out herein. This Agreement cannot be added to, altered, or amended in any way except by written agreement signed by both of the parties hereto.

39. LAW. This Agreement shall be interpreted in accordance with the laws of the State of Wisconsin.

40. SUCCESSORS AND ASSIGNS. The conditions, covenants and agreements in the foregoing Agreement to be kept and performed by the parties hereto shall be binding upon the respective parties and their approved successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF WAUSAU BY:

Robert Mielke , Mayor

Toni Rayala, Clerk

WAUSAU FLYING SERVICE, INC., BY:

President

Secretary

EXHIBIT A

Wausau Airport Inventory

West Building

- 1 Jet A Fuel Truck-1986
- 1 Ford D-Tractor & Scraper 1978 Ford 1200
- 2 Preheaters
- 1 Aircompressor
- 3 Towbars
- 2 Shovels

Middle Building or Big Hangar

- 1 Postdigger
- 1 Shovel
- 1 Ice chopper
- 1 Bench grinder
- 1 Bench vise
- 1 Battery charger
- 1 Jet fuel tester & filter
- 2 Sets of jumper cables for airplanes
- 1 Set of jumper cables for a car
- 2 Army blankets
- 2 Pump type sprayers
- 1 Hand truck
- 1 Bolens riding mower with brush, model 1250, (year unknown)
- 3 Step ladders
- 1 Vac cleaner
- 1 -50 ft. garden hose
- 2 Come-a-longs
- 1 -100 ft. electric cord
- Misc. wire
- Misc. paint

Outside Shed

1 Murry riding mower
1 Murry hand mower

Pilot and Bathroom Area

Quarter inch drill
Electric hand saw
Misc. tools
Misc. cable
2 Tables
1 Couch and chair match
12 Chairs

Main Lobby

Coffee pot and table
1 Couch and 2 matching chairs
Halltree
Weather machine

Kitchen

Coffee pot
Frig

Front Office

Unicorn
Adding machine
C.C. machine

Upstairs East Room

Typewriter and desk
Adding machine
Hand held unicorn
Stapler
Tape dispenser

Upstairs West Room

Table
Copier
Desk and chairs 2

AIRPORT MANAGEMENT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2016, by and between the City of Wausau, a municipal corporation of the State of Wisconsin, hereinafter referred to as "City," and Wausau Flying Service, Inc., a Wisconsin corporation, hereinafter referred to as "Manager."

WITNESSETH:

WHEREAS, City owns and operates an airport within the corporate limits of the City of Wausau known as the Wausau Downtown Airport, herein referred to as "Airport," and

WHEREAS, City is desirous of having Manager manage Airport for City and having Manager be its airport manager, all in return for certain considerations.

NOW, THEREFORE, for and in consideration of the covenants, and agreements herein contained, City and Manager agree as follows:

1. STATUS OF MANAGER. Manager, in the performance of this Agreement, is acting as an independent contractor and not as an employee, agent, partner or joint venture of City and neither party shall hold itself out as such or knowingly permit another to rely on such belief. Nothing in this Agreement is intended or shall be construed to create any association, partnership, joint venture or employment relationship between the parties, nor shall either party have any right to enter into any agreement or commitment on behalf of the other. Manager shall bear sole responsibility for all the acts of its employees, agents or subcontractors and for all payroll and employment taxes relating to Manager's personnel. Manager shall not assign or delegate any duties or responsibilities under this Agreement without prior written approval of City except to John Peter Chmiel, an employee of Manager. City's approval shall not be unreasonably withheld but may be withdrawn upon dissatisfactory performance by Manager or Manager's designee.

2. SERVICES TO BE PROVIDED BY MANAGER. Manager shall provide the following services during the duration of this Agreement.

- A. Conduct or provide for daily inspection of all Airport physical properties including runways, taxiways, lighting systems, buildings, automobile parking areas and access roads; personally make or direct others to make routine repairs, replacements and improvements in a timely and efficient manner; requisition from City or purchase, small equipment and supplies required in daily operation and maintenance; keep a complete and accurate record of all maintenance work performed on Airport and make such reports to City as may be required at such time and in the form requested by City; provide, snow removal (in accordance with the Airport Snow Plowing policy), grass cutting, weed cutting, etc., to all buildings, lawns, sidewalks, and areas inside the security fence of the Airport, except those areas shown on the attached Exhibit A around and near the T-Hangars, private hangars and the Snow

Removal Equipment (SRE) building for which the City has the responsibility of snow removal, including runways, taxiways, and apron and except for the former FBO building now occupied by the Civil Air Patrol and the Terminal Building, where the City maintains responsibility for all areas not occupied by Wausau Flying Service, Inc., as shown on the attached Exhibit B. City remains responsible for all maintenance, snow shoveling grass cutting, weed cutting, etc., of airport property outside the security fence, in addition to its responsibility for snow removal as set forth above. The City shall also be responsible for maintaining the T-Hangars, the SRE Building and the fuel tanks and associated dispensing facilities located inside the security fence. In order to keep the airport continuously operating, if an emergent situation such as staff illness or equipment breakdown, makes it impossible for Manager to plow snow from the runways, ramps and taxiways in a timely fashion, the City agrees to provide snow removal services on such an occasion as soon as is practicable.

- B. Provide daily and routine maintenance of all equipment that is utilized by Manager; however, City shall be responsible for all maintenance and major repairs, on Hangars 1 through 4 as shown on the attached Exhibit A including repairs to the overhead doors, and/or replacement of those doors, unless such repair and/or maintenance is due to the negligence of Manager, in which case the repair and/or replacement shall, in its entirety, be performed by and at the expense of Manager. Major repairs is defined as any repair exceeding Two Hundred and No/100 Dollars \$200.00.
- C. Determine current and potential program needs and prepare plans to fill these needs; make recommendations for current and future development of aviation facilities; coordinate all development and improvement with the proper federal, state and local agencies, engineers, architects and other professionals, aviation organizations and public interest groups.
- D. Recommend to City, ordinances and regulations relating to the safe and efficient operation of Airport, and governing the use of Airport, including the leasing of floor space, parking, hangars, and other property; assure enforcement of all ordinances and regulations concerning Airport.
- E. Serve as a liaison between City and Airport users and lessees relative to the preparation, negotiation, rates and charges, and terms of leases and agreements.
- F. Develop and maintain effective liaison, including through promotion and publicity of the Wausau Downtown Airport, with the traveling and general public, commercial and general aviation interests, agencies having control over, or interest in, certain airport activities, tenants and their employees, and all entities with an interest in Airport.

- G. Be responsible for notifying the City, Federal Aviation Administration or any other federal or state agency having authority over or governing air traffic or Airport operations promptly of all conditions affecting the safe use of Airport.
- H. Participate in conferences and meetings of aeronautical and civic organizations for the promotion of aviation activity in the community; give talks on Airport progress and service; coordinate the plans and assure safe operating procedures are followed for air shows, demonstrations and exhibitions at Airport.
- I. Attend all relevant City Common council and committee meetings, and staff meetings (where matters pertaining to the Airport are discussed), unless excused by the Mayor.
- J. In the event of an emergency at the Airport, the proper City officials shall be notified by Manager as delineated on Exhibit C.
- K. Operational audit of performance of Manager shall be conducted by City every five (5) years. Manager shall have thirty (30) days from date of audit to remedy all performance below standards or City shall have option to cancel.
- L. Provide all labor for replacement of bulbs for runway lights.

3. MANAGEMENT FEE. In return for all of the ~~aforedescribed~~ and hereinafter described services provided by Manager, a monthly management fee in the amount of Five Thousand Six Hundred Sixty Eight and 41/100 Dollars (\$5,668.41) per month shall be paid by City to Manager ("Management Fee"), which amount is due Manager by the fifth day of the month for which the management fee is due. This monthly management fee shall be adjusted annually on the anniversary date of this Agreement based upon any increase in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) for the Midwest Region, All Items Index.

In addition to the Management Fee, Manager shall be paid for grass cutting and snow removal required under this Agreement at a rate of Fifteen and No/100 Dollars (\$15.00) per hour.

4. TERM OF AGREEMENT. The term of this Agreement shall be for a period of ten (10) years commencing on the date above first written. The City, upon approval by the Common Council, shall have the option to extend the term of this Agreement for two (2) additional ten (10) year periods subject to all of the provisions of this Agreement, upon providing Manager with sixty (60) days advance written notice before the last day of the current term.

5. UTILITIES AND TAXES. If Manager owns or leases any equipment used in the execution of this Agreement Manager agrees to pay all expenses of the use of such equipment, including but not limited to bills for electricity, gas, sewer and water, phone bills and any personal property taxes on such equipment.

6. HOURS OF OPERATION. Hours of operation shall not be reduced below the following:

Summer Hours (Memorial Day through Labor Day)

Monday through Friday - 8:00 a.m. to 6:00 p.m.

Saturday and Sunday - 8:00 a.m. to 5:00 p.m.

Winter Hours

Sunday through Saturday - 8:00 a.m. to 5:00 p.m., except for in the event of inclement weather.

Manager shall be available on call after hours as reasonably needed to maintain the continuous operation of the airport.

7. MINIMUM STANDARDS. Manager shall provide all aeronautical services in accordance with the minimum standards set forth in section 22.34 of the Wausau Municipal Code ("Minimum Standards"), and in compliance with all federal, state and local laws, codes, regulations, rules, orders and policies. In the event that the City desires or is required by state or federal law, or any regulation or order of a federal or state agency to change any Minimum Standards, it shall first consult and meet with Manager.

8. MANAGER'S EMPLOYEES. Manager shall employ and have on duty, an adequate number of qualified and trained personnel as necessary to meet the required hours of operation, on-call hours, the Minimum Standards, and otherwise perform the services required under this Agreement at Manager's sole expense.

9. INSURANCE. Manager shall maintain in effect at all times during the term of this Agreement, and at its sole expense, airport liability insurance coverage issued by a company licensed to do business in the State of Wisconsin and satisfactory to the City in an amount not less than two million dollars (\$2,000,000.00); provided that this limit shall be increased at Manager's expense, if additional amounts are required by any federal or state regulations. If the City desires higher limits of liability, and if such higher limits are available, it may require the FBO to obtain such higher limits provided that the City shall be responsible for payment of any increase in premium for such higher limits beyond the cost of the \$2,000,000.00 limits provided by the FBO's insurer of choice that meets the requirements of this section. Such coverage shall be primary. Manager shall furnish the City a Certificate of Insurance and upon request, certified copies of the required insurance policy or policies. The Certificate of Insurance shall name the City, its employees, agents, representatives, and elected or appointed officials as additional insureds. The policy of insurance shall state that coverage shall not be cancelled by the insurer in less than thirty (30) days after the insured and the City have received written notice of such cancellation. Manager shall also maintain Workers' Compensation Insurance as required by Wisconsin law.

10. HOLD HARMLESS.

A. Manager shall defend, indemnify and hold harmless, release and forever discharge City, its employees, agents, representatives, officers and officials whether hired, appointed or elected, from and against any and all liabilities, losses, judgments, actions, suits,

obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees and other reasonable costs of defense, of any kind or of any nature whatsoever which may be imposed, incurred, sustained or asserted against the City, its employees, agents, representatives, and elected or appointed officials as a result of any act or omission on the part of the Manager, its employees, agents, or others whose services are engaged in by the Manager or anyone directly or indirectly employed by or controlled by the Manager, arising directly or indirectly in the course of the performance of this Agreement.

- B. City shall indemnify, defend, and hold harmless Manager, its employees and agents, from and against any and all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees and other reasonable costs of defense, of any kind or of any nature whatsoever which may be imposed, incurred, sustained or asserted against Manager its employees, agents, or representatives, as a result of any act or omission on the part of the City, its employees, agents, elected or appointed officials or others whose services are engaged in by the City or anyone directly or indirectly employed by or controlled by the City, arising directly or indirectly in the course of the performance of this Agreement including any liability arising as the result of and/or due to the presence or replacement of underground fuel or oil tanks at the Airport or on any premises owned by City and adjacent thereto, including claims by the State of Wisconsin, the Wisconsin Department of Natural Resources, or any other agency of the State of Wisconsin, and by any agency of the federal government.

11. RELEASE. Manager hereby releases the City, its employees, agents, representatives, officers and officials whether hired, appointed or elected, from and against any and all liabilities, losses, judgments, actions, suits, obligations, debts, demands, damages, penalties, claims, costs, charges and expenses, including reasonable attorneys' fees and other reasonable costs of defense, which may arise directly or indirectly under this Agreement as a result of any act or omission on the part of Manager or anyone directly or indirectly employed by or controlled by Manager.

