

ADDENDUM

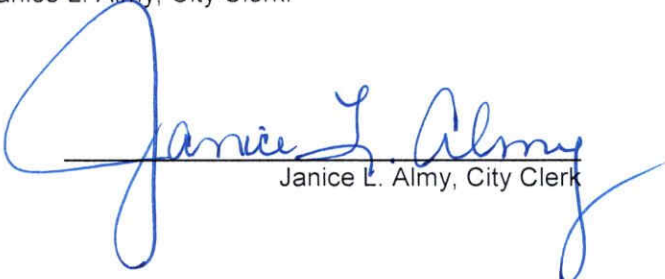
**REGULAR MEETING NOTICE AND AGENDA
Sand Springs Municipal Trust Authority
March 28, 2022 – Following City Council
Sand Springs Municipal Building
100 East Broadway – Council Chambers, First Floor
Sand Springs, OK 74063
www.sandspringsok.org**

A-1. Amendment to Sand Springs-Pogue Maintenance Hangar and Storage Room F Lease and Aviation Services Operator License Agreement

Trustees may consider approval, denial, amendment, or revision of an Amendment to Sand Springs-Pogue Maintenance Hangar and Storage Room F Lease and Aviation Services Operator License Agreement with WLW Enterprises, LLC, doing business as Skyboss Aviation. (Presented by: City Manager Michael S. Carter)

Motion _____ Second _____

This addendum was filed in the office of the City Clerk and posted at 1:20 p.m. on March 25, 2022, in the display case located at the front entrance of the Sand Springs Municipal Building (City Hall), 100 East Broadway Street, Sand Springs, Oklahoma, 74063, by Janice L. Almy, City Clerk.


Janice L. Almy, City Clerk



City of Sand Springs Agenda Form

Meeting Date: MAR 28 2022

Agenda: Municipal Authority

Item: Regular

Signature Items: Yes

Presented by: City Manager Michael S. Carter

Subject: Amendment to Maintenance Hangar and Storage Room F Lease and ASO License Agreement

Item #: MA-Addendum1 Cost: _____

Recommendation: Approval

Synopsis:

Trustees may consider approval, denial, amendment, or revision of an Amendment to Sand Springs-Pogue Maintenance Hangar and Storage Room F Lease and Aviation Services Operator License Agreement with WLW Enterprises, LLC, doing business as Skyboss Aviation.

Details:

The Sand Springs Municipal Authority Trustees approved the Maintenance Hangar and Storage Room F Lease and Aviation Services Operator License Agreement with WLW Enterprises, LLC, doing business as Skyboss Aviation to operate as an Airport Tenant and Commercial Operator that provides Airframe and Powerplant repairs and Specialized Commercial Aeronautical Services, with possible future services.

Since the approval of the Agreement, quotes were obtained for the repair/refinishing of the Hangar and Engine room floors. The cost was more than anticipated by both the Municipal Authority and Skyboss.

The proposed amendment to the agreement would allow for the repayment of one-half of the expense related to refinishing the Hangar and Engine room floors.

Payments are \$500 per month beginning April 1, 2022 for 18 months.

**SAND SPRINGS MUNICIPAL AUTHORITY
SAND SPRINGS - POGUE AIRPORT
MAINTENANCE HANGAR AND
STORAGE ROOM F LEASE
AVIATION SERVICES OPERATOR
LICENSE AGREEMENT**

This Agreement is entered into between the Sand Springs Municipal Authority (SSMA), a public trust organized under the laws of the State of Oklahoma, hereinafter referred to as "Lessor", and Lessee/Licensee WLW Enterprises, LLC, DBA, Skyboss Aviation and hereinafter referred to as "Lessee";

RECITALS

1. Lessee is an approved tenant of the SSMA in the East Side Aviation Development Area for the purpose of being an Aviation Services Operator (ASO) and requests SSMA to grant it a non-exclusive license to provide Aviation Services at Sand Springs - Pogue Airport (SSPA).

