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COMMUNITY DEVELOPMENT

MEMORANDUM

To: Mayor and City Council Members

From: Jodi Royal-Goodwin, Community Development Director

Cc: Greg Jenkins, Interim City Administrator

Date: July 2, 2020

Re: **Approving Transfer of the Airport Manager's Agreement for the Muscatine Municipal Airport**

Planning,
Zoning,
Building Safety,
Construction Inspection Services,
Public Health,
Housing Inspections,
Code Enforcement

INTRODUCTION: In October 2016 the City of Muscatine entered into an Airport Manager's Agreement with Carver Aero, Inc. for the Muscatine Municipal Airport. The sole proprietor of Carver Aero, Inc. has established and transferred all business activity to Carver Aero, LLC. Staff recommends Council approve the transfer of the Airport Manager's Agreement, which maintains the terms and conditions of the 2016 document.

BACKGROUND: For more than 30 years the City of Muscatine has engaged the services of a professional Airport Manager to conduct day-to-day airport operations. The new Agreement maintains operations with the new legal entity. The Airport Advisory Commission supports the transfer of operations to the new LLC.

The Agreement identifies hours of operations, and requirements for maintenance of buildings and grounds, mowing, snow removal, insurance coverage and related management responsibilities. This agreement will be effective July 1, 2020, through June 30, 2030, and includes two additional five year extensions. However, the City retains the right to terminate the agreement if Carver Aero, LLC, fails to perform per the terms of the Agreement. Performance will be evaluated by the Airport Advisory Commission each January.

PROPOSED MOTION: I move to approve the Airport Manager's Agreement with Carver Aero, LLC.

Supporting Documents

1. Airport Manager's Agreement

**CITY OF MUSCATINE
AIRPORT MANAGER'S AGREEMENT**

This Agreement made and entered into this 1st day of July, 2020, by and between the City of Muscatine, Iowa, a municipal corporation and Carver Aero, LLC,

WITNESSETH:

WHEREAS, the City desires to contract with Carver Aero, LLC, to manage and operate the Muscatine Municipal Airport for the period as set out herein, and

WHEREAS, Carver Aero, LLC, desires to manage and operate said airport for the City;

NOW, THEREFORE, it is hereby understood and agreed by and between the parties hereto that:

1. Carver Aero, LLC, be, and hereby is, designated the Manager of the Muscatine Municipal Airport for a period of time beginning July 1, 2020, and ending June 30, 2030 with the provision that this Agreement be automatically extended for two (2) additional five (5) year periods provided it is determined to be mutually beneficial to the City and Carver Aero, LLC.
2. Carver Aero, LLC, shall identify a responsible person as company representative at the airport. A review of the terms of this Agreement and the duties and performance of the Airport Manager shall be held annually at the regular Airport Advisory Commission meeting in January.
3. The Airport Manager shall not be an employee of the City of Muscatine, but shall be an independent contractor in accordance with the provisions of this Agreement and shall report to the Community Development Director (City's representative) or the appropriate designee.
4. The duties of the Airport Manager shall be as follows, to wit:
 - a. To supervise all activity at said Airport and to assume all responsibility for all activities thereon; to maintain such Airport records as may be required by the City of Muscatine and/or Federal Aviation Administration, to make those records available to the City at reasonable times, and to provide the City with information as needed about the operation of the Airport; to enforce any rules or ordinances of said City relative to said Airport; to inspect and report any malfunctions to said City and any condition at such Airport which may require correction or alteration; to operate and/or properly inspect the Airport lighting, REIL, and PAPI systems; and to perform such other duties as may, from time to time, be assigned by the City of Muscatine or which may be reasonably be required for the proper and safe operation of said Airport.
 - b. Provide for the Airport Terminal Building to be open seven (7) days per week between the hours of 7:00 a.m. and 6:00 p.m., weather and conditions permitting, excepting designated City holidays.
 - c. The Airport Manager or its representative shall attend all regular monthly Airport Advisory Commission meetings unless excused by the Commission Chairperson or City representative to the Commission. The Airport Manager is required to attend a minimum of two-thirds (2/3) of all meetings in a calendar year.