12. OBLIGATIONS OF CITY.

- A. City shall provide snow plowing, grass cutting, and weed cutting in all areas outside the security fence of the Airport.
- B. City shall provide snow removal services in the areas inside the security fence as shown on Exhibit A and as further described in paragraph 2A, above.
- C. City shall provide bulbs for runway and taxiway lights to Manager at its sole expense; the City shall be responsible for maintaining the runway lights and taxiway lights, other than routine replacement of bulbs which shall be the responsibility of the Manager

- D. City shall maintain the surface of the runways, hangar areas taxi lanes, tie-down areas, and necessary areas of the parking lot in a condition which is reasonable, taking into consideration the required use.

13. CITY'S RIGHT OF ENTRY. City, its authorized employees, representatives, or agents, shall have the right to enter upon Airport property other than Hangars 1 through 4 and the areas of the Terminal Building occupied by Wausau Flying Service, Inc. at any reasonable times to make any inspection it may deem expedient to the proper enforcement of any of the terms of this Agreement. As to Hangars 1 through 4 and those areas of the Terminal building occupied by Wausau Flying Service, Inc. the City shall provide Wausau Flying Service, Inc. 24 hours notice of any inspection, except in case of emergency.

14. ACCEPTANCE OF PREMISES. Manager, by the execution of this Agreement, represents that it has fully inspected the Airport property, and that it accepts the condition of the same as it now exists, and fully assumes all risks incident to the use thereof, including, but not limited to any apparent conditions on the Airport property.

15. OUTSIDE STORAGE AND REMOVAL OF TRASH. Manager will not store in a location susceptible to view by the public, any equipment, materials, supplies, or damaged or partially dismantled aircraft or other vehicles on the Airport property. Any screens or other devices used to keep equipment, materials or supplies from public view shall be subject to prior consent by City.

Manager further agrees to remove or cause to be removed at Manager's expense, any trash, garbage or debris generated by Manager's or the public's use of the Airport property and agrees not to deposit any trash, garbage, or debris on any part of the Airport property except temporarily in connection with collection or removal of the same.

The dumpsters servicing the property may be placed in the parking lot outside the security fence, behind Hangars 2 and 3.

16. COMPLIANCE WITH LAWS. Manager shall at all times comply with Airport rules and regulations, federal, state and municipal laws, ordinances, codes, and other regulatory measures or orders now in existence or as may be hereafter adopted, modified, and/or amended, applicable to the Airport or the specific type of operations conducted by Manager, or any other activity conducted by Manager on the Airport property. Manager shall procure and maintain during the term of this Agreement all licenses, permits and other similar authorizations required for the conduct of its operations; and City shall not unreasonably and without notice enact any ordinances nor laws that would adversely affect Manager's operation under this Agreement unless required by federal or state law, regulation, or order.

17. SECURITY. Manager shall implement the current Airport Security Plan.

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

effect of any such agreement with the United States government or with the State of Wisconsin be to substantially destroy the commercial value of this Agreement, then, within thirty (30) days after the occurrence of such event, City may terminate this Agreement without further obligation to Manager, and Manager, in that event, shall vacate the premises after that thirty (30) day period without recourse to City.

19. INTERFERENCE WITH AIRPORT ACTIVITIES. To the extent that is within Manager's power and authority, Manager shall not make any use of, or conduct any activities on the Airport property which would interfere with or be a hazard to the flight of aircraft over the Airport, or to and from the Airport, or interfere with air navigation and communication facilities presently or in the future serving the Airport and specifically agrees not to permit the height of any structure, object of natural growth, or other obstruction to exceed height limits established in Title 49, Part 77 of the Code of Federal Regulations. To the extent Manager is aware of or should be aware of any such use or conduct on the Airport property, Manager shall immediately provide written notice to the City. Manager shall not create any hazard which would interfere with the use or the safety of air traffic at the Airport contrary to any federal, state, or local law, regulation, or ordinance.

20. TERMINATION BY CITY.

- A. City may terminate this Agreement by giving Manager sixty (60) days' advance written notice upon or after any one of the following events of default:
1. The filing by Manager of a voluntary petition in bankruptcy.
 2. The institution of proceedings in bankruptcy against Manager and the adjudication of Manager as bankrupt pursuant to such proceedings.
 3. The taking by a court of jurisdiction of Manager and its assets pursuant to proceedings brought under the provisions of any federal reorganization act.
 4. The appointment of a receiver of Manager's assets or any general assignment for the benefit of Manager's creditors.
 5. The abandonment by Manager of the premises leased to Manager under the Airport Fixed Base Operation Agreement entered into by and between the parties dated _____, 201_, ("FBO Agreement") except in connection with its surrender to an assignee, sublessee, mortgagee, or other party succeeding to Manager's interests or portion thereof hereunder which has been approved by the advance written consent of the City Common Council.
 6. The default by Manager in the performance of any obligation required herein to be performed by Manager, and Manager's failure to correct such default within thirty (30) days after notice thereof from City;

The rights and remedies under this paragraph shall be in addition to those otherwise allowed by law or in equity. Any and all rights and remedies which either party may have under this Agreement, at law or in equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two or more of all such rights and remedies may be exercised at the same time insofar as permitted by law. Failure of City to declare this Agreement terminated upon the default of Manager for any of the reasons set out above shall not operate to waive the right of City to terminate this Agreement by reason of any subsequent violation of the terms of this Agreement.

B. City may terminate this Agreement upon sixty (60) days' written notice to Manager upon the happening of any of the following events:

1. The lawful assumption by the United States Government or any authorized agency thereof, or by the State of Wisconsin, or any authorized agency thereof, without inducement by City, of the operation, control or use of Airport and facilities, or any substantial part or parts thereof, in such manner as to substantially restrict Manager, for a period of at least sixty days, from operating from the premises leased to Manager under the FBO Agreement.

2. The termination of the FBO Agreement by either party.

21. FORCE MAJEURE. In the event either party is rendered unable, in whole or in part, to perform its duties or obligations hereunder as a result of acts of God, authority of laws, strikes, lockouts, labor disputes, riots or other causes beyond its control, it shall notify the other party of such event in writing and the obligations of such party may be suspended during the continuation of any inability to perform so caused by such event.

22. NONDISCRIMINATION. All use, occupancy, maintenance and operation of the Premises shall be in compliance with all 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 such regulations may be amended; and pursuant to Section 30, Civil Rights (49 U.S.C. 1730) of the Airport and Airway Development Act Amendments of 1976, as well as all other applicable federal, state and local laws.

23. CASUALTY. If, during the term of this Agreement, the facilities or improvements located on the Airport property are partially or totally destroyed or rendered unusable, or rendered partially or totally inaccessible, City may, at its option, rebuild or restore such facilities or improvements, or terminate this Agreement. In the event the City elects to rebuild or restore the facilities or improvements, payments under this Agreement shall be appropriately reduced to reflect such inaccessibility.

24. NONASSIGNMENT. Manager shall not assign its rights or obligations under this Agreement without the advance written consent of the City of Wausau. It is expressly understood and agreed that the shareholders of Manager shall not transfer fifty (50) percent or more (whether collectively or individually) of their ownership interests to any other person or persons without the express written

consent of City. Such transfer of ownership without such written consent shall constitute a material breach of this Agreement and shall authorize City, at its option, to declare this Agreement void, terminate the same, and reenter and take possession of the premises. The current shareholders and their ownership interests are as set forth in the Certificate of Ownership attested to by the Secretary of Manager and attached hereto as Exhibit B.

25. SEVERABILITY. If any portion of this Agreement shall become illegal, null or void, or against public policy, for any reason, or shall be held to be invalid or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.

26. NOTICE. Any notice, demand, request, consent, approval or communication required or desired to be given by either party to the other or to a third party shall be in writing and either delivered personally or sent by certified United States mail, return receipt requested, in a sealed envelope, postage prepaid, and addressed as follows:

To City:

City Clerk
City of Wausau
City Hall
407 Grant Street
Wausau, WI 54403

To Manager:

Charles P. Turner,
Wausau Flying Service, Inc.
Wausau Downtown Airport
Woods Place
Wausau, WI 54403

Either party may change its address by notice to the other in accordance with this paragraph. Notice shall be deemed communicated when delivered, if delivered personally, or within 48 hours from the date of mailing, if mailed pursuant to this paragraph.

27. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties and each party understands that there are no other oral understandings or agreements other than those set out herein. This Agreement cannot be added to, altered, or amended in any way except by written agreement signed by both of the parties hereto.

28. LAW. This Agreement shall be interpreted in accordance with the laws of the State of Wisconsin.

29. SUCCESSORS AND ASSIGNS. The conditions, covenants and agreements in the foregoing Agreement to be kept and performed by the parties hereto shall be binding upon the respective parties and their approved successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF WAUSAU BY:

Robert Mielke, Mayor

Toni Rayala, Clerk

WAUSAU FLYING SERVICES, INC., BY:

President

Secretary



EXHIBIT C

NOTIFICATION IN CASE OF EMERGENCY

Department of Public Works (715) 261-6740 or (715) 261-6960

- Director: Eric Lindman
- Superintendent: Ric Mohelnitzky

Notify in event of snow, ice or mechanical emergencies

Fire Department (715) 261-7900

- Battalion Chief: (715)-581-1234

Notify in event of fire hazards, spills of petroleum products or other hazardous materials emergencies

Police Department 911 or (715) 261-7800

- Patrol Lieutenant: (715) 261-7811 (desk)
(715) 370-4500 (cell)

Wausau Water Works

Sewer (715) 261-6940

- Sewer Superintendent: Dave Erickson

Water (715) 261-7288

- Water Superintendent: Scott Boers

OTHER

• City Attorney's Office (715) 261-6590

- City Attorney: Anne Jacobson

• Finance Department/Customer Service (715) 261-6620 or 261-6640

Finance Director: Maryanne Groat

AIRPORT FIXED BASE OPERATION AGREEMENT by and between City of Wausau and Wausau Flying Service, Inc.

Original Agreement, October 1, 1992:

- Term: Five (5) years
- Option to renew: One subsequent five year period.
- Lease Payment: \$550.00 monthly lease payment. Upon remodeling FBO building lease payment to be renegotiated not to exceed \$1000.00/mo
- Fees: \$.06 per gallon fuel flow fee by FBO to City

CURRENT AGREEMENT, March 20, 1998:

- Term: Twenty (20) years
- Option to renew: Ten (10) years
- Lease Payment: ~~\$750 per month~~ Subsequently modified
- Escalation of Rent: Annual CPI adjustment.
Negotiate all fees, rates and charges every five (5) years
- Fees: \$.06 per gallon fuel flow fee by FBO to City. NOTE: It may be that FBO voluntarily began paying \$.12 per gallon in 2010, however, there does not appear to be written documentation of that arrangement. Confirming information would be available from FBO or Finance Department.
- Utilities & Expenses: FBO responsible for 60% of all utilities and other expenses for corporate hangar operation.
City pays 40% of costs of hangar operation.
- Rental Revenue: FBO retains 60% of all rental revenues from hangars described on Exhibit B.
City retains 40% of all rental revenues from the hangars.
- Insurance: \$2,000,000.00 liability coverage maintained by FBO
- Indemnification and Hold harmless: Mutual.
- Release: Of City by FBO only.
- City Obligations: Snow plow, maintain runway lights and provide bulbs for lights.
Maintain surface of runways, hangar, tie-down and parking lot areas
- Termination: By City upon 60 days advance written notice upon certain events of default
- Non-assignable without consent by City

First Amendment of Current Agreement (dated 10/2/2009 approved by Council _____):

- Lease Fees: Amends paragraph 6 to provide monthly rental payment of \$1,000.00/month.

AIRPORT FIXED BASE OPERATION AGREEMENT

THIS AGREEMENT, made and entered into this 20th day of March, 1998, by and between the City of Wausau, a municipal corporation of the State of Wisconsin, hereinafter referred to as "CITY," and Wausau Flying Service, Inc., hereinafter referred to as "FBO."

WITNESSETH:

WHEREAS, CITY owns and operates an airport within the corporate limits of the City of Wausau known as the Wausau Downtown Airport, herein referred to as "Airport," and

WHEREAS, CITY is desirous of having FBO provide certain aeronautical services to the public, and to that end CITY is desirous of leasing to FBO certain premises on Airport and having FBO be its airport operator, all in return for certain considerations.

NOW, THEREFORE, for and in consideration of the rents, covenants, and agreements herein contained, CITY and FBO agree as follows:

1. FACILITIES AND LAND. CITY hereby leases to FBO the portions of the current Terminal Building set forth in "Exhibit A" including office area, classrooms, and rest rooms, the tie-down areas, the fuel facilities, the fuel trucks, the radio antenna, and all of the equipment that is currently being utilized by CITY at the Airport.

CITY and FBO hereby agree that FBO shall be responsible for corporate hangar management. FBO shall control the maintenance hangar, main storage hangar and new hangar as described in "Exhibit B." FBO shall be responsible for 60 percent (60%) of all utilities and other expenses for corporate hangar operation. FBO shall retain sixty percent (60%) of all rental revenues from the hangars described in "Exhibit B." City shall pay forty percent (40%) of costs of hangar operation. CITY shall receive forty percent (40%) of all rental revenues from the hangars.