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained to be kept and performed by the parties hereto and upon the provisions and conditions hereinafter set forth, SSMA and Lessee do hereby agree as follows:

**ARTICLE I
Definitions**

Section 1.1 **Definitions**. Throughout this Agreement, the following words shall have the following meanings, respectively, unless the context clearly shall indicate some other meaning:

- a. Agreement means this Lease/License Agreement between SSMA and Lessee;
- b. SSPA means Sand Springs – Pogue Airport (SSPA);
- c. SSMA means the Sand Springs Municipal Authority, a charter agency of the City of Sand Springs;
- d. City means the City of Sand Springs, Oklahoma, a Municipal Corporation;
- e. Aviation Services Operator (ASO) means provider of Aeronautical Services at SSPA
- f. FAA means the Federal Aviation Administration of the United States, or any federal agency succeeding to its jurisdiction or function;
- g. FAR means Federal Aviation Regulations and shall include, but not be limited to, all regulations, policies, statements and directives promulgated or issued by the FAA.
- h. Governmental Requirements mean all federal, state, county and local laws, ordinances, rules, regulations, policies and procedures, security plans, standards, and rulings; including, but not limited to, all additions and amendments now in effect, or hereinafter enacted, as may be imposed by the FAA, TSA or any other governmental entity succeeding to the jurisdiction, functions, or responsibilities of either; SSMA; the City of Sand Springs, the State of Oklahoma, or other governmental entities authorized to enact rules, regulations, standards, or policies applicable to Lessee's use of the Airport and operation/utilization of the Leased Premises and improvements thereon.
- i. Term means the period of time that this Agreement shall be in effect as set forth in Section 2.1 (Term of Agreement).

j. TSA means the Transportation Security Administration of the United States, or any federal agency succeeding to its jurisdiction or function.

ARTICLE II **Term**

Section 2.1 **Terms of Agreement**. The Term of this Maintenance Hangar and Storage Room F Lease/License Agreement shall be for **10** years, commencing on the **1st day of April, 2022** and terminating on **31st day of March, 2032**, In addition to the initial term, the parties agree to **One (1)** option, of a minimum of **5** years, provided, as of the effective date of termination or cancellation of this Agreement, all obligations which have been incurred by Lessee or with respect to which Lessee shall be in default, shall survive such termination or cancellation.

ARTICLE III **Rentals, Fees, Utilities and Charges**

Section 3.1 **Rental Fee**. Lessee shall pay to Lessor at the rate of **Two Thousand Dollars & Zero Cents (\$2,000.00)** per month for the Maintenance Hangar beginning April 1, 2022, and continuing thereafter at the same monthly rate through March 31, 2027. Beginning April 1, 2027, rent shall be as follows:

April 1, 2027 through March 31, 2028: \$2,200 per month
April 1, 2028 through March 31, 2029: \$2,250 per month
April 1, 2029 through March 31, 2030: \$2,300 per month
April 1, 2030 through March 31, 2031: \$2,350 per month
April 1, 2031 through March 31 2032: \$2,400 per month

Lessee shall pay **One Hundred and Twenty Dollars & Zero Cents (\$120.00)** for the Storage Room F beginning April 1, 2022, and continuing thereafter at the same monthly rate through March 31, 2027. Beginning April 1, 2027, rent shall be as follows:

April 1, 2027 through March 31, 2028: \$135 per month
April 1, 2028 through March 31, 2029: \$140 per month
April 1, 2029 through March 31, 2030: \$145 per month
April 1, 2030 through March 31, 2031: \$150 per month
April 1, 2031 through March 31 2032: \$155 per month

In addition to all other payments in this section, Lessee shall pay \$500.00 Five-Hundred Dollars per month starting April 1, 2022 for 18 months in agreement to pay approximately half of the expense related to refinishing the Hangar and Engine room floors.

Lessee shall pay the monthly rental fee for the Maintenance Hangar Storage and the Storage Room F due in advance and payable on or before the **25th day of each month**.

