

CITY OF CHARLOTTE, COUNTY OF EATON, STATE OF MICHIGAN

RESOLUTION NO. 2021-052

**A RESOLUTION TO RENEW THE AIRPORT MANAGER
CONTRACT WITH TODD COTTER**

WHEREAS, Todd Cotter, has provided Airport Manager services at Fitch H. Beach Municipal Airport since 2009; and

WHEREAS, the contract for these services is in need of renewal; and

WHEREAS, Todd Cotter has satisfactorily met the obligations required under the existing contract; and

WHEREAS, terms of a contract renewal have been negotiated and agreed to by both parties.

THEREFORE, BE IT RESOLVED that the contract between the City of Charlotte and Todd Cotter for the provision of Airport Manager services at Fitch H. Beach Municipal Airport be renewed for an additional three years.

The foregoing resolution offered by Council member _____ and supported by _____.

Upon roll call vote, the following voted:

Aye:

Nay:

Absent:

I, the undersigned, the duly qualified and acting Clerk of the City of Charlotte, County of Eaton, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City of Charlotte at a regularly scheduled meeting held on Monday, April 5, 2021, relevant to the Michigan Open Meetings Act, the original of which is on file in m48.y office as part of council minutes.

IN WITNESS WHEREOF, I have hereunto set my official signature this 5th day of April 2021.

Pearl Tidwell, City Clerk / Treasurer
City of Charlotte



TO: City of Charlotte City Council
FROM: Bryan Myrkle, Community Development Director
SUBJECT: Updated airport agreements for renewal
DATE: APRIL 1, 2021

There are three contracts related to the airport included for review and approval included on your next City Council agenda. They include minor changes that I will detail in this memo, but they are largely the same as before.

The agreements have been reviewed by City Attorney Hitch as to form and content; and they have also been reviewed by the city's airport consultant Prein & Newhof for compliance with FAA regulations and adherence to best practices of airport management.

The agreements outline the relationship between the City of Charlotte and its Airport Manager Todd Cotter; as well as the Fixed Base Operation by Charlotte Air Services (Mr. Cotter's private business); and the hangar ground lease with Grant Emfield.

FBO Agreement – This agreement has been updated in paragraph 49 to state that Charlotte Air Services will receive a flat rate for hangar management that could be adjusted on a pro rata basis if any individual hangar remains vacant for more than 90 days.

Airport Manager Agreement – This agreement has been updated to include an option for a three-year renewal at the end of the term covered in this contract.

Private Hangar Ground Lease – This agreement has been updated at the recommendation of the Airport Advisory Board to allow certain commercial activities to take place in this privately-owned hangar that are typically excluded from our ground leases. In case you are not aware, the City leases small portions of ground at the airport where private parties can construct and own their own individual hangars. There are three of these hangars on the airfield.

The hangar covered by this lease agreement recently changed hands, and is now owned by Grant Emfield, the operator of Sterling Flight Service, the flight school at the airport. The lease changes include allowing him to store and maintain any aircraft associated with the flight school in the hangar, and allows him to engage in commercial activity related to the flight school.

AIRPORT MANAGEMENT CONTRACT

FITCH H. BEACH MUNICIPAL AIRPORT

AGREEMENT effective April 1, 2021, made by and between the City of Charlotte, 111 E. Lawrence Avenue, Charlotte, MI 48813 (“City”), and Charlotte Air Services, LLC, 1325 Island Highway, Charlotte, MI 48813 (“Airport Manager”).

WITNESSETH,

WHEREAS, the City owns and operates the Fitch H. Beach Municipal Airport, which provides general aviation services to the public at large; and

WHEREAS, as required by the Federal Aviation Administration (“FAA”), the City has established the Airport Manager position, which duties and responsibilities include assistance in the development of goals, objectives and priorities for the Airport as overseen by the City Administration, and provides for the compliance with all local, state and federal regulations which pertain to the operation and maintenance of the Fitch H. Beach Municipal Airport; and

WHEREAS, Charlotte Air Services, LLC is the company chosen to provide the identified services at the Airport in accordance with the terms and provisions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed between the parties as follows:

1. **SERVICES TO BE PROVIDED.** Airport Manager is hereby engaged by City to perform the following services at the Airport, together with such other incidental services as are reasonably and necessarily related to the services itemized below:

1.1 *Security.* Airport Manager shall provide periodic condition and security inspections of all City owned and privately owned buildings on the Airport site for needed

repairs and/or security corrections. Airport Manager will help the City to develop, coordinate and implement an Airport Security Plan in accordance with guidelines set forth by the Office of Homeland Security and FAA. Additionally, Airport Manager will help the City to develop an emergency action plan for the Airport in conjunction with local police and fire agencies.

