

The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

DURANT AIRPORT AUTHORITY/ DAA

8:00 AM

**Roscoe J. Hatfield
Council Chambers, 300
West Evergreen, Durant,
Oklahoma**

January 26, 2017

**SPECIAL CALLED
AGENDA**

**DURANT CITY HALL
300 W. EVERGREEN, DURANT, OK
ROSCOE J. HATFIELD COUNCIL CHAMBERS**

CALL TO ORDER

ROLL CALL

ORDER OF BUSINESS

1. Administration

- a. Consider Approval of the Airport Management Contract between D/W Aviation and the City of Durant

ADJOURNMENT

CERTIFICATE

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 13th day of January, 2017 and that an agenda of said meeting was posted at the place of such meeting at 7:30 a.m. on the 24th day of January, 2017.

Cynthia J. Price, City of Durant



The City of Durant

Office of City Clerk

Memorandum

Date: 1/24/2017
To: Airport Authority Special Called Meeting
From: Jacque J. Wilson, Projects Manager
Re: Consider Approval of the Airport Management Contract between D/W Aviation and the City of Durant

Request Durant Airport Authority consideration to approve the Airport Management Contract for Durant Regional Airport with D/W Aviation. This contract meet the objectives set forth in the extensive proposal process conducted by City employees and Council. C-2017-01

Council Information / Action Requested

Approve Airport Management Contract between D/W Aviation and the City of Durant

City Staff Information / Action Follow-up, if Council authorizes this action:

City Clerk - Obtain required signatures and place of record.

ATTACHMENTS:

Description	Type	Upload Date
Airport Management Contract C-2017-01	Exhibit	1/25/2017

MANAGEMENT CONTRACT FOR DURANT REGIONAL AIRPORT
AIRPORT MANAGEMENT CONTRACT

THIS AGREEMENT, made and executed this day of Jan _____, 2017, by the Durant Airport Authority, a public trust (the Authority), being the leasehold owner of the municipal airport (the Airport), with offices at 300 W. Evergreen, Durant, Oklahoma, 74701, Johnny Dewayne Williams d/b/a D/W Aviation, with its principal address being 10 Waldron Drive, Durant, Oklahoma, 74701, referred to hereinafter as the Fixed Base Operator (FBO),

WITNESSETH:

WHEREAS, "Owner" is public trust created by City of Durant, operating and controlling the Airport; and

WHEREAS, "FBO" is experienced in aeronautical matters and the administration of airports; and

WHEREAS, it is in the best interest of the Authority to have a qualified individual act as the FBO of Airport;

IT IS, THEREFORE, AGREED by and between the parties hereto as follows:

1. APPOINTMENT, TERM AND SALARY OF FBO

- a. That FBO is hereby appointed by the Authority as Airport Manager of Durant Regional Airport: within the Airport proper, in the City of Durant, Bryan County, Oklahoma, for an annual sum of \$120,000.00, 12 equal monthly payments, from 1 February 2017 through June 30, 2017 (prorated contract amount will be 5/12's for the first year), with an option to renew for five additional lease terms from July 1, 2017 through June 30, 2022, unless sooner terminated by action of the parties hereinafter provided. Base amount for phone line processing credit card payments AND the credit card processing fees are split equally between the parties.

2. AUTHORITY TO FBO

- a. That the FBO is hereby given full power and authority by the Authority to supervise and oversee any and all aeronautical activities at said Airport, including both flight and ground activities, for the purpose of enforcing the rules and regulations pertaining thereto now or hereafter adopted by the Authority, the State of Oklahoma, or the United States of America.

3. PAYMENT

- a. For and in consideration of its services as manager in the operation of the Airport, Authority agrees to pay the FBO as follows:
 - i. A fuel flowage fee of 10% of net profits for all aviation fuel sold each calendar month less any dishonored payments. FBO will receive the same

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flowage fees generated by fuel sales from the self-serve card type pump. FBO understands and agrees that he shall purchase all fuels used or sold at the Airport exclusively through the Authority's Purchasing System, and Authority shall designate the FBO as its authorized representative for such purchases. Fuel inventory shall be recorded and reported to the City Manager's designee weekly for auditing purposes. Authority shall purchase and promptly pay for all fuels ordered by FBO for use or sale at the Airport.