Payment shall be made to Sand Springs Municipal Authority at the either of the following locations:

City of Sand Springs
100 East Broadway, P. O. Box 338
Sand Springs, Oklahoma 74063
or
Sand Springs-Pogue Airport
3200 N. Airport Road
Sand Springs, Oklahoma 74063

A delinquent payment shall result in the assessment by Lessor to the Lessee of a late processing fee in the amount of Ten percent (10%) of the monthly rental. Further, if and in the event the rental payment is not made within thirty (30) days of the due date then this lease shall be deemed terminated upon written notice therefor given unto Lessee by Lessor.

Section 3.2 Fees and Charges. Lessee shall pay to SSMA the following fees and charges as set periodically by SSMA and published in the schedule of Rates, Fees and Charges, for the use of services, privileges and facilities at the Airport:

a. **Grant of License and Fee.** Lessee shall pay an ASO Annual Operating License Fee to SSMA in the sum of Five Hundred Dollars (\$500.00) for the privilege of operating at SSPA subject to its lease Agreement with SSMA and its approval by SSMA. At any time a license fee is increased in the SSMA/SSPA published Rates and Fees Schedule, the ASO Annual Operating License Fee for Lessee shall so increase. Lessee shall pay the annual license fee on or before the commencement date and all subsequent annual fees shall be paid in advance on or before the first day of January of each year of the license agreement.

b. **Other.** To the extent applicable to its business, Lessee shall pay such other fees and charges as reasonable that may be assessed for all other services, privileges or facilities used by Lessee at the Airport.

Section 3.3 License Contingent Upon Payment. The grant by SSMA of the rights, licenses, use of facilities, services and privileges to Lessee under this Agreement shall, in each case be subject to the payment of the fees and charges required to be paid by Licensee hereunder.

Section 3.4 Delinquencies. A payment shall be considered delinquent if not paid by the 25th day of January for the ASO Annual Operating License Fee. A delinquent payment shall result in SSMA's assessment of a late fee to Lessee in the amount of ten (10) percent of the delinquent fee. Lessee agrees that upon the Lessee's failure to pay fees, as provided by this Agreement, within thirty (30) days of date due, the SSMA may at SSMA's option, declare this Agreement at end and terminate the Agreement.

Section 3.5 Utilities. Lessee shall pay for all water, sanitation, sewer/septic, electricity, internet, light, heat, gas, power, fuel, janitorial, and other services incident to Lessee use of the Leased Premises, whether or not the cost thereof be a charge or imposition against the Leased Premises.

ARTICLE IV

Lessee's Grants; Reservations

Section 4.1 No Joint Venture or Partnership. This Agreement shall not be deemed or construed (a) to create any relationship of joint venture or partnership between SSMA and Lessee, (b) to give SSMA any interest in the business of Lessee, or (c) to grant to Lessee any powers as an agent or representative of SSMA, or the City, for any purpose or to bind SSMA or the City.

ARTICLE V

Use of Hangar and Premises

Section 5.1 Services Provided. During such time as this Agreement shall be in effect, Lessee shall be entitled to operate an ASO at SSPA and shall have the non-exclusive right to conduct the following operations and/or services:

- A. Airport Tenant (Commercial Aeronautical Services)
- B. Airframe and Power Plant Repair
- C. Specialized Commercial Aeronautical Services

Other services that are permitted, but not required:

- D. Avionics, Instrument and Propeller Repair

E. Aircraft Storage

Section 5.2 **General Use of the Airport.** Subject to terms, conditions and covenants of this Agreement, Lessee shall be entitled to use, on a nonexclusive basis, public areas of the Airport. SSMA and SSPA reserve the right to close any means of ingress and egress, so long as other reasonable means of ingress and egress are available to Lessee.

Section 5.3 **Covenants of the Lessee.** Lessee expressly covenants that:

(a) Lessee agrees to use the Maintenance Hangar and Storage Room primarily for the purpose of aircraft airframe and powerplant repairs and storage of aircraft-related maintenance equipment and property. Use of the Premises for any other non-aviation purpose without the consent of the Lessor is prohibited except for incidental non-aviation items that do not interfere with the aeronautical use of the space. Violation of this provision may result in termination of this Agreement by Lessor and/or Lessor may require removal of non-aviation personal property.

(b) Lessor and its authorized representatives shall have the right to inspect the Maintenance Hangar and Storage Room at such reasonable times as it may deem necessary to ensure compliance with the covenants of this lease agreement.