1.2 *Maintenance.*

a) Airport Manager shall provide reasonable maintenance services at the Airport, including keeping the property neat and tidy, free from refuse, litter and navigational hazards, keeping restrooms cleaned and serviced with necessary supplies as provided by the City, ensuring that all runway lights are in operation and replacing any burned out bulbs, perform incidental sweeping on an as-needed basis, and such other general maintenance obligations as may from time to time be required by the City. All materials and supplies necessary for general, minor maintenance of the Airport will be provided by the City. Airport Manager shall monitor and report on the condition of Airport buildings, airfield, fuel pumps, and other facilities. Airport Manager shall operate the Airport radio facility (UNICOM). On a daily basis, Airport Manager shall provide monitoring of runway and taxiway conditions, including lights and rotating beacon, FAA equipment such as the AWOS facility, and timely reporting of discrepancies to the Public Works Director and appropriate authorities for correction.

b) Airport Manager will notify the City Manager, or his designee, of any major maintenance item or issue within a reasonably prompt and prudent time frame.

c) It will be the City's responsibility to provide for the mowing and maintenance of the grass, the removal of weeds, and the removal of snow.

1.3 *Information.* Airport Manager shall supply information and assistance to transient users of the Airport concerning the Airport and the Charlotte area. Additionally, Airport Manager shall attend quarterly Airport Advisory Committee meetings and such other special meetings as directed by the City Manager; he shall brief committee members and others on activities and programs at the Airport. Airport Manager will, in conjunction with the City, help coordinate and develop activities designed to promote increased general Airport usage, Airport Revenue and increased community awareness of the Airport.

1.4 *Radio.* Airport Manager shall be responsible for operating the City's UNICOM radio and shall advise the City of any maintenance required for the radio. Airport Manager shall not operate the radio in any manner that would place the City in violation of any applicable FAA, FCC and OAD requirements.

1.5 *Entry Gate(s).* Airport Manager shall establish and maintain procedures in cooperation with City staff, including controls, for the issuance of gate access cards to all users of the Airport. He shall also maintain records and complete annual accounting of all gate access cards in June of each year.

1.6 *Notices to Airmen.* Airport Manager shall compose and timely send NOTAMS (Notices to Airmen) regarding Airport facilities and conditions, as required.

1.7 *Association.* Airport Manager shall develop and maintain an effective working relationship with the FAA, MDOT, the City, and adjacent Airport managers.

1.8 *Inspections and Reports.* Airport Manager shall conduct inspections to ensure compliance with City, State and Federal regulations. He shall ensure that all necessary reports

and records are maintained and transmitted in a timely manner to the appropriate authority (MDOT, DEQ and FAA).

1.9 *Courtesy Automobile.* Airport Manager shall supervise the provision of courtesy car services at the Airport. The City shall be responsible for the automobile maintenance.

1.10 *Airport Operations.* Airport Manager is responsible for managing and running the Airport. Airport Manager shall open and operate the terminal, provide the services necessary for local and transitory pilots to use the Airport, and to do all things reasonably necessary for the Airport to be a functioning Airport.

2. TIE-DOWNS. Tie-downs shall be installed and maintained by the City, at its expense and discretion. Airport Manager shall advise City of any maintenance required for tie-downs.

3. RECORDS AND INSPECTION. Airport Manager shall maintain such records concerning operations under this Agreement as City may require from time to time and shall make such reports to City, both oral and written, as City shall require, but in any event, no less than quarterly. City shall have the right at reasonable times, during normal business hours, to examine and inspect the records required under this paragraph, and to make copies thereof.