- ii. FBO shall establish a reasonable price for all fuels sold, which prices shall be competitive with prices charged by other airports in the vicinity for comparable products. Provided, however, the prices for products shall be subject to the final approval of the Authority, which shall not be unreasonably withheld. The price for all fuels sold will be included in the weekly reports.
- iii. FBO shall receive one-half (1/2) of the fees collected for ramp and large, orange hangar parking less any dishonored payments. FBO's share of fees for large orange hangar shall be discontinued when large orange hanger is secured. The Authority shall agree by resolution the fees charged for any services. All service fees shall be charged to all customers uniformly. The FBO shall maintain a record of all fees collected. The fees and reports thereof shall be remitted to the City Manager's designee weekly. FBO shall not receive any of the rental fees for any hangars (except the large, orange hangar), and all proceeds from rental of said hangar shall inure to the benefit of the Authority.
- iv. As further consideration of this Agreement, FBO shall have full control and use of Terminal, Building #8, Hangars #1 and #2 (Shop) to perform maintenance. The current value of these two hangars is \$330/mo each for a total value of \$7,920.00. FBO will provide and pay for all cost of utilities and telephone equipment and internet services used and placed in these two hangars.
- v. FBO shall deposit on a regular basis, but not less often than one (1) time per calendar week, all revenues received from hangar rentals and/or the sale of fuel, into an account to be designated by the Authority.
- vi. All claims shall be submitted by the 24th day of each month to be approved by the second Tuesday of the following month. Payment of the above stated management fee to the FBO shall be made no later than 30 days from submission of claim contingent upon the Airport Authority's approval. Authority shall provide an itemized statement showing all authorized deductions from FBO's submitted claims.

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4. DUTIES OF FBO

a. FBO shall at all times during the continuance of the term of this agreement and any renewal or extension thereof, conduct, operate, and maintain for the benefit of the flying public an Airport Service Center (ASC), for the purpose of performing the functions and furnishing the services hereinafter set out. The following are the minimum standards for the operation of the ASC:

- i. Make aircraft parts, lubricants, and services available to the flying public.
- ii. Service all aircraft with the requested 100LL AVGAS, jet fuel or replacement specification fuel as stocked.
- iii. Maintain orderly parking of aircraft in hangars and on the ramps.
- iv. Monitor stock levels of AVGAS, jet fuel, lubricants and supplies used at the airport.
- v. Timely furnish all reports relating to the services furnished as requested by the Authority. Report to the Authority all sales, purchases, and other items on forms provided by the Authority, at such times as are provided herein and at intervals which the owner may direct to accomplish the ultimate reason for the reporting.
- vi. FBO manager will present an airport operational and status report to the Authority at their regularly scheduled meetings.
- vii. All reporting documents (which shall be furnished by the Authority), as requested by the Authority, shall be submitted to Authority at minimum intervals of once weekly. Authority shall give direction of the week day on which reports are to be submitted.
- viii. To collect and keep accurate accounting of all funds received from the sale of AVGAS, jet fuel, ramp and hangar parking fees, and other fees to which FBO shares with the Authority. All collected fees which the Authority is entitled to any portion must be deposited with Authority no less than once weekly or at other intervals as the Authority may direct.
- ix. Monitor the Unicom system, oversee all facilities, grounds, buildings, water and contamination filters, roads, runways, taxiways, ramps, and all other areas of the general airport facility by periodic inspections as may be directed by Authority. FBO shall direct and advise the Authority of any necessary maintenance of the airport facility and shall report the periodic inspections at intervals directed by the Authority, which shall be made in

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writing. FBO shall perform minor maintenance or repairs on any of the facilities, or he shall direct all routine maintenance by authorized vendors. Any maintenance performed shall be reimbursed to FBO or furnished by the Authority when notified by FBO in its periodic reports to the Authority.

- x. Coordinate the maintenance, dispatch, and control of a serviceable vehicle for the use of transporting airport visitors, patrons, and customers of the airport. Two (2) courtesy vans, and one (1) Ford Jet A Truck.