(c) Lessee shall be liable for all damages, which Lessee causes to the Maintenance Hangar and Storage Room, normal wear and tear excepted. Lessee shall not make any alterations, installations, attachments, or make any improvements to the Maintenance Hangar and Storage Room, except as authorized by the Lessor.

(d) Lessee shall comply with City, County, State, and Federal laws and regulations, and all rules and regulations of Sand Springs-Pogue Airport with respect to Lessee's use and occupancy of the Maintenance Hangar and Storage Room and use of Sand Springs-Pogue Airport and its facilities.

(e) Lessee shall not assign or sublet this lease, or any of Lessee's rights concerning this Maintenance Hangar and Storage Room or any part thereof, or any interest therein.

(f) Lessee shall not cause or create any contamination of the premises or Airport Property, and if such occurs, Lessee shall be responsible for the costs of any cleanup, remediation, and/or fines that may result from Lessee's contamination to the property leased to the Lessee or to any other property affected by Lessee's contamination. Lessee will be responsible for these costs whether discovered during the term of the lease or at some future date and agrees to hold Lessor harmless from any claim resulting from Lessee's operations that might be asserted against the Lessor.

Section 5.4 **Responsibility for Security.** SSMA, the City and SSPA shall not be responsible for any losses due to inadequate security, theft, vandalism, fire, and/or crime. (See also obligations imposed upon Lessee by Article VI of this Agreement.)

ARTICLE VI Insurance and Indemnity

Section 6.1. **Indemnity - General.** Lessee shall indemnify, protect, defend and hold completely harmless, SSMA, SSPA, and the City, and their trustees, officers, councilors, agents and employees from and against all liability, losses, suits, claims, judgments, fines or demands arising from injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including reasonable attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement, Lessee's use or occupancy of the Leased Premises, the Airport, or the rights, licenses, or privileges granted Lessee herein, or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death or damage may occur, unless such injury, death or damages is caused by the sole negligence of SSMA. SSMA shall give

notice to Lessee of any such liability, loss, suit, claim or demand, and Licensee shall defend the same using counsel reasonably acceptable to SSMA. The provisions of this section shall survive the expiration or early termination of this Agreement.

Section 6.2. **Insurance.** Lessee shall maintain in force during the Term and any extended period commercial general liability, bodily injury and property damage insurance in comprehensive form including but not limited to airport liability, aircraft liability, and broad form property damage with any excess liability in umbrella form, with such coverage and limits as reasonably may be required by SSMA from time to time, but in no event for less than the sum of One Million Dollars (\$1,000,000) combined single limit on services provided. An insurer licensed to do business in the State of Oklahoma shall issue the insurance.

Lessee agrees to maintain contractual liability insurance to insure Lessee's obligation to indemnify and hold SSMA, SSPA, and City, their councilors, trustees, agents, officers, servants, and employees harmless and in accordance with the indemnification provisions of this agreement.

Concurrent with the execution of this Agreement, Lessee shall provide proof of insurance coverage by providing a certificate of Lessee's insurance coverage, a copy of the declarations page of the insurance policy, and a copy of all endorsement(s) applicable to the insurance required herein. The certificate(s) of insurance, or endorsement(s) attached thereto, shall provide that (a) the insurance coverage shall not be canceled, changed in coverage, or reduced in limits without at least thirty (30) days prior written notice to SSMA, (b) SSMA, SSPA, and the City, and their trustees, councilors, agents, officers, servants, and employees are named as additional insureds, (c) the policy shall be considered primary as regards any other insurance coverage SSMA or the City may possess, including any self-insured retention or deductible SSMA or the City may have, and any other insurance coverage SSMA or the City may possess shall be considered excess insurance only, (d) the limits of liability required therein are on an occurrence basis, and (e) the policy shall be endorsed with a severability of interest or cross-liability endorsement, providing that the coverage shall act for each insured and each additional insured, against whom a claim is or may be made in a manner as though a separate policy had been written for each insured or additional insured; however, nothing contained herein shall act to increase the limits of liability of the insurance company.