FBO shall have the right to add to, improve and/or alter the "Terminal Building" and/or adjacent property only with the written consent of CITY, however, title to any such improvements and/or alterations shall immediately upon completion be in CITY, and FBO specifically agrees to and hereby does hold CITY harmless from any and all liens and/or encumbrances on those improvements.

All moveable equipment which is placed upon Airport by FBO shall remain the property of FBO.

2. OPERATIONAL OFFICES AND STATUS OF FBO. The operational offices of FBO shall be located at the Wausau Downtown Airport.

It is understood and agreed that FBO shall be an independent contractor.

3. SERVICES TO BE PROVIDED BY FBO. FBO shall provide the following services during the duration of this Agreement:

- A. Provide, sell and dispense all aircraft fuel and oil service with a recognized brand of aviation fuel, oil, lubricants and other related aviation petroleum products. All fuel shall be tested for contaminants by FBO, and all fuel storage dispensing and testing shall be conducted by FBO in accordance with federal, state and local laws, rules and regulations.
- B. FBO shall provide daily and routine maintenance of all equipment that is utilized by FBO; however, CITY shall be responsible for major repairs, including repairs to the hangar overhead door, and/or replacement of these items as hereinafter described, unless such repair and/or maintenance is due to the negligence of FBO, in which case the repair and/or replacement shall, in its entirety, be performed by FBO. ["Major repairs" is defined as any repair exceeding \$200.]
- C. Assist individuals in the tie-down, storage and parking of aircraft and miscellaneous ramp assistance. FBO may establish a schedule of fees to be charged for tie down, storage, parking and ramp assistance to nonfueling customers. The fee schedule shall be subject to review by the Airport Committee and CITY.
- D. Flight instruction, including but not limited to ground school instruction, remedial flight training, and in-flight training, all at rates that are competitive with other general aviation airports in central Wisconsin. FBO shall provide schedule of current rates to CITY.
- E. Aircraft rental service for both private pilot use and for flight instruction. Aircraft rental service shall be possible twenty-four hours per day. Aircraft for flight instruction shall be available as needed. FBO shall provide schedule of current rates to CITY.
- F. Arrange for aircraft charter and air taxi service to the general public or for hire at rates that are competitive with other general aviation airports in central Wisconsin. FBO shall provide schedule of current rates to CITY.
- G. FBO agrees to provide aircraft maintenance and repair service upon a scheduled basis.
- H. FBO shall provide such other aeronautical services which are consistent with the minimum requirements for aeronautical services set by either federal, state, or local ordinance, policy or regulation, but that CITY before enacting any new or additional ordinances or regulations or policies regarding the operation of said Airport, shall meet and consult with FBO.
- I. "High quality customer service representation" shall be provided to CITY and general public at all times.
- J. All service shall be provided in a courteous and friendly manner.

K. Operational audit of performance of FBO shall be conducted by CITY on at least a yearly basis.

4. PURCHASE OF EXISTING FUEL, OIL AND PARTS. FBO shall, within, thirty days of execution of this Agreement, purchase from CITY the existing good and saleable inventory of fuel, oil, other lubricants, and any parts which are part of the inventory of the Airport at the time of the execution of this Agreement.

5. FUEL FLOW FEE. The price of all fuel sold at Airport shall be a price which encourages utilization of the Airport by air traffic (a current schedule of fuel prices shall be provided to CITY), and a \$.06 per gallon fuel flow fee shall be paid by FBO to CITY, on a monthly basis, for every gallon of fuel sold, and all appropriate and necessary reports concerning fuel flow shall be furnished by FBO to CITY upon request. This fuel flow fee specifically applies to all sales of petroleum products, including gasoline, to Wausau Papers pursuant to the current lease which CITY has with Wausau Papers. However, nothing other than the sale of petroleum products by FBO to Wausau Papers shall have any effect on the Agreement currently in effect between CITY and Wausau Papers.

6. LEASE FEES. FBO shall pay to CITY for the lease of the building and premises afore-described an initial amount of Seven Hundred Fifty Dollars (\$750) per month, which monthly payment shall be received by the City of Wausau Finance Department no later than the fifth day of the month for which the monthly payment is due. The lease fee shall be adjusted annually by the Consumer's Price Index. FBO shall provide a security deposit in the amount of Seven Hundred Fifty Dollars (\$750) that will be refundable upon termination of this agreement.

7. TERM OF AGREEMENT. The term of this agreement shall be for a period of twenty (20) years commencing on the date above first written, with first option of renewal for a successive period of of ten (10) years. The option of renewal shall only be available to FBO upon satisfactory performance reviews for every year that this agreement had been in effect and must be exercised within 90 days prior to the expiration of the initial term of the agreement or the option shall be deemed waived by FBO. CITY and FBO agree to negotiate all fees, rates and charges under this agreement every five (5) years by June 30 of the preceding year, and failing a successful negotiation, the agreement shall terminate on the anniversary date.

8. SALE OF AIRCRAFT. FBO shall have the right to sell aircraft on a commercial basis.

9. FBO's AIRCRAFT. FBO shall have available for use at Airport, either owned or leased by FBO, at least one currently airworthy aircraft, which must be equipped for and capable of flight instruction; additional aircraft shall be based at the Airport in sufficient number to accommodate public demand for such aircraft; all aircraft must meet minimum federal and state safety standards.

10. AUTOMOBILE PARKING LOT. The automobile parking lot on the Airport premises is not for the exclusive use of FBO, however, FBO' customers, suppliers and guests may use the parking lot area along with other members of the public, and individuals utilizing the Airport.

11. T-HANGARS. CITY shall supervise the T-Hangars, and collect all rents therefrom, and FBO shall have no responsibility whatsoever with respect to the management thereof, although FBO agrees to maintain a list of current tenants and shall refer prospective tenants to the proper personnel of the CITY. FBO has first option of rental when T-Hangar becomes available, said option must be exercised within 30 days of notice of vacancy or shall be deemed to have been waived by FBO.

12. HOURS OF OPERATION. Hours of operation shall not be reduced below the following:

Summer Hours (Memorial Day through Labor Day)

Monday through Friday - 7:00 a.m. to 7:00 p.m.

Saturday and Sunday - 8:00 a.m. to 5:00 p.m.

Winter Hours

Sunday through Saturday - 8:00 a.m. to 5:00 p.m., except for in the event of inclement weather.

FBO shall be available outside those hours on an on-call basis.

13. MINIMUM STANDARDS. FBO shall provide for all aeronautical services in accordance with any previously adopted requirements for airport services at Airport which have been adopted by the Airport Committee, by the Common Council, or by the state or federal government.

14. FBO'S EMPLOYEES. FBO shall employ and have on duty as required by reasonable business practice, trained personnel in such numbers as are required to meet the required hours of operation and any minimum standards previously adopted and/or set forth; in the event that the CITY desires to change any minimum standards, it shall first consult and meet with FBO.

15. USE OF PREMISES. FBO shall make use of the premises only on furtherance of and pursuant to the provisions contained within this Agreement, and no other business of any kind shall be conducted at Airport other than that which is conducted pursuant to this Agreement. No portion of the FBO building shall be used or occupied as sleeping or lodging quarters, except on a temporary basis by patrons of the Airport during business hours and employees of FBO at any time.

16. SEAPLANE BASE. FBO may improve or further develop a seaplane base, upon written approval of CITY, and at an expense to be negotiated with CITY, with said expenses to be split between the parties hereto as is mutually agreeable between them, and any improvements thereto shall become the property of CITY upon completion.

17. SIGNS. FBO agrees that no signs, lighting, or advertising matter, except the maintenance and replacement of existing signs of FBO, shall be erected without the written consent of CITY.

18. **INSURANCE.** FBO shall maintain liability coverage issued by a company licensed to do business in the State of Wisconsin for its operations as a fixed base operator and as an airport manager, and in addition thereto, for any related exposure at Airport, in an amount not less than two million dollars, provided that this two million dollar limit shall be increased at FBO's expense, if additional amounts are required by any federal or state regulations. The policy of insurance shall be approved by the CITY as to form and shall contain a provision that the same may not be canceled before the expiration of its term except upon thirty (30) days written notice to the CITY.

19. **HOLD HARMLESS.**

A. FBO agrees to indemnify and hold harmless CITY, its employees, agents, officers and officials whether hired, appointed or elected, free and harmless from and against any and all judgments, damages, losses, costs, claims, expenses, suits, demands, deaths, actions and/or causes of action of any kind or of any nature which may be sustained or to which they may be exposed by reason of injury or injuries to anyone or of the death or deaths of anyone, or by reason of any personal injury and/or real property damage, or by reason of any other liability imposed by law or by anything or by anyone else upon the above-referenced entities and/or individuals as the result of and/or due to FBO's operations on the demised premises or on any premises owned by CITY and adjacent thereto and/or as a result of and/or due to the presence of FBO or anyone else except CITY employees on the demised premises or on premises owned by CITY and adjacent thereto, and/or due to the existence of this Agreement; specifically included within this indemnification and hold harmless section are attorneys fees and other costs of defense which may be sustained by and/or occasioned to the above referenced entities and/or individuals.

B. CITY agrees to indemnify and hold harmless FBO, its employees and agents, free and harmless from and against any and all judgments, damages, losses, costs, claims, expenses, suits, demands, deaths, and actions and/or causes of action of any kind or of any nature which may be sustained or to which they may be exposed by reason of injury or injuries to anyone or of the death or deaths of anyone, or by reason of any personal injury and/or real property damage, or by reason of any other liability imposed by law or by anything or by anyone else upon the above-referenced entities and/or individuals as the result of and/or due to the presence or replacement of underground fuel or oil tanks on the demised premises or on any premises owned by CITY and adjacent thereto, including claims by the State of Wisconsin, the Wisconsin Department of Natural Resources, or any other agency of the State of Wisconsin, and by any agency of the federal government; and specifically included within this indemnification and hold harmless section are attorneys fees and other costs of defense which may be sustained by and/or occasioned to the above-referenced entities and/or individuals.

20. **RELEASE.** FBO agrees to release CITY, its employees, agents, officers and officials whether hired, appointed or elected, from and against any and all judgments, damages, losses, costs,

claims, expenses, suits, demands, deaths, actions and/or causes of action of any kind or of any nature which may be sustained or to which they may be exposed by reason of injury or injuries to anyone or of the death or deaths of anyone, or by reason of any personal injury and/or real property damage, or by reason of any other liability imposed by law or by anything or by anyone else upon the above-referenced entities and/or individuals as the result of and/or due to FBO's operations on the demises premises or on any premises owned by CITY and adjacent thereto and/or as a result of and/or due to the presence of FBO or anyone else except CITY employees on the demised premises or on premises owned by CITY and adjacent thereto, and/or due to the existence of this Agreement; specifically included within this release section are attorneys fees and other costs of defense which may be sustained by and/or occasioned to the above-referenced entities and/or individuals.

21. RIGHTS IN COMMON WITH OTHERS. FBO shall have the right, in common with others authorized so to do, to use all common areas of Airport, including runways, taxiways, aprons, roadways, parking lots, and any other common areas.

22. OBLIGATIONS OF CITY.

- A. CITY shall plow snow promptly and as necessary for the operation of Airport, consistent with Wausau Municipal Airport Snow Plowing Operations Policy, on the runways, hangar areas, tie-down areas, and any areas in the parking lot necessary for use by FBO; and CITY shall maintain the runway lights. CITY shall remove snow and cut grass around the terminal building. CITY shall provide bulbs for runway lights to FBO and FBO shall provide the labor for the replacement of those bulbs.
- B. CITY shall maintain the surface of the runways, hangar areas, tie-down areas, and necessary areas of the parking lot in a condition which is reasonable, taking into consideration the required use.

23. OUTSIDE STORAGE AND REMOVAL OF TRASH. FBO will not store in a location susceptible to view by the public, any equipment, materials, supplies, or damaged or partially dismantled aircraft or other vehicles on the leased or adjacent premises. Any screens or other devices used to keep equipment, materials or supplies from view shall be subject to prior consent by CITY.

FBO further agrees to remove or cause to be removed at FBO's expense, any trash, garbage, recyclables or debris generated by FBO's use of the leased premises and agrees not to deposit any trash, garbage, recyclables or debris on any part of Airport or the leased premises except temporarily in connection with collection or removal of the same.

24. COMPLIANCE WITH LAWS. FBO shall at all times comply with Airport rules and regulations, federal, state and municipal laws, ordinances, codes, and other regulatory measures now in existence or as may be hereafter adopted, modified, and/or amended, applicable to the specific type of operations conducted by FBO. FBO shall procure and maintain during the term of this Agreement all licenses, permits and other similar authorizations required for the conduct of its operations; and CITY shall not unreasonably and without notice enact any ordinances nor laws that would adversely affect FBO's operation under this Agreement.