5. The responsibility of repair and maintenance shall be divided between the City and the Airport Manager under the following terms and conditions:
 - a. The City shall, at its expense, maintain and keep in good repair the Airport and the exteriors of all buildings and improvements located thereon (as demonstrated on Exhibit A and including, without limiting the generality of the foregoing, the runways, taxiways, aprons, roadways, REIL, PAPI, field lighting, plumbing, heating, electrical fixtures, and utility lines and connections) and shall provide all necessary paint, all without expense to the Airport Manager. The facilities shall be maintained in such a manner that they may be reasonably used for the purpose for which they were constructed.
 - b. The Airport Manager shall, at its expense, keep the Airport Terminal Building reasonably clean and orderly.
 - c. The Airport Manager shall as often as may be reasonably necessary remove weeds around all buildings and hard surfaces at the Airport.
 - d. The Airport Manager shall remove from runways and lighting system, taxiways, ramp, and hangar areas all snowfall up to and including six inches (6") which falls within twenty-four (24) hours. The City shall make all reasonable efforts to assist in the removal of snow in excess of six inches (6") that accumulates within any 24-hour period.
 - e. The City shall provide and maintain the equipment it deems necessary and proper to facilitate the removal of snow and ice. The City shall also pay, on a monthly basis, for the fuel used in said equipment which shall be obtained from records approved by the City, with such being identified by date, amount, and vehicle.
 - f. The City will pay for all utilities, including electricity, gas, water, sewer, and refuse collection for all of the buildings and facilities on the Airport, except the Maintenance Hangar, and buildings E and F.
 - g. The Airport Manager shall make no alterations to any buildings or facilities at the Airport without prior approval of the City.
 - h. The services performed by the Airport Manager under the terms and conditions hereof shall be to the standard that a reasonably prudent person would expect from a qualified Airport Manager.
6. The City will provide general liability insurance and fire and theft insurance on the building and grounds of the Airport in such amounts that the City carries for other municipal facilities. The Airport Manager shall carry the following insurance coverage for its operation, including all employees employed by him/her:
 - a. Manager shall provide the City a certificate of insurance evidencing that such insurance has been furnished, and the same will not be cancelled without thirty (30) days notice to the City. During the Workers compensation insurance, including Employer's Liability and Occupation Disease, covering all Iowa based employees who perform any of the obligations assumed by the Airport Manager under the Agreement for the statutory Iowa benefits. The policy will contain a broad form, all-states endorsement.

- b. Comprehensive General Liability, including independent contractors, completed operations and products, contractual liability, broad form property damage, and personal injury. Coverage must meet the following limits, deductibles on bodily injury are not acceptable:

Coverage

- Combined Bodily Injury, Death, or Property Damage - \$1,000,000 each occurrence and \$5,000,000 aggregate
- Umbrella Liability Coverage - \$5,000,000

The Airport term of this Agreement, the City will annually review the insurance limits to assure the limits are in accordance with the City policy and reserves the right to request the Airport Manager increase the above insurance limits provided thirty (30) days prior notice is given by the City.

7. The rental for the T-hangars one (1) through twenty (20) located in rows 1, 2 and 3 will be the responsibility of the City; however, the Airport Manager will assist the City with selection of lessees and enforcement of the rules and regulations as adopted by the Airport Advisory Commission. Corporate hangars are leased by special agreements with the City; however, the Airport Manager shall assist the City with the enforcement of the provisions of the Agreements.
8. As compensation for services to be rendered by Carver Aero, LLC, the airport management services for the Muscatine Municipal Airport, the City shall pay the sum of \$46,500 per year through fiscal year 2020/2030, payable in equal monthly installments through the completion of this Agreement period. Negotiation for any alterations in this Agreement shall be undertaken no later than November 1 of each fiscal year beginning November 1, 2029.
9. The City reserves the right, but shall not be obligated to the Airport Manager to maintain and keep in good repair, the landing area of the Airport and all publicly owned facilities of the Airport.
10. The City reserves the right to further develop or improve the landing areas and all publicly owned air navigation facilities of the Airport as it sees fit, regardless of the desires or views of the Airport Manager.
11. The City reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent the Airport Manager from erecting, or permitting to be erected, any building or other structure on the Airport, which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
12. The City shall have the right to enter into an Agreement with the United States government for military aircraft or naval use of part or all of the landing areas, the publicly owned air navigation facilities and/or other areas or facilities of the Airport. If any such Agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provision of the Agreement with the government, shall be suspended.
13. This Agreement shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been, or may be, required as a condition precedent to the expenditure of federal funds for the development of said Airport.

14. Right of Termination. The City may elect to terminate this Agreement for the default of the Airport Manager of the terms and conditions hereof on giving thirty (30) days written notice to the Airport Manager of the intention to terminate as follows:
- a. The City shall give ten (10) days written notice to the Airport Manager of the default and if the default has not been corrected within twenty (20) days thereafter, this Agreement shall terminate at the option of the City.
 - b. The adjudication of the Airport Manager as bankrupt, or the initiation of bankruptcy proceedings by the Airport Manager or its creditors without a subsequent dismissal thereof within thirty (30) days shall terminate this Agreement at the option of the City.
15. Non-waiver of Rights or Remedies. The failure of the City to insist on a strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies that the City may have regarding the specific instance only, and shall not be deemed a waiver for any subsequent breach or default in any terms and conditions.
16. Notices. All notices to be given with the respect to this document shall be in writing shall be sent by certified mail, postage prepaid and return receipt requested, to the party to be notified at the address set forth herein or at such other address as either party may from time to time designate in writing.

Community Development
City of Muscatine
215 Sycamore St
Muscatine, IA 52761

Inga Carus
Carver Aero, LLC
5701 US 61
Muscatine, IA 52761

Every notice shall be deemed to have been given at the time it shall be deposited in the United States postal service in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of an original notice or other legal process.

IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures the day and year first shown above.

APPROVED by City Council this ____ day of June, 2020.

Carver Aero, LLC



Inga Carus

CITY OF MUSCATINE



Kelcey Brackett, Mayor Pro Tem

Attest



Greg Jenkins, Interim City Administrator