Any deductibles must be declared in writing to and approved by SSMA. At the option of SSMA, either (a) the Lessee shall reduce or eliminate such deductibles as respects SSMA, the City, and their trustees, councilors, agents, officers, and employees or (b) Lessee shall procure a bond equal to the amount of such deductibles or self-insured retentions guaranteeing payment of losses and related investigations, claims administration and defense expenses (including attorneys' fees, court costs and expert fees).

If the insurance coverage required herein is canceled, changed in coverage or reduced in limits, Lessee shall, within fifteen (15) days, but in no event later than the effective date of cancellation, change or reduction, provide to SSMA a certificate showing that insurance coverage has been reinstated or provided through another insurance company. Upon failure to provide such certificate, without further notice and at its option, SSMA either may, in addition to all its other remedies (a) exercise SSMA's rights as provided in the default provisions of this Agreement, or (b) procure insurance coverage at Licensee's expense whereupon Licensee promptly shall reimburse SSMA for such expense.

ARTICLE VII Regulated Substances

Section 7.1 **Regulated Substance Compliance and Indemnity.** Lessee shall not cause or permit any "Regulated Substance" as hereinafter defined, to be brought upon, generated, stored, or used in or about the Leased Premises by Lessee, its agents, employees, contractors, or invitees, except for such Regulated Substance of the type and quantity as is necessary to Lessee's business and with prior written notice to SSMA. Any Regulated Substance permitted on the Leased Premises as provided herein, and all containers therefor, shall be used, kept, stored, and disposed of in a manner that complies with all federal, state and local laws or regulations applicable to this Regulated Substance.

Lessee shall not cause or permit, release, discharge, leak, or emit, nor permit to be discharged, leaked, released, or emitted, any Regulated Substance into the atmosphere, ground, storm or sewer system, or any body of water, ditch, stream, if that Regulated Substance (as is reasonably determined by SSMA, or any governmental authority) does or may pollute or contaminate the same, or may adversely affect (a) the health, welfare, or safety of persons, whether located on the Leased Premises or elsewhere, or (b) the condition, use or enjoyment of the building, facilities or any other real or personal property. Lessee shall fully and timely comply with all applicable federal, state and local statutes, ordinances and regulations relating to protection of the environment, including, without limitation, 42 U.S.C. §6991-6991i.

1. Disclosure. At the commencement of each year of the term hereof, Lessee shall disclose to SSMA the names and approximate amounts of all Regulated Substance that Lessee intends to store, use, or dispose of on the Leased Premises in the first year of the Term hereof. In addition, at the commencement of each additional year of the Term hereof, beginning with the second year, Lessee shall disclose to SSMA the names and amounts of all Regulated Substances that were actually used, stored, or disposed of on the Leased Premises if those materials were not previously identified to SSMA at the commencement of the previous lease year.

2. Compliance Action. Lessee shall, at Lessee's sole expense, clean-up, remove, and remediate (1) any Regulated Substances in, on, or under the Leased Premises in excess of allowable levels established by all applicable federal, state and local laws and regulations, and (2) all contaminants and pollutants, in, on, or under the Leased Premises that create or threaten to create a substantial threat to human health or the environment and that are required to be removed, cleaned up, or remediated by any applicable federal, state, or local law, regulation, standard or order. This obligation does not apply to a release of Regulated Substances, pollutants, contaminants, or petroleum products that existed on the Leased Premises prior to the execution of the agreement caused solely by the act or omission of the SSMA or a third party for whom the operator is not responsible (e.g. not a customer, invitee, employee, agent, or person having any contractual or business relationship with Lessee).