25. **LIENS.** FBO agrees to promptly pay all sums legally due and payable on account of any labor performed on or material furnished for the benefit of FBO for the leased premises. FBO shall not permit any liens to be placed against the leased premises on account of labor performed or material furnished and in the event such a lien is placed against the leased premises, FBO agrees to save CITY harmless from any and all asserted claims and liens and to remove or cause to be removed any and all such claims or liens as soon as reasonably possible.

26. **REPAIR OF PREMISES.** FBO shall, at its expense, keep, maintain, and repair the leased premises, the building and all improvements in its present condition subject to normal wear and tear. In the event FBO fails to comply with this subparagraph, CITY shall give notice to FBO specifying the nature of FBO's failure. In the event that FBO fails within thirty days after receipt of CITY's notice to cure such failure, CITY shall have the right to terminate this Agreement upon 30 days' notice to FBO, or in the alternative, to cure such failure in an efficient, effective and good and workmanlike manner, and to assess the costs thereof against FBO. FBO hereby agrees to pay any and all such assessments, including all costs, disbursements and reasonable attorney's fees incurred by CITY in curing such failure within thirty days after CITY's demand therefor.

27. **DEVELOPMENT.** CITY reserves the right to further develop or improve the landing and public areas, including ramp space, of Airport as it sees fit, regardless of the desires or views of FBO, and without interference or hindrance, but CITY shall compensate FBO for any loss of income for a particular lease term as a result of CITY's development.

28. **SUBORDINATION.** This agreement shall be subordinate to the provisions of any existing or future agreement between CITY and the United States government or the State of Wisconsin relative to the operation or maintenance of Airport, the execution of which has been, or may be, required as a condition precedent to the expenditure of federal funds for the development of Airport. Should the effect of any such agreement with the United States government or with the State of Wisconsin be to take the leased premises or building or any portion of either or substantially destroy the commercial value of either, then, within thirty days after the occurrence of such event, CITY shall terminate this Agreement without further obligation to FBO, and FBO, in that event, shall vacate the premises after that 30-day period without recourse to CITY.

29. **CANCELLATION BY CITY.** City may cancel this Agreement by giving FBO 60 days' advance written notice upon or after any one of the following events of default:

- A. The filing by FBO of a voluntary petition in bankruptcy.
- B. The institution of proceedings in bankruptcy against FBO and the adjudication of FBO as bankrupt pursuant to such proceedings.
- C. The taking by a court of jurisdiction of FBO and its assets pursuant to proceedings brought under the provisions of any federal reorganization act.
- D. The appointment of a receiver of FBO's assets or any general assignment for the benefit of FBO's creditors.

- E. The abandonment by FBO of the leased premises except in connection with its surrender to an approved assignee, sublessee, mortgagee, or other party succeeding to FBO's interests or portion thereof hereunder.
- F. The default by FBO in the performance of any covenant or agreement required herein to be performed by FBO, and FBO's failure to commence and diligently continue to correct such default after notice thereof from CITY; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if FBO shall have remedied the default prior to receipt of CITY's notice of cancellation.
- G. The lawful assumption by the United States Government or any authorized agency thereof, or by the State of Wisconsin, or any authorized agency thereof, without inducement by CITY, of the operation, control or use of Airport and facilities, or any substantial part or parts thereof, in such manner as to substantially restrict FBO, for a period of at least sixty days, from operating from the leased premises.
- H. The termination of the Airport Management Agreement.

In the event of a default not remedied by FBO, CITY may take immediate possession of the leased premises and remove FBO's property, forcibly if necessary, without being deemed guilty of trespassing. Upon such entry, this Agreement shall terminate.

Failure of CITY to declare this agreement terminated upon the default of FBO for any of the reasons set out above shall not operate to bar or destroy the right of CITY to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement. Further, the acceptance of rental by CITY for any period after a default of any of the terms, covenants or conditions by FBO shall not be deemed a waiver of any right on the part of the City to cancel this Agreement.

30. **FORCE MAJEURE.** If, by reason of force majeure, either party is unable, in whole or in part, to carry out the agreements of such party on its part herein contained, such party shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders or threats of orders of any kind of the government of the United States or of Wisconsin or any of their departments, agencies or officials, or any civil (except, in the case of the CITY only, the CITY) or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraints of government (except, in the case of the CITY only, the CITY) and people; civil disturbances; explosions; damage, loss, breakage or accident to the buildings, leased premises or Airport; partial or entire failure of utilities; or any other cause or event not reasonably within the control of such party, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of such party and such party shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties in such matters when such course is, in the judgment of such party, unfavorable to such party.

31. CASUALTY. If, during the term of this Agreement, the building and/or any part of the leased premises is partially or totally destroyed or rendered unusable, or the building or any part of the leased premises is partially or totally rendered inaccessible, CITY shall, at its option, rebuild or restore said building and/or premises, or shall provide FBO with suitable alternative quarters or facilities; however, the rent payments shall be appropriately reduced to reflect the destruction and/or inaccessibility, and the management payments shall also be accordingly reduced during the period of nonoperation thereof.

32. CIVIL RIGHTS ASSURANCES. FBO, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (a) no person on the grounds of race, sex, color, physical handicap, or national origin, or other protected groups shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the leased premises; (b) in the construction of any improvements on, over, or under the leased premises and in the furnishing of services thereon, no person on the grounds of race, sex, color, physical handicap, or national origin, or other protected groups shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (c) FBO shall use the leased 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 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.

33. NONEXCLUSIVE RIGHTS. It is understood and agreed by and between the parties that CITY retains the privilege of entering into other agreements which may or may not be similar to this Agreement and which may or may not contain similar terms with other entities for use of other Airport facilities; provided, however, that CITY agrees not to and shall not enter into any such agreement that abrogates FBO's right to quiet enjoyment or that limits or restricts the use of the leased premises or Airport by FBO; in addition, CITY shall include FBO in any negotiations for any Agreements that CITY may enter into with third parties.

34. NONASSIGNMENT. FBO shall not have the right to assign its rights or obligations under this Agreement without the express written consent of the City of Wausau. It is expressly understood and agreed that the principal owners of FBO shall not transfer fifty percent or more their ownership interests to any other person or persons without the express written consent of CITY. Such transfer of ownership without such written consent shall be a breach of this Agreement and shall authorize CITY, at its option, to declare this Agreement void, cancel the same, and re-enter and take possession of the premises.

35. SEVERABILITY. In the event that any provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision contained herein, provided that the invalidity of any such provision does not materially prejudice either CITY or FBO in their respective rights and obligations contained in the valid provisions of this Agreement.

36. NOTICE. Any notice, demand, request, consent, approval or communication required or desired to be given by either party to the other or to a third party shall be in writing and either delivered personally or sent by certified United States mail, return receipt requested, in a sealed envelope, postage prepaid, and addressed as follows:

TO CITY:

City Clerk
City of Wausau
City Hall
407 Grant Street
Wausau, WI 54403-4783

TO FBO:

Charles P. Turner
Wausau Flying Service, Inc.
Wausau Downtown Airport
Woods Place
Wausau, WI 54401

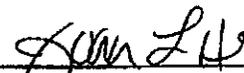
Either party may change its address by notice to the other in accordance with this paragraph. Notice shall be deemed communicated when delivered, if delivered personally, or within 48 hours from the date of mailing, if mailed pursuant to this paragraph.

37. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties and each party understands that there are no other oral understandings or agreements other than those set out herein. This Agreement cannot be added to, altered, or amended in any way except by written agreement signed by both of the parties hereto.

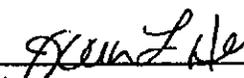
38. LAW. This Agreement shall be interpreted in accordance with the laws of the State of Wisconsin.

39. SUCCESSORS AND ASSIGNS. The conditions, covenants and agreements in the foregoing Agreement to be kept and performed by the parties hereto shall be binding upon the respective parties and their approved successors and assigns.

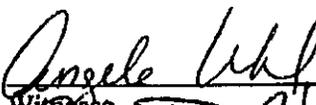
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.



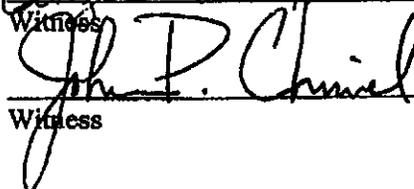
Witness



Witness

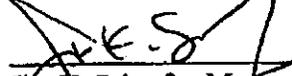


Witness

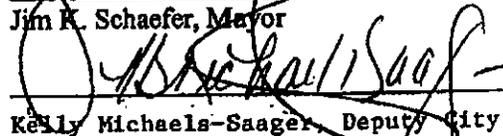


Witness

CITY OF WAUSAU BY:



Jim R. Schaefer, Mayor

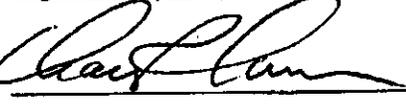


Kelly Michaels-Saager, Deputy City Clerk

WAUSAU FLYING SERVICE, INC., BY:



President



Secretary

EXHIBIT A

Wausau Airport Inventory

West Building

- 1 Jet A Fuel Truck-1986
- 1 International 574 Tractor w/10 ft. mower deck
- 1 Preheater
- 2 Aircompressors
- 2 Towbars
- 1 Shovel

Middle Building or Big Hangar

- 1 Postdigger
- 1 Shovel
- 1 Ice chopper
- 1 Bench grinder
- 1 Bench vise
- 1 Battery charger
- 1 Jetfuel tester & filter
- 2 Sets of jumper cables for airplanes
- 1 Set of jumper cables for a car
- 2 Army blankets
- 1 Hand truck
- 3 Step ladders
- 1-50 ft. garden hose
- 2 Come-a-longs
- 1-100 ft. electric cord
- Misc. wire
- Misc. paint
- 4 - 6.0 gal. blue fuel cans

Outside Shed

- 1 Murry riding mower
- 1 Murry hand mower

Pilot and Bathroom Area

Quarter inch drill
Electric hand saw
Misc. tools
Misc. cable
2 Tables
1 Couch and chair match
12 Chairs

Main Lobby

Table
1 Couch and 2 matching chairs
Halltree
Weather machine

Kitchen

Front Office

Unicom
Manual credit card machine

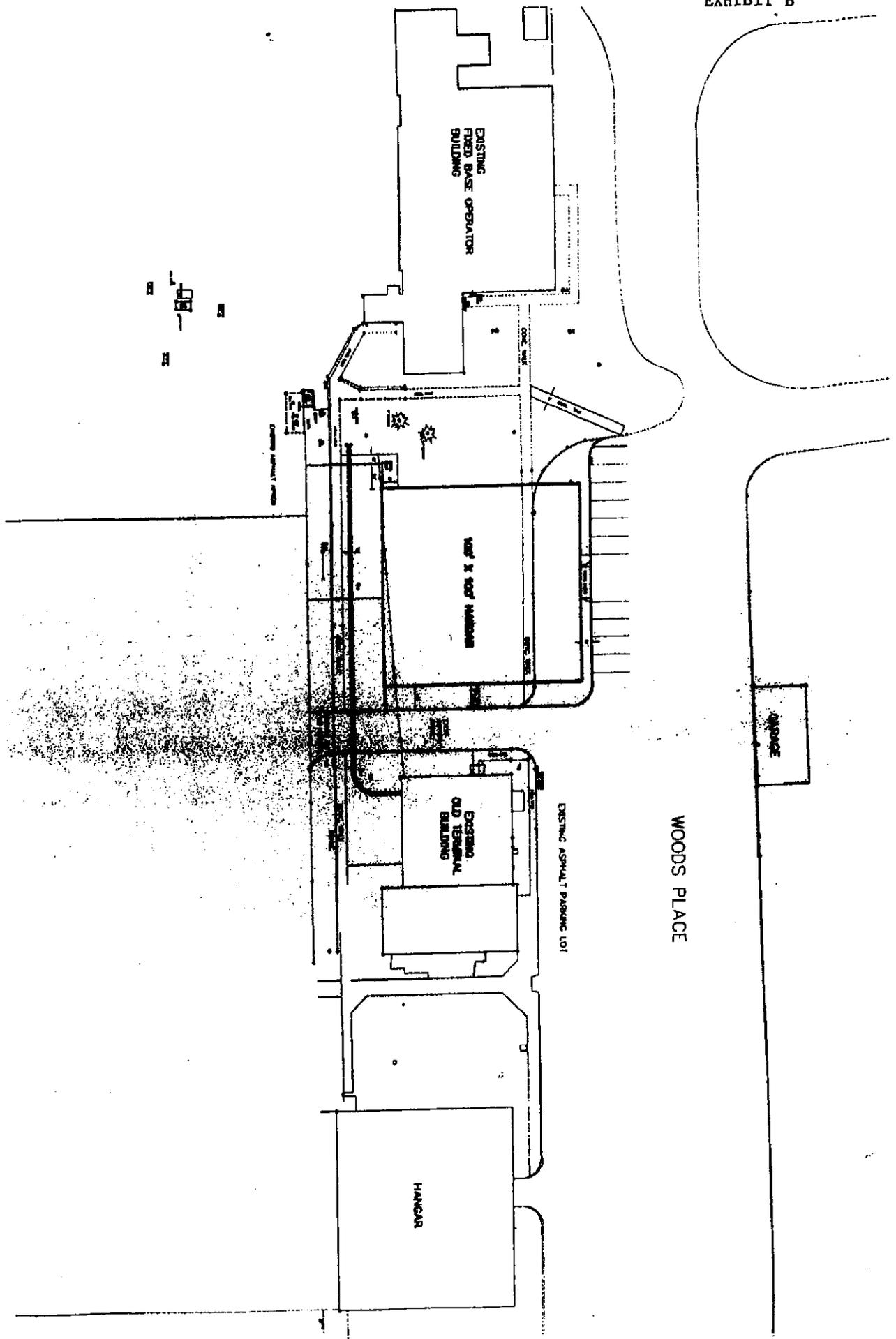
Upstairs East Room

Desk
Hand held unicom
Stapler
Tape dispenser

Upstairs West Room

Table
Copier
Desk and chairs 2

EXHIBIT B



ADDENDUM TO AIRPORT FIXED BASE OPERATION AGREEMENT

THIS ADDENDUM to the Airport Fixed Base Operation Agreement between the City of Wausau, ("CITY") and Wausau Flying Service, Inc. ("FBO"), dated October 1, 1998, is hereby made this 2nd day of October, 2009.