Dodge Grand Caravan 2005 Vin# 2D8GP44L15R223037 OK Tag# 3-64146.
Chevrolet Uplander Van 2005 Vin# 1GNDV33125D185105 OK Tag# 18727.
Ford F800 Jet A Fuel Truck Vin# 1FDXF82J1MVA36642 OK tag# 3-62781

- xi. FBO to conduct limited mowing and weed control on the ramp, hangar areas, the Terminal front, sides, and Terminal rear area, around 100LL fuel pumps, and near rear entrance.
- xii. Provide all services and perform all duties on a daily basis, maintaining business hours from 8:00 am to 5:00 pm Monday through Friday, 9:00 am to 5:00 pm Saturday and Sunday, excluding the holidays observed by the Authority, which holiday services will be "on call" as needed. Operating hours will be extended during daylight savings time to 7:00 pm until Terminal access doors are modified to allow patrons to access terminal "after hours". Exceptions of business hours include inclement weather or when other extenuating circumstances prohibit the operation of the airport. Terminal will be staffed during operating hours with the exceptions of lunch breaks and/or on/off-field duties/operations. FBO will be on call 24 hours a day with a response time of 30 minutes.
- xiii. The FBO is required to make an inspection of the fueling facilities once every three years from the date of the last inspection in accordance with the Spill Prevention and Countermeasure Plan (SPCP) which shall be delivered to the Authority within ten (10) days thereafter. A copy of all inspection reports shall be filed with the City Clerk.
- xiv. The FBO shall be responsible for a daily inspection of the fuel storage tanks, secondary containment areas and the area at the point of sale for AVGAS.
- xv. FBO, acting at the direction of the airport authority, beginning February 1, 2017, will manage and collect all airport hangar rent. All payments will be directed to D/W Aviation, c/o City of Durant, 10 Waldron Drive,

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Durant, OK, 74701. All payments will be made payable to the City of Durant, 300 West Evergreen, Durant, OK, 74702.

- xvi. The FBO shall conduct an inspection according to the SPCD inspection procedure every six (6) months. The written inspection report shall be kept as part of this plan for a period of three (3) years. A copy of all inspection reports shall be filed with the City Clerk.
- xvii. The FBO shall be responsible for the appropriate training of all persons utilized in the operation of the fuel facility and refueling procedures at the airport. This training shall be done on an annual basis. A list of the attendees to the training session and a summary of the subject matter discussed shall be kept as a part of this plan for a period of three years. The FBO will receive annual instruction on the requirements for the SPCP. A record of the training received by the operator and the subject matter discussed shall be retained. A copy of all training and inspection reports shall be filed with the City Clerk.
- xviii. The FBO shall provide a written report of all accidents occurring on the property owned by the Authority to the appropriate authority.

5. OBLIGATION OF THE AUTHORITY

- a. The Authority shall, as a part of the consideration herein, provide, furnish, and obligate the following:
 - i. Furnish a terminal building, which complies with the Americans with Disabilities Act, all utilities excluding business telephone(s).
 - ii. All Airport mowing (excluding FBO maintained areas) will be done by the City.
 - iii. Authority will evaluate securing gray water handling equipment, FBO takeout meal service, an additional aircraft tug and appropriate tow bars to accommodate all aircraft.
 - iv. Furnish hangar spaces #1 and #2 in Building #8 totaling two thousand two hundred two square feet (2,202 sq. ft.), this space is also known as the aircraft maintenance shop.
 - v. Furnish a 12,000 gallon tank and related items for AVGAS, and a 12,000 gallon tank for jet fuel which meets the requirements of the Environmental Protection Agency (EPA), National Fire Protection Association (NFPA), Federal Aviation Administration (FAA), American

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Petroleum Institute (API), uniform building code standards, and state and local fire codes and ordinances.