3. Definition of Regulated Substances. Regulated Substances: As used herein, the term "Regulated Substances" means and includes any and all substances, chemicals, waste, sewage or other materials, which are now or hereafter regulated, controlled or prohibited by any local, state, or federal law or regulation requiring removal, warning or restrictions on the use, generation, disposal or transportation thereof, including, without limitation (a) any substance defined as a "hazardous substance", "hazardous material", "hazardous waste", "toxic substance", or "air pollutant" in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §9601 et seq., The Hazardous Materials Transportation Act (HMTA), 49 U.S.C. §1801 et seq., The Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq., Federal Water Pollution Control Act (FWPCA), 33 U.S.C. §1251 et seq., or the Clean Air Act (CAA), 42 U.S.C. §7401 et seq., all as amended and amended hereafter; (b) any substance defined as a "hazardous substance", "hazardous waste", "toxic substance", "extremely hazardous waste", "RCRA hazardous waste", "waste", "hazardous material" or "controlled industrial waste", as defined in the Oklahoma Industrial Waste Disposal Act, 63 O.S. §1-2000 et seq.; (c) any Regulated Substance, hazardous substance, hazardous waste, toxic substance, toxic waste, hazardous material, waste, chemical, or compound described in any other federal, state, or local statute, ordinance, code, rule, regulation, order, decree, or other law now or at any time hereafter in effect, regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous substance, chemical, material, compound or waste. As used herein, the term Regulated Substance or "hazardous substances" also means and includes, without limitation, asbestos, flammable, explosive or radioactive materials; gasoline; oil; motor oil; waste oil; petroleum (including without limitation, crude oil, or any fraction thereof); petroleum based products; paints and solvents; leads; cyanide; DDT; printing inks; acids; pesticides; ammonium compounds; polychlorobiphenyls; and other regulated chemical products.

4. Indemnity Non-Compliance/Notice of Violation. Lessee hereby fully agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Regulated Substances kept on the Leased

Premises by Lessee, and the Lessee shall give immediate notice to SSMA of any violation or potential violation of the provisions hereof. Without limiting any provisions of this Agreement, Lessee shall defend, indemnify, and hold harmless SSMA, SSPA, the City, and their trustees, councilors, officers, agents, and employees from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys' and consultants' fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to (a) any liabilities, damages, suits, penalties, judgments and environmental cleanup, removal, response, assessment, or remediation costs, arising from actual, threatened or alleged contamination of the Leased Premises; (b) the presence, disposal, release, or threatened release of any such Regulated Substance that is on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (c) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to that Regulated Substance; (d) any lawsuit brought or threatened, settlement reached, or government order relating to that Regulated Substance; or (e) any violation of any laws applicable thereto. The provisions hereof shall be in addition to any other obligations and liabilities Licensee may have to SSMA at law or equity and shall survive the transactions contemplated herein and shall survive the termination or expiration of this Agreement.

Section 7.2 **Survival of Provisions**. The terms, conditions, provisions and requirements of this Article VI shall survive the expiration or earlier termination of this Agreement.

ARTICLE VIII **Governmental Requirements**

Section 8.1 **Governmental Requirements - General**. Lessee shall comply with all Governmental Requirements applicable to Lessee's use of the Airport and operation/utilization of the Leased Premises and improvements thereon. Lessee shall also require its guests, invitees, and those doing business with it, to comply with all applicable Governmental Requirements.

Section 8.2 **No Liability for Exercise of Powers**. Neither SSMA, SSPA, nor the City, shall be liable to Lessee for any diminution or deprivation of its rights which may result from the proper exercise of any power reserved to SSMA, SSPA, or the City in this Agreement; Lessee shall not be entitled to terminate this Agreement by reason thereof, unless the exercise of such power shall interfere with Lessee's rights hereunder so as to constitute a termination of this Agreement by operation of law.

Section 8.3 **Nondiscrimination**. Lessee, and its successors in interest, and assigns, as a part of the consideration hereof, does covenant and agree hereby that Lessee shall operate its services in compliance with all requirements imposed pursuant to Title 49 CFR Part 21, (Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964), Part 23, (Participation by Minority Business Enterprises and DOT Programs) and Part 27 (Nondiscrimination on Basis of Handicap and Programs and Activities Receiving or Benefitting from Federal Assistance) and the regulations promulgated thereunder or may hereafter be amended.

To the extent applicable, Lessee assures that it will under-take an Affirmative Action Program as required by 14 CFR Part 152, Subpart E, to ensure that, on the grounds of race, color, creed, national origin or sex, no person shall be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Licensee agrees that it will require that its covered suborganizations provide assurances to SSMA that they similarly will undertake Affirmative Action Programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E to this same effect.