WITNESSETH:

Paragraph 6 on page 3 of the foregoing agreement is hereby amended to read:

6. LEASE FEES. FBO shall pay to CITY for the lease of the building and premises afore-described One Thousand Dollars (\$1,000.00) per month, which monthly payment shall be received by the City of Wausau Finance Department no later than the fifth day of the month for which the monthly payment is due. FBO shall provide a security deposit in the amount of Seven Hundred Fifty Dollars (\$750) that will be refundable upon termination of this agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

In the Presence of

CITY OF WAUSAU BY:

Kathi Shoeschel

James E. Tipple
James E. Tipple, Mayor

Dina Farsch

Kelly Michaels
Kelly Michaels, Clerk

WAUSAU FLYING SERVICE, INC. BY:

Dina Farsch

John P. Chmiel
John P. Chmiel, President

AIRPORT MANAGEMENT AGREEMENT by and between City of Wausau and Wausau Flying Service, Inc.

Original Agreement, October 1, 1992:

- Term: Five (5) years
- Option to renew: One subsequent five year period.
- Fee: Monthly management fee of \$2250.00

CURRENT AGREEMENT, March 20, 1998:

- Term: Twenty (20) years
- Option to renew: Ten (10) years
- Management Fee: Monthly management fee of \$3,300.00
~~Annual fee of \$1,500.00 for snowplowing~~ Subsequently modified
- Escalation of Fee: \$2000.00 per year for years 1 – 5 and thereafter subject to renegotiation of all fees, rates and charges every five (5) years
- Utilities & Taxes: Telephone and taxes paid by manager
- Insurance: \$2,000,000.00 liability coverage maintained by manager
- Indemnification and Hold harmless: Mutual.
- Release: Of City by Manager only.
- City Obligations: Snow plow, maintain runway lights and provide bulbs for lights. Maintain surface of runways, hangar, tie-down and parking lot areas
- Termination: By City upon 60 days advance written notice upon certain events of default
- Non-assignable without consent by City

First Amendment of Current Agreement (dated 4/1/2004):

- Services to be Provided by Manager: Amends paragraph 2.K, operational audit of performance to be conducted at least once every five years rather than on a yearly basis.
- Term of Agreement: Amends paragraph 4 to provide management fee shall be increased 4.5% annually for a five (5) year period effective 3/20/2003.

Second Amendment of Current Agreement (dated 10/2/2009 approved by Council _____):

- Management Fee: Amends paragraph 3 to provide City will pay Manager \$15 per hour for snowplowing and mowing hours actually worked.
- Term of Agreement: Amends paragraph 4 () to provide management fee shall be increased 4.5% annually for a two year period retroactive to 3/20/2008.

Third Amendment of Current Agreement (dated 8/16/2010 and approved by Council 8/ /2010):

- **Management Fee:** Payment to Manager of \$15.00/hour for snowplowing and mowing.
- **Term of Agreement:** Annual Increase of 4.5 percent for the period March 20, 2010 through September 1, 2012.

AIRPORT MANAGEMENT AGREEMENT

THIS AGREEMENT, made and entered into this 20th day of March, 1998, by and between the City of Wausau, a municipal corporation of the State of Wisconsin, hereinafter referred to as "CITY," and Wausau Flying Service, Inc., hereinafter referred to as "MANAGER."

WITNESSETH:

WHEREAS, CITY owns and operates an airport within the corporate limits of the City of Wausau known as the Wausau Downtown Airport, herein referred to as "Airport," and

WHEREAS, CITY is desirous of having MANAGER manage Airport for CITY, and to that end CITY is desirous of leasing to MANAGER certain premises on Airport and having MANAGER be its airport manager, all in return for certain considerations.

NOW, THEREFORE, for and in consideration of the covenants, and agreements herein contained, CITY and MANAGER agree as follows:

1. **STATUS OF MANAGER.** It is understood and agreed that MANAGER shall be an independent contractor. MANAGER shall not assign or delegate any of his duties or responsibilities under this Agreement without prior written approval of CITY except to John Peter Chmiel, an employee of MANAGER. CITY's approval shall not be unreasonably withheld but may be withdrawn upon dissatisfactory performance by MANAGER's designee.

2. **SERVICES TO BE PROVIDED BY MANAGER.** MANAGER shall provide the following services during the duration of this Agreement:

- A. Conduct or provide for daily inspection of all airport physical properties including runways, taxiways, lighting systems, buildings, navigational equipment, automobile parking areas and access roads; personally make or direct others to make routine repairs, replacements and improvements in a timely and efficient manner; requisition from CITY or purchase, small equipment and supplies required in daily operation and maintenance; keep a complete and accurate record of all maintenance work performed on Airport and make such reports to CITY as may be required at such time and in the form requested by CITY, MANAGER shall provide routine care, cleaning, maintenance, janitorial service, except for the common areas of the terminal building defined as the main lobby, main hall, conference room and restrooms which will be serviced by CITY, snow shoveling and snowplowing in accordance with the Wausau Downtown Airport snowplowing policy in effect and as it may be amended, grass cutting, weed cutting, etc., to all of the building, lawns, sidewalks, and areas immediately adjacent to the leased premises, including runway, except for the grass and walkway areas immediately adjacent to the Wausau Paper Mills hangar, which maintenance

and grass cutting, etc., shall be provided by the CITY and by Wausau Paper Mills respectively. (CITY and MANAGER shall plow snow as described in this Agreement.)

- B. MANAGER shall provide daily and routine maintenance of all equipment that is utilized by MANAGER; however, CITY shall be responsible for major repairs, including repairs to the hangar overhead door, and/or replacement of these items as hereinafter described, unless such repair and/or maintenance is due to the negligence of MANAGER, in which case the repair and/or replacement shall, in its entirety, be performed by MANAGER. ["Major repairs" is defined as any repair exceeding \$200.]
- C. Determine current and potential program needs and prepare plans to fill these needs; make recommendations for current and future development of aviation facilities; coordinate all development and improvement with the proper federal, state and local agencies, engineers, architects and other professionals, aviation organizations and public interest groups.
- D. Recommend to CITY, ordinances and regulations relating to the safe and efficient operation of Airport, and governing the use of Airport, including the leasing of floor space, parking, hangars, and other property; assure enforcement of all ordinances and regulations concerning Airport.
- E. Serve as a liaison between CITY and Airport users and lessees relative to the preparation, negotiation, rates and charges, and terms of leases and agreements.
- F. Develop and maintain effective liaison, including through promotion and publicity, with the traveling and general public, commercial and general aviation interests, agencies having control over, or interest in, certain airport activities, tenants and their employees, and all entities with an interest in Airport. Prepare a marketing plan to be submitted to CITY including promotion and publicity funding requests through airport budget process.
- G. Be responsible for notifying the Federal Aviation Administration Flight Service Station promptly of all conditions affecting the safe use of Airport.
- H. Participate in conferences and meetings of aeronautical and civic organizations for the promotion of aviation activity in the community; give talks on airport progress and service; coordinate the plans and assure safe operating procedures are followed for air shows, demonstrations and exhibitions at Airport.
- I. MANAGER shall provide an annual airport report to the council and will attend all council and staff meetings, as requested by the Mayor or Airport Committee.

- J. In the event of an emergency at the Airport, the proper CITY officials shall be notified by MANAGER as delineated on Exhibit A. MANAGER shall comply with the Wausau Municipal Airport Snow Plowing Policy.
- K. Operational audit of performance of MANAGER shall be conducted by CITY on at least a yearly basis. MANAGER shall have thirty (30) days from date of audit to remedy all performance below standards or CITY shall have option to cancel.

3. **MANAGEMENT FEE.** In return for all of the aforescribed and hereinafter described services provided by MANAGER, a monthly management fee in the amount of Three Thousand Three Hundred Thirty-three and 33/100 Dollars (\$3,333.33) per month shall be paid by CITY to MANAGER, which amount is due MANAGER by the fifth day of the month for which the management fee is due. This fee shall be increased in the amount of Two Thousand and 00/100 Dollars (\$2,000.00) annually for the first five (5) years this agreement is in effect and thereafter shall be subject to the provisions of paragraph 4. MANAGER shall be paid by CITY an annual fee of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) for snowplowing in accordance with paragraph 2.A.

4. **TERM OF AGREEMENT.** The term of this agreement shall be for a period of twenty (20) years commencing on the date above first written with a first option for renewal for a subsequent ten-year period if both MANAGER and CITY agree. CITY and MANAGER agree to negotiate all fees, rates and charges under this agreement every five (5) years by June 30 of the preceding year, and failing a successful negotiation, the agreement shall terminate on the anniversary date.

5. **UTILITIES AND TAXES.** MANAGER agrees to pay all taxes and phone bills, including but not limited to, bills for personal property tax on any equipment owned by MANAGER located at Airport.

6. **HOURS OF OPERATION.** Hours of operation shall not be reduced below the following:

Summer Hours (Memorial Day through Labor Day)

Monday through Friday - 7:00 a.m. to 7:00 p.m.

Saturday and Sunday - 8:00 a.m. to 5:00 p.m.

Winter Hours

Sunday through Saturday - 8:00 a.m. to 5:00 p.m., except for in the event of inclement weather.

Availability outside of those hours shall be on an on-call basis.

7. **MINIMUM STANDARDS.** MANAGER shall provide for all aeronautical services in accordance with any previously adopted requirements for airport services at Airport which have

been adopted by the Airport Committee, by the Common Council, or by the state or federal government.

8. MANAGER'S EMPLOYEES. MANAGER shall employ and have on duty as required by reasonable business practice, trained personnel in such numbers as are required to meet the required hours of operation and any minimum standards previously adopted and/or set forth; in the event that the CITY desires to change any minimum standards, it shall first consult and meet with MANAGER.

9. INSURANCE. MANAGER shall maintain liability coverage issued by a company licensed to do business in the State of Wisconsin for its operations as an airport manager, and in addition thereto, for any related exposure at Airport, in an amount not less than two million dollars, provided that this two million dollar limit shall be increased at MANAGER's expense, if additional amounts are required by any federal or state regulations. The policy of insurance shall be approved by the CITY as to form and shall contain a provision that the same may not be canceled before the expiration of its term except upon thirty (30) days written notice to the CITY.

10. HOLD HARMLESS.

- A. MANAGER agrees to indemnify and hold harmless CITY, its employees, agents, officers and officials whether hired, appointed or elected, free and harmless from and against any and all judgments, damages, losses, costs, claims, expenses, suits, demands, deaths, actions and/or causes of action of any kind or of any nature which may be sustained or to which they may be exposed by reason of injury or injuries to anyone or of the death or deaths of anyone, or by reason of any personal injury and/or real property damage, or by reason of any other liability imposed by law or by anything or by anyone else upon the above-referenced entities and/or individuals as the result of and/or due to MANAGER's operations on the demised premises or on any premises owned by CITY and adjacent thereto and/or as a result of and/or due to the presence of MANAGER or anyone else except CITY employees on the demised premises or on premises owned by CITY and adjacent thereto, and/or due to the existence of this Agreement; specifically included within this indemnification and hold harmless section are attorneys fees and other costs of defense which may be sustained by and/or occasioned to the above referenced entities and/or individuals.
- B. CITY agrees to indemnify and hold harmless MANAGER, its employees and agents, free and harmless from and against any and all judgments, damages, losses, costs, claims, expenses, suits, demands, deaths, and actions and/or causes of action of any kind or of any nature which may be sustained or to which they may be exposed by reason of injury or injuries to anyone or of the death or deaths of anyone, or by reason of any personal injury and/or real property damage, or by reason of any other liability imposed by law or by anything or by anyone else upon the above-referenced entities and/or individuals as the result of and/or due to the presence or replacement of underground fuel or oil tanks on the demised premises or on any premises

owned by CITY and adjacent thereto, including claims by the State of Wisconsin, the Wisconsin Department of Natural Resources, or any other agency of the State of Wisconsin, and by any agency of the federal government; and specifically included within this indemnification and hold harmless section are attorneys fees and other costs of defense which may be sustained by and/or occasioned to the above-referenced entities and/or individuals.