4. INDEPENDENT CONTRACTOR STATUS. Airport Manager shall be deemed to be with respect to the parties' respective rights and obligations under this Agreement, an independent contractor for all purposes.

4.1 *Responsibility.* Except as otherwise expressly provided in this Agreement, neither party shall have the right to act for the other in any manner or degree or to incur obligations or debts that will be binding on the other and neither party will be responsible for the obligations or expenses of the other. Each party shall hold the other harmless with respect to that party's

obligations and responsibilities under this Agreement.

4.2 *Personnel.* Airport Manager may employ as Airport Manager's own employees or agents sufficient personnel to perform all of Airport Manager's obligations in accordance with the terms of the Agreement. Airport Manager shall be solely responsible for all matters pertaining to such personnel, including payment or compensation, benefits, taxes and withholdings.

4.3 *Workers' Compensation.* At such time as Airport Manager hires employees, Airport Manager shall obtain, and maintain throughout the term of this Agreement, workers' compensation insurance covering all of Airport Manager's employees, and shall provide evidence of such coverage to City as City may require from time to time.

4.4 *Equipment Provided.* Airport Manager will have use of City-owned equipment as necessary for use in maintenance of Airport. City shall provide fuel maintenance and repair of City-owned equipment and Airport Manager shall provide labor. City shall also provide a City-owned AWOS computer, UNICOM radio, a desk top computer, and DSL service and a router.

5. STANDARD OF PERFORMANCE. The following standards shall apply to Airport Manager's performance under this Agreement.

5.1 *Laws and Regulations.* Airport Manager shall comply with all applicable laws, ordinances, rules and regulations of all governing authorities, including rules and regulations promulgated and modified from time to time by City concerning the operation of the Airport, rules and regulations of the FAA, FCC and other governing authorities, and the laws of the State of Michigan governing public contracts, the provisions of which are hereby incorporated by this reference. The Airport Manager shall obtain and maintain all permits or licenses, as may be

required by the FAA and MDOT.

5.2 *Promotion and Best Efforts.* Airport Manager acknowledges that good public relations are necessary in the proper operation of the Airport and in furthering the public interest served by the Airport. Therefore, Airport Manager will at all times during this Agreement strive for and develop good public relations and require the same of FBO operators, Airport Manager agents and employees in all aspects of its activities under this Agreement.

5.3 *Maintenance and Security Standards.* Airport Manager shall perform the maintenance and security services required under this Agreement in a manner consistent with accepted standards for an Airport of similar size. The building and grounds furnish a primary entry point into the City for use by the flying public. Airport Manager will keep the Airport terminal building clean and well maintained, free from dirt, dust and clutter. Restrooms will be cleaned regularly and paper products and hand soap kept fresh and in constant supply, which supplies shall be provided by the City.

5.4 *Hours of Operation.* Airport Manager, or designee, shall be available by phone or in person between 9:00 a.m. and 5:00 p.m., Monday through Friday (excluding holidays), and outside such normal hours, shall be available by phone in case of an emergency. The terminal and other Airport facilities shall be accessible to pilots at all hours.

6. DAMAGE TO AIRPORT PROPERTY AND EQUIPMENT. Airport Manager shall use reasonable care in use of the Airport and its facilities, improvements, equipment and other personal property belonging to City. Airport Manager shall be responsible for promptly repairing all damage to Airport property and equipment if such damage results from any error or omission, either negligent or intentional, on the part of Airport Manager or Airport Manager's

agents and employees. Airport Manager shall use reasonable care in protecting the Airport and shall promptly notify City of any damage to the Airport, its facilities or equipment, however and by whomsoever such damage was caused.

7. INDEMNIFICATION. Airport Manager will indemnify, defend and hold City harmless from and against all claims, liabilities, costs and expenses, including attorney fees, arising out of or in any manner related to Airport Manager's activities at the Airport, Airport Manager's performance of responsibilities under this Agreement, and the activities of Airport Manager's employees and agents.

8. LIABILITY INSURANCE. City shall add Airport Manager as an additional insured on the City's comprehensive public liability insurance policy.