ARTICLE IX **Events of Default**

Section 9.1 **Events of Default Defined/Cure.** The following shall be "events of default" under this Agreement, and the terms "events of default" or "default" shall mean, whenever they are used herein, any one or more of the following:

- a. Lessee shall fail to pay when due and owing any fees or charges payable hereunder and such nonpayment shall continue for thirty (30) days after written notice thereof by SSMA;
- b. Lessee shall (1) mortgage, pledge or encumber, any portion of its interest in this Agreement; or (2) transfer, sublease or assign, either voluntarily or by operation of law, any portion of its interest in this Agreement, except in accordance with the provisions hereof;
- c. Lessee shall terminate its corporate structure, except as permitted herein;
- d. Lessee shall file a petition requesting relief or institute a proceeding under any act, state or federal, relating to the subject of bankruptcy or insolvency; or an involuntary petition in bankruptcy or any other similar proceeding shall be instituted against Lessee and continued for ninety (90) days; or a receiver of all or substantially all of the property of Lessee shall be appointed and the receiver shall not be dismissed for thirty (30) days; or the Lessee shall make any assignment for the benefit of the Lessee's creditors;
- e. Lessee shall abandon, desert, or vacate the Leased Premises voluntarily; A period of non-operation as an active business, for a period of 90 days, shall constitute an abandonment of the business intent of this lease, and constitute a breach that would allow Lessor to terminate the lease.
- f. Lessee shall breach any term, provision, condition, obligation or covenant under this or any other agreement to which Lessee and SSMA, Lessee and the Authority, or Lessee and City are parties; or
- g. Lessee shall fail to comply with insurance requirements imposed in Section 5.2 hereof.

If Lessee commits an event of default as set forth in Subsections 9.1(b) through (g) hereof, and such failure shall continue unremedied for ten (10) days after SSMA shall have given to the Licensee written notice specifying such default; then SSMA may proceed without further notice in accordance with Section 8.2 of this Agreement. Provided, SSMA may grant Lessee (in writing) such additional time as reasonably is required to correct any such default if Lessee has instituted corrective action and is diligently pursuing the same.

Section 9.2 **Remedies upon Lessee/Licensee's Default and Failure to Cure.** Whenever an event of default of Lessee shall occur, and upon Licensee's failure to cure, SSMA may pursue any available right or remedy at law or equity, including:

- a. **Termination.** SSMA may terminate this Agreement without delivery of notice to Lessee. In the alternative, and at its exclusive option, SSMA may deliver to Lessee written notice of termination, specifying the date upon which the Agreement will terminate. In the event of termination, Lessor/Licensee's rights to operate at Sand Springs-Pogue Airport immediately shall cease.
- b. **Cumulative Remedies.** Each remedy available to SSMA under this Section shall be cumulative and shall be in addition to every other remedy of SSMA under this Agreement or existing at law or in equity.

Section 9.3 **Nonwaiver.** Neither the waiver by SSMA of any breach of Lessee of any provision hereof nor any forbearance by SSMA to seek a remedy for any such breach shall operate as a waiver of any other breach by Lessee.

Section 9.4 **Event of Default by SSMA, Lessor/Licensee's Remedies.** SSMA shall not be in default in the performance of any of its obligations hereunder until SSMA shall have failed to perform such obligations for thirty (30) days or such additional time as is reasonably required to correct any such nonperformance, after notice by Lessee to SSMA specifying wherein SSMA has failed to perform any such obligations. Neither the

occurrence nor existence of any default by SSMA shall relieve Lessor/Licensee of its obligation hereunder to pay fees and charges. However, Lessee may institute such action against SSMA, as Lessee may deem necessary to compel performance or recover its damages for nonperformance.

ARTICLE X
Miscellaneous

Section 10.1 **Agreement not Assignable**. This Agreement is not assignable, in whole or in part, by either SSMA or Lessee.