11. **RELEASE.** MANAGER agrees to release CITY, its employees, agents, officers and officials whether hired, appointed or elected, from and against any and all judgments, damages, losses, costs, claims, expenses, suits, demands, deaths, actions and/or causes of action of any kind or of any nature which may be sustained or to which they may be exposed by reason of injury or injuries to anyone or of the death or deaths of anyone, or by reason of any personal injury and/or real property damage, or by reason of any other liability imposed by law or by anything or by anyone else upon the above-referenced entities and/or individuals as the result of and/or due to MANAGER's operations on the demises premises or on any premises owned by CITY and adjacent thereto and/or as a result of and/or due to the presence of MANAGER or anyone else except CITY employees on the demised premises or on premises owned by CITY and adjacent thereto, and/or due to the existence of this Agreement; specifically included within this release section are attorneys fees and other costs of defense which may be sustained by and/or occasioned to the above-referenced entities and/or individuals.

12. **OBLIGATIONS OF CITY.**

- A. CITY shall plow snow promptly and as necessary for the operation of Airport, consistent with Wausau Municipal Airport Snow Plowing Operations Policy, on the runways, hangar areas, tie-down areas, and any areas in the parking lot necessary for use by MANAGER; and CITY shall maintain the runway lights. CITY shall provide bulbs for runway lights to MANAGER and MANAGER shall provide the labor for the replacement of those bulbs.
- B. CITY shall maintain the surface of the runways, hangar areas, tie-down areas, and necessary areas of the parking lot in a condition which is reasonable, taking into consideration the required use.

13. **CITY'S RIGHT OF ENTRY.** CITY, its employee or agent as authorized by the Mayor, shall have the right to inspect the premises at all reasonable times for the purpose of examining the same and to ascertain if they are in good repair. Prior to any inspection by CITY, CITY shall arrange with MANAGER for a suitable time to make such inspection, and if no time can be agreed upon, CITY may inspect it upon 24-hour notice. In the event of an emergency, CITY shall have the right to enter the premises without notice.

14. **ACCEPTANCE OF PREMISES.** MANAGER, by the execution of this Agreement, represents that it has inspected Airport and the premises, and that it accepts the condition of the same as they now exist, and fully assumes all risks incident to the use thereof, including, but not limited to any apparent conditions on Airport or the premises; however, within a reasonable time period as

agreed by the parties, the CITY shall repair to MANAGER's satisfaction, all of the items on a checklist to be provided by MANAGER to CITY.

15. OUTSIDE STORAGE AND REMOVAL OF TRASH. MANAGER will not store in a location susceptible to view by the public, any equipment, materials, supplies, or damaged or partially dismantled aircraft or other vehicles on the leased or adjacent premises. Any screens or other devices used to keep equipment, materials or supplies from view shall be subject to prior consent by CITY.

MANAGER further agrees to remove or cause to be removed at MANAGER's expense, any trash, garbage, recyclable material or debris generated by MANAGER's use of the leased premises and agrees not to deposit any trash, garbage, or debris on any part of Airport or the leased premises except temporarily in connection with collection or removal of the same.

16. COMPLIANCE WITH LAWS. MANAGER shall at all times comply with Airport rules and regulations, federal, state and municipal laws, ordinances, codes, and other regulatory measures now in existence or as may be hereafter adopted, modified, and/or amended, applicable to the specific type of operations conducted by MANAGER. MANAGER shall procure and maintain during the term of this Agreement all licenses, permits and other similar authorizations required for the conduct of its operations; and CITY shall not unreasonably and without notice enact any ordinances nor laws that would adversely affect MANAGER's operation under this Agreement.

17. SECURITY. The parties hereby agree that MANAGER assumes all responsibility and obligation for providing reasonable security on the leased premises, over and above normal police protection.

18. SUBORDINATION. This agreement shall be subordinate to the provisions of any existing or future agreement between CITY and the United States government or the State of Wisconsin relative to the operation or maintenance of Airport, the execution of which has been, or may be, required as a condition precedent to the expenditure of federal funds for the development of Airport. Should the effect of any such agreement with the United States government or with the State of Wisconsin be to take the leased premises or building or any portion of either or substantially destroy the commercial value of either, then, within thirty days after the occurrence of such event, CITY shall terminate this Agreement without further obligation to MANAGER, and MANAGER, in that event, shall vacate the premises after that 30-day period without recourse to CITY.

19. CANCELLATION BY CITY. City may cancel this Agreement by giving MANAGER 60 days' advance written notice upon or after any one of the following events of default:

- A. The filing by MANAGER of a voluntary petition in bankruptcy.
- B. The institution of proceedings in bankruptcy against MANAGER and the adjudication of MANAGER as bankrupt pursuant to such proceedings.
- C. The taking by a court of jurisdiction of MANAGER and its assets pursuant to proceedings brought under the provisions of any federal reorganization act.

- D. The appointment of a receiver of MANAGER' assets or any general assignment for the benefit of MANAGER' creditors.
- E. The abandonment by MANAGER of the leased premises except in connection with its surrender to an approved assignee, sublessee, mortgagee, or other party succeeding to MANAGER's interests or portion thereof hereunder.
- F. The default by MANAGER in the performance of any covenant or agreement required herein to be performed by MANAGER, and MANAGER's failure to commence and diligently continue to correct such default after notice thereof from CITY; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if MANAGER shall have remedied the default prior to receipt of CITY's notice of cancellation.
- G. The lawful assumption by the United States Government or any authorized agency thereof, or by the State of Wisconsin, or any authorized agency thereof, without inducement by CITY, of the operation, control or use of Airport and facilities, or any substantial part or parts thereof, in such manner as to substantially restrict MANAGER, for a period of at least sixty days, from operating from the leased premises.
- H. The termination of the Airport Fixed Base Operation Agreement.

Failure of CITY to declare this agreement terminated upon the default of MANAGER for any of the reasons set out above shall not operate to bar or destroy the right of CITY to cancel this Agreement by reason of any subsequent violation of the terms of this Agreement.

20. **FORCE MAJEURE.** If, by reason of force majeure, either party is unable, in whole or in part, to carry out the agreements of such party on its part herein contained, such party shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders or threats of orders of any kind of the government of the United States or of Wisconsin or any of their departments, agencies or officials, or any civil (except, in the case of the CITY only, the CITY) or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraints of government (except, in the case of the CITY only, the CITY) and people; civil disturbances; explosions; damage, loss, breakage or accident to the buildings, leased premises or Airport; partial or entire failure of utilities; or any other cause or event not reasonably within the control of such party, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of such party and such party shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties in such matters when such course is, in the judgment of such party, unfavorable to such party.

21. MANAGER for himself, his personal representatives, successors in interest, and assigns as a part of the consideration hereof, does hereby covenant and agree that (1) no person or

the grounds of race, color, religion, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of all airport facilities; (2) in the construction and maintenance of any improvements on, over, or under such land and the furnishing of services thereon or therein, no person on the grounds of race, color, religion or national origin shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination; (3) MANAGER 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.

22. NONASSIGNMENT. MANAGER shall not have the right to assign its rights or obligations under this Agreement without the express written consent of the City of Wausau. It is expressly understood and agreed that the principal owners of MANAGER shall not transfer fifty percent or more their ownership interests to any other person or persons without the express written consent of CITY. Such transfer of ownership without such written consent shall be a breach of this Agreement and shall authorize CITY, at its option, to declare this Agreement void, cancel the same, and reenter and take possession of the premises.

23. SEVERABILITY. In the event that any provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provision contained herein, provided that the invalidity of any such provision does not materially prejudice either CITY or MANAGER in their respective rights and obligations contained in the valid provisions of this Agreement.

24. NOTICE. Any notice, demand, request, consent, approval or communication required or desired to be given by either party to the other or to a third party shall be in writing and either delivered personally or sent by certified United States mail, return receipt requested, in a sealed envelope, postage prepaid, and addressed as follows:

TO CITY:

City Clerk
City of Wausau
City Hall
407 Grant Street
Wausau, WI 54403-4783

TO MANAGER:

Charles P. Turner,
Wausau Flying Service, Inc.
Wausau Downtown Airport
Woods Place
Wausau, WI 54401

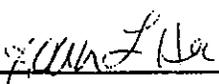
Either party may change its address by notice to the other in accordance with this paragraph. Notice shall be deemed communicated when delivered, if delivered personally, or within 48 hours from the date of mailing, if mailed pursuant to this paragraph.

25. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties and each party understands that there are no other oral understandings or agreements other than those set out herein. This Agreement cannot be added to, altered, or amended in any way except by written agreement signed by both of the parties hereto.

26. LAW. This Agreement shall be interpreted in accordance with the laws of the State of Wisconsin.

27. SUCCESSORS AND ASSIGNS. The conditions, covenants and agreements in the foregoing Agreement to be kept and performed by the parties hereto shall be binding upon the respective parties and their approved successors and assigns.

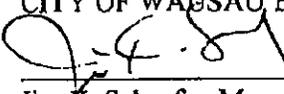
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

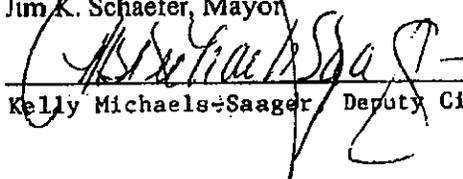


Witness

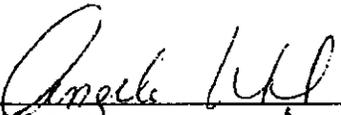


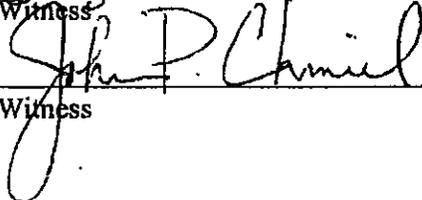
Witness

CITY OF WAUSAU BY:


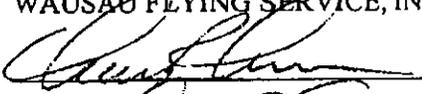
Jim K. Schaefer, Mayor


Kelly Michaels-Saager, Deputy City Clerk



Witness


Witness

WAUSAU FLYING SERVICE, INC., BY:


President


Secretary

EXHIBIT A

NOTIFICATION IN CASE OF EMERGENCY

Department of Public Works 843-1340 or 843-1420

- David Koch, Director of Public Works
- Notify in event of snow, ice or mechanical emergencies

Fire Department 843-1401

- Fire Chief
- Notify in event of fire hazards, spills of petroleum products or other hazardous materials emergencies

Police Department 843-1094

- William Brandimore, Chief

Water & Sewer Department 843-1130

- Joseph Gehin, Utilities Director
- Notify in the event of water/sewer break or other emergency

Nonemergency Notification

- City Attorney's Office 843-1210
 - William Nagle, City Attorney
 - Notify in event of legal questions
- Finance Department 843-1140
 - Maryanne Groat, Finance Director
 - Notify for preauthorization of purchases



Office of the City Attorney

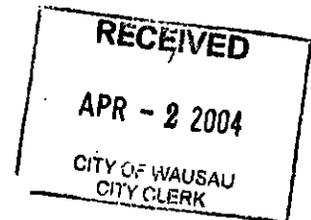
William P. Nagle
City Attorney

Anne L. Jacobson
Assistant City Attorney

April 1, 2004

Kelly Michaels-Saager, Clerk
City of Wausau
407 Grant Street
Wausau, WI 54403

Agf # 0923



ADDENDUM TO AIRPORT MANAGEMENT AGREEMENT
COUNCIL FILE NO. 92-0922

Attached find duplicate original addendum referenced above which has been executed by all parties. Please file the same.

By copy of this letter, I am providing Wausau Flying Service, Inc., with a duplicate original for their records.

Thank you.

JOAN L. HEAHLKE
ADMINISTRATIVE ASSISTANT

Attachment

cc Wausau Flying Service, Inc. (w/duplicate original)
John Chmiel, Wausau Downtown Airport (w/copy of attachment)

ADDENDUM TO AIRPORT MANAGEMENT AGREEMENT

THIS ADDENDUM to the Airport Management Agreement between the City of Wausau, ("CITY") and Wausau Flying Service, Inc. ("MANAGER"), dated March 20, 1998, is hereby made this 1st day of April, 2004.