- vi. Furnish all maintenance to the tanks, pump, meter, hoses, nozzles, etc. and all fire prevention items related to aircraft fueling safety and servicing.
- vii. Furnish the real property, janitorial supplies for terminal building, and upkeep of the Airport (including sweeping of runways) and terminal building; maintain hangars, parking hangars, storage building, owner supplied equipment, and facilities not otherwise provided by the FBO.
- viii. Provide zero-turn mower necessary for mowing and be responsible for major maintenance and repair of mower.
- ix. Provide a waiting room and flight planning room together with the furniture, furnishings, and necessary equipment and maintain the same.
- x. Provide fire prevention training in conjunction with the Durant Fire department. Training records shall be kept on file a minimum of three years.
- xi. Keep on file current copies of the NFPA Manual 407 (Aircraft Fuel Servicing, together with API Quality Control Standards, as such documents may be amended. These standards set forth therein shall control all matters related to aircraft fueling safety and servicing.
- xii. Provide a serviceable automobile for use as a courtesy vehicle for pilots and passengers utilizing the airport and to furnish all tags, license, insurance and registration. Authority will be responsible for routine maintenance supplies and for major maintenance and repair of same.

6. COOPERATION OF PARTIES AND ADDITIONAL IMPROVEMENTS TO PREMISES

- a. The parties agree to cooperate and evaluate individual proposals for additions, renovations, alterations, and improvements to the airport buildings, facilities, and equipment to determine to what extent, if any, the Authority will participate. FBO, or a representative, shall attend and be included in the monthly Authority meetings for presentations or decision making activities related to the Airport.
- b. All improvements which become appurtenances to the land, whether at the expense of the FBO or joint expense of the parties, shall remain the property of the Authority at the expiration of this Agreement, free and clear of any lien from the FBO or any third party provider, unless previously agreed.

MANAGEMENT CONTRACT FOR DURANT REGIONAL AIRPORT**7. PROTECTION OF PROPERTY AND COVENANTS WHICH RUN WITH THE LAND**

- a. FBO acknowledges that no right, grant or privilege has been given under the terms of this Agreement which would operate to violate the Authority's involvement in any project grant agreement, nor shall this Agreement affect any future grant agreements in which the Authority may undertake.
- b. This Agreement is subject to the terms, covenants and restrictions contained in the granting deed(s) or other documents by which the Authority became vested with the leasehold title to the Airport and this Agreement is subordinate to the Authority's rights, obligations, covenants and restrictions contained in such documents. A copy or copies of such documents are available to FBO upon request and are made a part of this Agreement by reference.

8. TERMINATION AND ARBITRATION

- a. The parties recognize and agree that the ability of the Authority to obtain tax-exempt financing for Airport improvements depends, in part, on compliance with applicable provisions of the Internal Revenue Service Code (IRS) and IRS rules and regulations, including, but not limited to, Revenue Procedure 97-13 relating to management contracts, and requirements as to termination at the option of the leasehold owner of the facilities. Accordingly, this Agreement may be terminated by the Authority, at its sole discretion, without penalty or cause. Provided, as a condition to any such termination, the Authority shall give written notice thereof to the FBO not less than sixty (60) days prior to the date of such termination.
- b. Further, this Agreement may be terminated by either party for cause (breach of the terms of the Agreement) if the reason therefore is not corrected within the 30-day notice as hereinafter defined.
- c. The party complaining shall give notice in writing of the complaint to the responsible party, and the responsible party shall have 30 days to correct or resolve the issue(s) contained in the complaint. The party receiving the complaint shall have 30 days to correct the alleged problem. If the complaining party continues to feel aggrieved, it may demand arbitration under the terms hereof. The decision of the arbitrators shall be binding upon the parties. The parties agree that arbitration is the sole and exclusive means of resolving differences arising under the terms of this Agreement with respect to termination for cause.

9. MODIFICATION OF AGREEMENT

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- a. Any modification of this Agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if in writing signed by each party or an authorized representative of each party.

10. ENTIRE AGREEMENT

- a. This Agreement constitutes the entire agreement between the parties, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement.

11. ATTORNEY FEES

- a. In the event any legal action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney fees and costs relating thereto.

12. ASSIGNMENT OF RIGHTS

- a. The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party. Provided, the parties understand and specifically agree that the right, title, and interest of the Authority in this Agreement and the revenues derived therefrom, may be assigned as security bonds, notes or other obligations the proceeds of which will be used to finance improvements to the Airport.