Section 10.2 **Notices**. All notices, certificates, statements, demands, requests, consents, approvals, authorizations, offers, agreements, appointments, designations or other communication which may be or are required to be given by either party thereto to the other shall be deemed to have been given sufficiently on the fifth day following the day on which the same are mailed by certified mail, postage prepaid as follows, if to SSMA or the City of Sand Springs:

Sand Springs Municipal Authority
or City of Sand Springs
Attention: City Manager
100 East Broadway
Sand Springs, OK 74063

and if to Lessee/Licensee:

Skyboss Aviation
c/o Mr. Bill Wagner
P.O. Box 429
Sand Springs, OK 74063

SSMA, the City of Sand Springs, and Lessee/Licensee, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10.3 **Severability**. In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless such holding shall materially and adversely affect the rights of either party as set forth herein.

Section 10.4 **Entire Agreement; Modification**. This Agreement expresses the entire understanding of SSMA and Lessee concerning the Leased Premises and all agreements of SSMA and Lessee with each other concerning the subject matter hereof. Neither SSMA nor Lessee has made or shall be bound by any agreement or any representation to the other concerning the Leased Premises or the subject matter hereof which is not set forth expressly in this Agreement. This Agreement may be modified only by a written agreement of subsequent date hereto signed by SSMA and Lessee.

Section 10.5 **Execution of Counterparts**. This Agreement simultaneously may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.6 **Effect of Sundays and Legal Holidays**. Whenever this Agreement requires any action to be taken on a Sunday or a legal holiday, such action shall be taken on the first business day occurring thereafter. Whenever in this Agreement, the time within which any action is required to be taken, or within which any right will lapse or expire, shall terminate on Sunday or a legal holiday, such time shall continue to run until 11:59 p.m. on the next succeeding business day.

Section 10.7 **Descriptive Headings; Table of Contents**. The descriptive headings of the Sections of this Agreement and any Table of Contents annexed hereto are inserted or annexed for convenience of reference only and do not constitute a part of this Agreement, and shall not affect the meaning, construction, interpretation or effect of this Agreement.

Section 10.8 **Choice of Law; Enforcement**. This Agreement shall be construed and enforced in accordance with the laws of the State of Oklahoma. Whenever in this Agreement it is provided that either party shall make any payment or perform, or refrain from performing, any act or obligation, each such provision, even though not so expressed, shall be construed as an express covenant to make such payment or to perform or not to perform, as the case may be, such act or obligation.

Section 10.9 **Force Majeure**. Neither SSMA nor Lessee shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, floods, riots, rebellions, sabotage, or any other circumstances for which it is not responsible or which are not within its control, and the time for performance automatically shall be extended by the period the party is prevented from performing its obligations hereunder; however, these provisions shall not apply to the failure of Licensee to pay the fees and other charges required hereunder.

Section 10.10 **Construction of Agreement**. This Agreement and each term, provision and covenant hereof shall constitute both a contract and a lease by and between the parties hereto.

Section 10.11 **Consent Not Unreasonably Withheld**. Whenever it is provided herein that the consent of SSMA, the City or Lessee is required, such consent shall not be unreasonably withheld, conditioned or delayed.

Section 10.12 **Recovery of Attorney's Fees and Costs**. If either party shall bring any legal or equitable action against the other the non-prevailing party shall pay the prevailing party's reasonable attorney's fee and costs incurred in such action and any appeal therefrom. For purposes of this section, "costs" shall include expert witness fees, court reporter fees, and court costs.

Section 10.13 **Binding Effect**. This Agreement shall inure to the benefit of and shall be binding upon SSMA, its successors and assigns, Lessee and their respective heirs, personal representatives and assigns, if such assignment shall have been made in conformity with the provisions of this Agreement.

IN WITNESS WHEREOF, SSMA and Lessee have entered into this Agreement at Sand Springs, Oklahoma, to be effective _____, 2022.

APPROVED by the Sand Springs Municipal Authority this ____ day of _____, 2022.

Sand Springs Municipal Authority

By : _____
James Spoon, Chairman

APPROVED:

APPROVED AS TO FORM:

By: _____
Janice L. Almy, Secretary

David Weatherford, Authority Attorney

ATTEST:

Licensee

Corporate Secretary

By: _____

Title: _____