WITNESSETH:

Paragraph 2.K. on page 3 of the foregoing agreement is hereby amended to read:

- K. Operational audit of performance of MANAGER shall be conducted by CITY at least once every five years, to take place 60 days prior to any wage increase, and as needed or requested. MANAGER shall have thirty (30) days from date of audit to remedy all performance below standards or CITY shall have option to cancel.

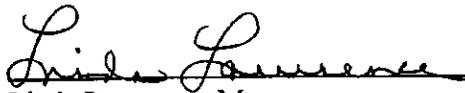
Pursuant to Paragraph 4. (TERM OF AGREEMENT), of the foregoing agreement, the management fee shall be increased annually in the amount of 4.5 percent for a five-year period, effective March 20, 2003.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

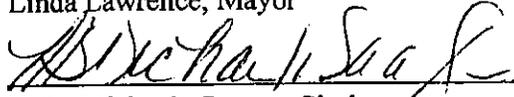
In the Presence of

CITY OF WAUSAU BY:

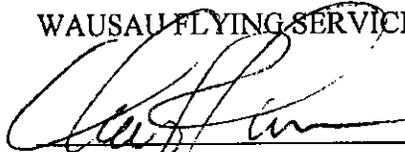



Linda Lawrence, Mayor




Kelly Michaels-Saager, Clerk

WAUSAU FLYING SERVICE, INC. BY:


Charles P. Turner, President

**JOINT RESOLUTION OF AIRPORT COMMITTEE
AND FINANCE COMMITTEE**

Authorizing Addendum to Airport Management Agreement

Committee Action: Airport Approved 6-0
Finance Approved 5-0

Fiscal Impact:

File Number: 92-0922

Date Introduced: July 14, 2009

RESOLUTION

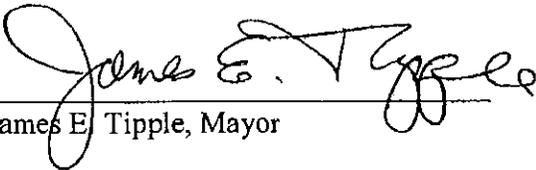
WHEREAS, The city of Wausau wishes to execute an addendum to the March 20, 1998, Airport Management Agreement between the City of Wausau and Wausau Flying Service, Inc., and

WHEREAS, the Airport Committee, at their June 3, 2009 meeting, and the Finance Committee, at their June 9, 2009 meeting, did approve an addendum providing the Manager be paid by the City \$15 per hour for snowplowing and mowing hours actually worked, and

WHEREAS, the addendum further establishes that the management fee be increased annually in the amount of 4.5 percent for a two-year period, retroactive to March 20, 2008.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Wausau that the proper City officials be authorized and directed to execute the attached Addendum to Airport Management Agreement between the City of Wausau and Wausau Flying Service, Inc.

Approved:


James E. Tipple, Mayor

ADDENDUM TO AIRPORT MANAGEMENT AGREEMENT

THIS ADDENDUM to the Airport Management Agreement between the City of Wausau, ("CITY") and Wausau Flying Service, Inc. ("MANAGER"), dated March 20, 1998, is hereby made this ____ day of _____, 2009.

WITNESSETH:

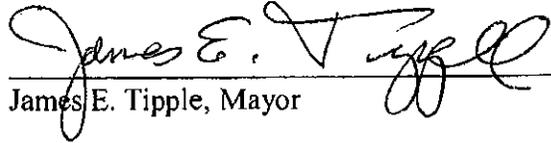
Paragraph 3. (MANAGEMENT FEE), of the foregoing agreement, the MANAGER shall be paid by CITY \$15 per hour for snowplowing and mowing hours actually worked in accordance with paragraph 2.A.

Paragraph 4. (TERM OF AGREEMENT), of the foregoing agreement, the management fee shall be increased annually in the amount of 4.5 percent for a two-year period, retroactive to March 20, 2008.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

In the Presence of

CITY OF WAUSAU BY:


James E. Tipple, Mayor

Kelly Michaels, Clerk

WAUSAU FLYING SERVICE, INC. BY:

Charles Turner, President

ADDENDUM TO AIRPORT MANAGEMENT AGREEMENT

THIS ADDENDUM to the Airport Management Agreement between the City of Wausau, ("CITY") and Wausau Flying Service, Inc. ("MANAGER"), dated March 20, 1998, is hereby made this 7th day of October, 2009.

WITNESSETH:

Paragraph 3. (MANAGEMENT FEE), of the foregoing agreement, the MANAGER shall be paid by CITY \$15 per hour for snowplowing and mowing hours actually worked in accordance with paragraph 2.A.

Paragraph 4. (TERM OF AGREEMENT), of the foregoing agreement, the management fee shall be increased annually in the amount of 4.5 percent for a two-year period, retroactive to March 20, 2008.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

In the Presence of

CITY OF WAUSAU BY:

Kathi J. Broeschel

James E. Tipple
James E. Tipple, Mayor

Jean Farsch

Kelly Michaels
Kelly Michaels, Clerk

WAUSAU FLYING SERVICE, INC. BY:

Jean Farsch

John P. Chmiel
John P. Chmiel, President

JOINT RESOLUTION OF THE FINANCE AND AIRPORT COMMITTEE

Authorizing Addendum to the Airport Management Agreement

Committee Action: Finance Comm: Approved 4-0.
Airport Comm: Approved 4-0.

Fiscal Impact: No additional financial terms added

File Number: 92-0922

Date Introduced: August 10, 2010

RESOLUTION

WHEREAS, the City of Wausau wishes to execute an addendum to the March 20, 1998 Airport Management Agreement between the City of Wausau and Wausau Flying Service, Inc., and

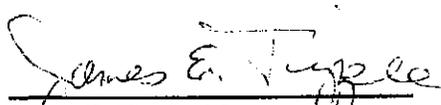
WHEREAS, the Airport Committee at their July 14th meeting, recommended a continuation of the terms established in the July 14th, 2009 addendum for the period of March 20, 2010 to September 1, 2012, and

WHEREAS, the Finance Committee reviewed the recommendations of the Airport Committee at their August 4th, 2010 committee meeting and recommend the same; and

WHEREAS, the 2010 budget provides provisions for the financial terms of this addendum;

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Wausau that the proper City officials be authorized and directed to execute the attached Addendum to the Airport Management Agreement between the City of Wausau and Wausau Flying Service, Inc.

Approved:


James E. Tipple, Mayor



Office of the City Attorney

Anne L. Jacobson
City Attorney

Patricia Cal Baker
Assistant City Attorney

September 9, 2010

Kelly Michaels, Clerk
City of Wausau
407 Grant Street
Wausau, WI 54403

ADDENDUM TO AIRPORT MANAGEMENT AGREEMENT—
COUNCIL FILE NO. 92-0922

Enclosed please find original, executed addendum to Airport Management Agreement. Please file the same.

A handwritten signature in cursive script, appearing to read "Lisa Parsch".

LISA PARSCH
ADMINISTRATIVE ASSISTANT

Enclosure

cc w/Enc. John Chmiel, Wausau Flying Service, Inc.
Maryanne Groat, Finance Director

ADDENDUM TO AIRPORT MANAGEMENT AGREEMENT

THIS ADDENDUM to the Airport Management Agreement between the City of Wausau, ("CITY") and Wausau Flying Service, Inc. ("MANAGER"), dated March 20, 1998, is hereby made this 16th day of August, 2010.

WITNESSTH:

Paragraph 3. (MANAGER FEE), of the foregoing agreement, the MANAGER shall be paid by CITY \$15 per hour for snowplowing and mowing hours actually worked in accordance with paragraph 2.A.

Paragraph 4. (TERMS OF AGREEMENT), of the foregoing agreement, the management fee shall be increased annually in the amount of 4.5 percent for a period of March 20, 2010 through September 1, 2012.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

In the Presence of

Mary D. Goodle

CITY OF WAUSAU BY:

James E. Tipple
James E. Tipple, Mayor

Kelly Michaels
Kelly Michaels, Clerk

WAUSAU FLYING SERVICE, INC. BY:

John P. Chmiel
John Chmiel, President

FINANCE COMMITTEE

Date and Time: Tuesday, June 14, 2016 @ 5:15 pm., Board Room

Members Present: Rasmussen (C), Smith, Gehin, Kellbach, and Nutting (*entered at 5:45 pm.*)

Others Present: Groat, Lindman, Jacobson, Mielke, Ray, Schmidt, Neal, McElhaney, Goede, Mark Putman , Eric Lemke – Stantec, and Glenn Speich

Discussion and possible action regarding the sole source approval of a Airport Manager and Fixed Base Operator Contract

Groat stated we have two separate contracts with Wausau Flying Service that relate to our airport. She explained the Airport Manager Contract guides behaviors and conduct on how Wausau Flying Service maintains the airport for us to be safe and in good condition for flight, as well as leases the property (hangars) on our behalf. It conducts business for the city and works with the FAA and Bureau of Aeronautics. She stated the Fixed Base Operator Contract is somewhat like filling station, to include pumping gas for the airplanes, providing mechanic services, charter flight services, and give flying lessons. She noted Wausau Flying Service has been doing this the 20 years she has worked for the city.

Groat indicated the contracts are up for renewal on March 20, 2018, but they have reached out to us to renegotiate the full contract now for a long period time. In this case, we would either have to competitively procure it or consider it as a sole source. She stated she prepared a sole source with the justification of the institutional knowledge the Wausau Flying Service has by operating the airport for such a long period of time and that it is an extremely specialized service in a very small market. She pointed out the proposal process would be extremely time consuming and hard for vendors to prepare a good RFP. She commented we are fortunate to have a quality airport manager and FBO, who has won awards from the FFA.

Groat stated the rates we are currently paying are within the realm of what other airports are paying. There was nothing that indicated to her that we are not getting a competitive price for the services we are being offered and some of the others were being paid more. Nutting questioned how long a period the contract would be. Groat thought it was 10 or 20 years. She explained the process would be for the contract to go to the Airport Committee and then come to Finance Committee and finally to Common Council.

Motion by Gehin, second by Kellbach to authorize the sole source of an Airport Manager and Fixed Base Operator Contract. Motion carried 5-0.



CITY OF WAUSAU
SOLE SOURCE PURCHASE JUSTIFICATION
REQUIRED FORM PURCHASE OF GOODS OR SERVICES EXCEEDING \$5,000

Purchase of goods or services for no more than \$25,000 may be made without competition when it is agreed *in advance* between the Department Head and the Finance Director. Sole source purchasing allows for the procurement of goods and services from a single source without soliciting quotes or bids from multiple sources. Sole source procurement cannot be used to avoid competition, rather it is used in certain situations when it can be documented that a vendor or contractor holds a unique set of skills or expertise, that the services are highly specialized or unique in character or when alternate products are unavailable or unsuitable from any other source. Sole source purchasing should be avoided unless it is clearly necessary and justifiable. The justification must withstand public and legislative scrutiny. The Department Head is responsible for providing written documentation justifying the valid reason to purchase from one source or that only one source is available. Sole source purchasing criteria include: urgency due to public safety, serious injury financial or other, other unusual and compelling reasons, goods or service is available from only one source and no other good or service will satisfy the City's requirements, legal services provided by an attorney, lack of acceptable bids or quotes, an alternate product or manufacturer would not be compatible with current products resulting in additional operating or maintenance costs, standardization of a specific product or manufacturer will result in a more efficient or economical operation or aesthetics, or compatibility is an overriding consideration, the purchase is from another governmental body, continuity is achieved in a phased project, the supplier or service demonstrates a unique capability not found elsewhere, the purchase is more economical to the city on the basis of time and money of proposal development.

1. Sole source purchase under \$5,000 shall be evaluated and determined by the Department Head.
2. Sole source purchase of \$5,000 to \$25,000 a formal written justification shall be forwarded to the Finance Director who will concur with the sole source or assist in locating additional competitive sources.
3. Sole source purchase exceeding \$25,000 must be approved by the Finance Committee.

Ongoing Sole Source – 365 days **One Time Sole Source Request**

1. Provide a detailed explanation of the good or service to be purchased and vendor.

Wausau Flying Service has served as the City of Wausau's Airport Manager and Fixed Base Operator for the last 20 plus years. The Airport has been managed very well during that time and experienced great growth including obtaining sizeable grants for security fencing and the snow removal equipment storage. In addition, the City has invested in successful commercial hangar facilities and has now accommodated private hangar development on the airport property. Wausau Flying Services provides two distinct services for the City: As Airport Manager the City pays them a monthly service fee to maintain the properties and provide administrative services necessary to keep the Airport running efficiently and effectively. Within their Fixed Base Operator contract they provide ancillary services necessary for an active vibrant Airport. As FBO they receive income from the airport customers not the City of Wausau. Services as FBO include fuel sales, mechanic services, flight instruction, airplane rental and airplane charters services. In this relationship the Fixed Base Operator pays rent to the City for the use of the property to conduct this business.