13. HAZARDOUS DISCHARGES OR ENVIRONMENTAL COMPLAINTS

- a. If FBO receives any notice of the happening of any event involving an emission, spill, release or discharge into or upon (i) the air, (ii) soils or any improvements located thereon, (iii) surface water or groundwater, or (iv) the sewer, septic system or waste treatment storage or disposal system servicing the Airport or of any toxic or hazardous substances or wastes (intended hereby and hereafter to include any and all such material listed in any federal, state or local law, code or ordinance and all rules and regulations promulgated thereunder, as hazardous or potentially hazardous) (any of which is hereafter referred to as a Hazardous Discharge), or any complaint, order, directive, claim, citation or notice by any governmental authority or any other person or entity with respect to (v) air emissions, (vi) spills, releases or discharges to soils or any improvements located thereon, surface water, groundwater, or the sewer, septic system or waste treatment, storage, or disposal systems servicing the Airport, (vii) noise emissions, (viii) soils or liquid waste disposal, (ix) the use, generation, storage, transportation or disposal of toxic or hazardous substances or wastes or (x) other environmental, health or safety matters affecting FBO, the Airport, any improvements located thereon, or the business therein conducted (any of which is hereafter referred to as an Environmental Complaint), then FBO shall give

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immediate oral and written notice of same to the Authority, detailing all relevant facts and circumstances.

- b. Without limitation on the foregoing, Authority shall have the option, but shall not be obligated, to exercise any of its rights as provided in Section Eight (8) of this Agreement and may enter onto the Airport to investigate or take any actions as it deems necessary or advisable to discover, clean up and remove, resolve or minimize the impact of, or otherwise deal with, any Hazardous Discharge or Environmental Complaint upon Authority's receipt of any notice from any person or entity asserting the happening of such. All costs and expenses incurred by Authority in the exercise of any such rights shall be the responsibility of the FBO if the FBO is found to be negligent. Assessment of any and all costs and expenses incurred by the Authority in the exercise of such rights shall be determined through utilization of the procedures as addressed in Section 8.
- c. Authority hereby agrees to defend, indemnify and hold FBO harmless from and against any and all claims, lawsuits, liabilities, losses, damages, and expenses (including attorney fees (to the extent of the limited coverage authorized by law contained in 51 O.S. Section 154) arising by reason of any of the aforesaid or an action against the Authority under this indemnity) arising directly or indirectly from, out of or by reason of (i) any breach of this Section occurring during the term of this Agreement, (ii) any Hazardous Discharges at the Airport which occur before or during the term of this agreement other than those caused by the action or omission of FBO, or (iii) Authority's failure to provide all information, make all submissions, and take all actions required by any federal, state, or local environmental authority.

14. LUBRICANTS

- a. There shall be no rebate to Authority on sales of lubricants, parts or other merchandise sold on the premises except as heretofore specifically stated.

15. INSURANCE AND INDEMNIFICATION

- a. FBO shall hold the Authority harmless from any act of negligence or omission on the part of the FBO, and in the event of any claim or judgement, shall indemnify the Authority from any loss, judgement or claim, including the expense of defense and attorney's fees. FBO shall obtain and keep in force liability coverage, naming Authority as an additional insured and furnishing Authority verification of such, prior to occupation of the premises and selling fuel. FBO shall maintain a liability insurance policy with coverage for bodily injury and property damage in an amount no less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and shall name the Authority as additional insured. A copy of liability verification shall be filed with the City Clerk annually.

MANAGEMENT CONTRACT FOR DURANT REGIONAL AIRPORT

16. RELATIONSHIP OF PARTIES

- a. FBO enters into this Agreement as, and shall continue to be, an independent contractor. All services shall be performed only by FBO and FBO's employees. Under no circumstances shall FBO, or any of FBO's employees, be entitled to any of Authority's employee benefits, including without limitation worker's compensation, disability insurance, vacation or sick pay. FBO shall be responsible for providing, at his own expense, and in his name, unemployment, disability, workers compensation and other insurance.

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed at Durant, Bryan County, Oklahoma on the ____ day of ____, 2017 .

ATTEST

DURANT AIRPORT AUTHORITY

Secretary

BY: _____
Chairman

FIXED BASE OPERATOR

BY: _____
Dewayne Williams - dba D/W Aviation