Our current contract with Wausau Flying Services was a twenty year contract which expires on March 20th, 2018. The contract provides that the financial terms of the contract be renegotiated every five years. The last financial negotiation was August of 2010 for a two year period. Wausau Flying Services has received no increase in their airport manager's contract since 2010. Wausau Flying Service has requested that rather than negotiate financial reconsideration that is significantly overdue that we renegotiate a long term contract with them.

2. Provide a brief description of the intended application for the service or goods to be purchased.

Wausau Flying Service would continue to provide Airport Manager and Fixed Base Operator Services for the City of Wausau.

3. State why other products or services that compete in the market will not or do not meet your needs or comply with your specifications.

Airport Manager and Fixed Based Operator services are very specialized. The current operator understands our small market, has developed relationships with the customer base, is aware of the facility needs and respected in the industry. Wausau Flying Service is creative in generating new business for the airport; is community minded, and a considerate, respectful neighbor. The

Company maintains positive relationships with the FAA and BOA. The City benefits greatly from long term contracts when the service provider is offering exceptional service. The proposal process would be very time consuming for staff and proposers. Proposer's would find difficulties in responding as the net profits generated by the Fixed Base Operations would not be available and our market is small. In addition, due to the success of our current relationship proposer's may not be willing to commit the time and energy to propose.

4. Describe your efforts to identify other vendors to furnish the product or services.

No work has been done to seek alternate vendors or services.

5. How did you determine that the sole source vendor's price was reasonable?

The City surveyed similar airports to determine the prices paid to their airport managers.

6. Which of the following best describes this sole source procurement? Select all that apply.

- Product or vendor is uniquely qualified with capability not found elsewhere.
- Urgency due to public safety, serious financial injury or other. (explain) Obligations of the decree and other PRP's and the litigation potential if we fall out of compliance.
- The procurement is of such a specialized nature that by virtue of experience, expertise, proximity or ownership of intellectual property
- Lack of acceptable quotes or bids.
- Product compatibility or the standardization of a product.
- Continuation of a phased project.
- Proposal development is uneconomical.

Department: Finance

Preparer: Maryanne Groat

Vendor Name: Wausau Flying Service

Expected amount of purchase or contract: Annual Airport Manager Contract is \$68,021 plus a \$15 hourly rate for snow removal and profit sharing in the commercial hangar revenue.

Department Head Signature:

Date:

Finance Director Signature:

Date: 6/6/2016

Wausau Flying Service, Inc.'s Comments to the Airport Committee Regarding FBO and Manager's Contract Drafts

June 28, 2016

MANAGEMENT AGREEMENT

- Paragraph 1 – this paragraph attempts to distance the City from the manager by providing that the manager is not the City's agent. However, this is not correct. There are some instances where the manager is carrying out specific policies or directives from the City and its staff, and is indeed legally the agent of the City. Examples would be the Snow Plowing Plan referred to in paragraph 2A of the Management Agreement and the Security Policy referred to in paragraph 17. We have proposed additional language for this paragraph that would provide that when the manager is carrying out specific City policies or staff directives it is the agent of the City, but not otherwise. In essence, the paragraph must be corrected to reflect reality. This is not the same situation as contracting out garbage collection. In that case a service is being provided, but the contractor isn't operating a City facility. On the other hand, if the City wants to have nothing to do with setting policy at the airport we can make that clear in the contract and then confidently say that the manager is never operating as the City's agent.
- Paragraph 3 – snow removal and grass cutting hourly rate. \$25 per hour is a more reasonable figure for such a service. We expect that DPW's internal labor costs for such work is higher than this. There is also an equitable argument for this increase. Several years ago WFS agreed to freeze its management fee to assist the City in achieving a balanced budget. It agreed to forego money to which it was legally entitled by the terms of the contract. That good will gesture should encourage the City to reciprocate with a more reasonable reimbursement rate for this service.
- Paragraph 9 – Insurance. The language proposed is acceptable. By way of context, WFS explored increasing the limits of its premises liability coverage from \$2,000,000 to \$5,000,000, and learned that the increase would be 219% (from \$1,035 to \$3,310 per year). If the City wishes to pay for such an increase WFS will purchase the insurance. However, because the Wisconsin Statutes (§893.80) limits the City's liability to any one individual to \$50,000, WFS questions the need for a liability limit 100 times that amount.

FBO AGREEMENT

- Parking lot – WFS is not requesting improvements to the parking lot. It is requesting that the City (which owns the lot) maintain it in appropriate fashion. Currently there are potholes and defects in the lot that make it both unsightly and a potential hazard to vehicles and pedestrians (and therefore a potential liability to the City). It also presents an image issue to visitors to the City. Do we want their first impression to be poorly maintained infrastructure? WFS would like to see DPW bring this lot up to the standard of other lots owned by the City.
- Insurance – see comments above.

AIRPORT MANAGER'S REPORT
June 2016

A. FUEL SALES

| Fuel Type | 2014 | 2015 | 2016 | 2015/2016 % Change |
|---------------------------|-------|-------|-------|--------------------------|
| 92 OCT Auto | 265 | 267 | 265 | -1 |
| 100LL | 2034 | 1905 | 2365 | 24 |
| Jet A | 7999 | 10445 | 10357 | -1 |
| Monthly Totals | 10298 | 12617 | 12987 | 3 |

B. YEAR TO DATE FUEL TOTALS

| 2014 | 2015 | 2016 | 2015/2016 % Change |
|--------|--------|--------|-----------------------|
| 39,564 | 63,255 | 62,684 | -0.9 |

C. AIRPORT OPERATIONS

Active Wausau Based Aircraft: 39
Inactive Wausau Based Aircraft: 50
 Total Wausau Based Aircraft: 89

TOTAL ESTIMATED FLIGHT OPERATIONS : 3498

Companies Utilizing the Wausau Downtown Airport
 (Not Including Aviation Companies)

| | |
|----------------------------|---------------------|
| Becher Hoppe | Log Cabin |
| River Valley Bank | Jefferson St. Inn |
| Marshfield Clinic/Spirit 2 | Miron Construction |
| State of Wisconsin | Aspirus |
| Noel Properties Downtown | Kocourek Automotive |
| Pediatric Dental | Eagle's Nest |
| Integrity Construction | Great Dane |
| TransCanada Pipeline | Walmart |

| | |
|-------------------------------|-------------------------|
| K & A Manufacturing | the Mint |
| Wausau Supply Company | Enterprise Rental Car |
| Valley Medical | Hertz Rental Car |
| Central WI Firearms | Wynn Jones & Associates |
| Prehn Cranberry Co. | Vortex Tool |
| Krist Oil | Noel Group |
| Ministry Health Care | M & J Marine |
| Bushman's | Greenheck Fieldhouse |
| Prehn Dental | All American Taxi |
| Cranberry Growers Cooperative | Cardinal Glass |
| University of MN Mankato | Aqua Finance |
| Monk Properties | Ballweg Motors |
| Lee's Famous Recipe | Cherry Tree Dental |
| Merrill Iron & Steel | Granite Peak |
| K-Tech | O'Brien, Inc. |

D. AIRPORT MAINTENANCE

Lighting Systems: All OK
 Vehicles: All OK
 Snow Removal: All OK
 Buildings: All OK

SRE BUILDING – no problems

TERMINAL BUILDING – no problems

CIVIL AIR PATROL OFFICES – no problems

SECURITY GATE SYSTEM – no problems

E. AIRCRAFT RENTALS

| Month | 2013 | 2014 | 2015 | 2016 | 2015/2016 % Change |
|-----------------|------|------|------|------|-----------------------------------|
| January | 12.8 | 2.0 | 49.9 | 20.1 | -59.7 |
| February | 11.4 | 6.2 | 37.0 | 48.1 | 30.0 |
| March | 28.7 | 18.1 | 31.0 | 74.4 | 140.0 |
| April | 23.7 | 21.3 | 50.9 | 54.6 | 7.3 |

| | | | | | |
|---------------------|--------------|-------------|--------------|--------------|-------------|
| May | 26.2 | 30.3 | 52.2 | 66.5 | 27.4 |
| June | 54.0 | 69.4 | 99.8 | 0.0 | -100.0 |
| July | 79.7 | 143.9 | 91.7 | 0.0 | -100.0 |
| August | 88.9 | 92.0 | 106.2 | 0.0 | -100.0 |
| September | 92.2 | 79.0 | 64.4 | 0.0 | -100.0 |
| October | 50.0 | 94.8 | 38.9 | 0.0 | -100.0 |
| November | 18.7 | 42.8 | 41.6 | 0.0 | -100.0 |
| December | 7.7 | 36.7 | 19.0 | 0.0 | -100.0 |
| Year-To-Date | 102.8 | 77.9 | 221.0 | 263.7 | 19.3 |

F. HANGAR TENANT CONCERNS

CORPORATE HANGAR ACTIVITY

| Month | WFS Aircraft | Local Tenants* | Transient Tenants** |
|--------------|---------------------|-----------------------|----------------------------|
| May | 4 | 10 | 3 |

* 1 jet, 4 turbine, 5 singles, 1 helicopter

** 3 turbine

T-HANGARS – 100 % occupancy, 18 aircraft owners on waiting list

PRIVATE HANGARS – No issues

CITY HANGARS – No issues

KOCOUREK HANGAR CONSTRUCTION- 2016 update at airport committee meeting

- Hangar space at the Wausau Downtown Airport is quickly becoming a big issue. There is another new Pilatus PC12 arriving in August/September. That will bring the airport to 100% occupancy in the corporate hangars. It is essential that Kocourek build his hangar in 2016.
- FAA funding of the East Hangar Development Area has been curtailed. The FAA will not assist funding installation of utilities in this area to include: water, sewer, gas, or electric. This could be a problem for the Kocourek hangar. Ultimately any investment the City makes in utilities now will not cost the City money in the end. Typically, the City makes the initial investment for utility installation and then the builder is charged a hook-up fee to connect to the facilities. Private hangar construction ultimately pays for the initial utility install.

G. AIRPORT PROMOTION

- Chili Fly-In in January was the most well attended in history with 51 aircraft.
- As part of our 25th Anniversary Celebration for Wausau Flying Service, Inc. we have organized a year-long contest called “When Chickens Fly”. Waiver policy created by the City Attorney is enforced.
- “Learn, Build, Fly” has gained 501 (C)(3) status. The group which completed their first airplane, the Baby Ace, this summer, has begun construction on their next project: a Wittman Buttercup. Building

meetings take place on Tuesday evenings and Sundays. The goal is to build aircraft and introduce adults and youth to aviation and homebuilding. About 30 people are active in the organization.

- Hamburger Nights at Wausau this year will be the first Wednesday in June and the last Wednesday in August. Almost thirty percent of the public use airports in Wisconsin participated 2015 “Hamburger Night. Our June 1st had served 100+ aviation enthusiasts and 7 aircraft from aircraft around Central WI attended the event in less than ideal weather condition (30 knot winds). Airports in Upper Michigan have spread the Hamburger Night concept in their state. I was interviewed by a national aviation publication, Flight Training Magazine, about promoting the concept of “Hamburger Night” nation-wide. I am going to be meeting with EAA leadership next month about EAA helping to promote the concept nationally. Phillips 66 and Flyer411 are considering corporate sponsorship.
- The Central Wisconsin Branch of the Wisconsin Hamburger Social will enter a joint experiment in the winter of 2015/17 with the FAA FAAS Team to organize monthly safety briefings for pilots. The monthly meetings will be staged at a different airport every month within the Central Wisconsin Branch. Pilots attending the one-hour safety event will earn WINGS credit toward their recurrent training. If attendance is successful, the plan will be implemented throughout the State of WI.
- Boy Scout Troop 465 sponsored by Wausau Flying Service, Inc. meeting weekly at the airport.
- Local AARP chapter now holds monthly meetings at the airport. Airport will make a presentation at their August meeting.
- The Southeast Side Neighborhood group meets monthly at the airport. They have had as many as 90 attend their meetings.
- Civil Air Patrol holds monthly meetings at the airport.
- Wausau R/C Sportsmen holds monthly meetings at the airport September through May.
- Organizers have confirmed the AirVenture Cup Race finish line at the Wausau Downtown Airport will be returning on July 24th 2016
- We are working with Rico Jaeger, a KAUW tenant and YAK 52 owner, to organize the “Redstar Pilots Association” gathering at Wausau Thursday through Saturday the weekend before AirVenture 2016.
- Please check out Flywausau.com and Wausau Downtown Airport FB page are being updated regularly.
- Sign-Up now for our monthly email newsletter “CONTACT”