9. CITY'S OBLIGATIONS. City shall be responsible for the following:

9.1 Foreign object removal from runway, taxiway and paved surfaces on an as needed basis. Airport Manager shall promptly notify the City when any such removal is necessary.

9.2 Construction, maintenance and repair of all runways, taxiways and other hard surface areas, when and as such matters are considered necessary by City.

9.3 Grading and graveling all roads and graveled areas on a regular basis, as considered necessary by the City.

9.4 Providing, maintaining and repairing all tie-downs and all equipment that the Airport Manager may require in carrying out Airport Manager's obligations under this Agreement, except such maintenance and repair that are the specific obligations of Airport Manager under this Agreement.

9.5 Provide, maintain and repair existing office space for use by Airport Manager.

9.6 Provide, maintain and repair fuel tanks including pumps, hoses and the like.

10. COMPENSATION. As compensation for Airport Manager's services under this Agreement, City shall pay to Airport Manager the sum of \$10,000 a year. Monthly payments will be made on a schedule as determined by the City.

11. TERM. The term of this Agreement shall be for three years. If City is satisfied with Airport Manager's performance, the City may enter into a three year renewal option.

12. NOTICES. Any notice required or permitted under this Agreement shall be given when actually delivered or when deposited with postage prepaid in the United States mail, as certified or registered mail, addressed as follows:

CITY: City Manager
City of Charlotte
111 E. Lawrence
Charlotte, MI 48813

AIRPORT Charlotte Aviation Services, LLC
MANAGER: Attn: Todd Cotter
1325 Island Hwy.
Charlotte, MI 48813

or to such other address as may be specified from time to time by either of the parties in writing.

13. ALTERATIONS OF IMPROVEMENTS. Airport Manager shall not make any alterations or improvements to any of the buildings or facilities at the Airport without first obtaining City's written permission.

14. RESTRICTION ON TRANSFER. This Agreement is personal between the parties and shall not be assigned by Airport Manager without the prior written consent of the City.

15. NON-DISCRIMINATION. Airport Manager, in the operation and use of the premises and facilities of the Airport shall not, on the grounds of race, color, national origins, sex or disability discrimination or permit discrimination against any person or group of persons in any manner prohibited by applicable law and, if applicable, shall abide by the provisions Par 21 of the Rules and Regulations of the Office of the Secretary of Transportation, effectuating Title VI

of the Civil Rights Acts of 1964 and the Americans With Disabilities Act of 1990.

16. TERMINATION OF AGREEMENT.

16.1 *Notice of Termination.* Either party, upon 60 days written notice to the other, may terminate this Agreement. In case of a material breach of this contract which jeopardizes public safety or the City's property, or if the Airport Manager engages in conduct which, without limitation, includes insubordination, dishonesty, fraud, a serious dereliction of duty, criminal activity, acts of moral turpitude, or a conviction, or a plea of guilty or *nolo contendere* to a high misdemeanor or a felony, the contract may be terminated without notice.

16.2 *Remedies.* Any claim for damages or other relief resulting from a parties' breach of this Agreement shall survive termination of this Agreement.

16.3 *Waiver.* A parties' election not to terminate this Agreement or not to pursue any remedies available on account of the breach by the other shall not be construed as a waiver, nor shall it preclude the party from terminating this Agreement or pursuing any available remedies for any similar, subsequent breach of the Agreement.

16.4 *Costs and Attorney Fees.* In the event any action or proceeding is commenced to declare, enforce, or obtain any remedy as a result of any breach or default by either party under this Agreement, the prevailing party shall be entitled to recover, in addition to its cost and disbursements, its reasonable attorney fees incurred in prosecuting the action or proceedings, including any such fees incurred on appeal.

17. FBO OPERATIONS. Airport Manager shall not allow anyone, including himself, to engage in any business activities for profit at the Airport without first obtaining City's written consent and without first securing a separate Fixed Base Operator Agreement (FBO Agreement)

in a form approved by the City. Any such FBO operations, including one engaged in by Airport Manager, would require a separate indemnification agreement and a comprehensive public liability insurance policy purchased by the operators required in an FBO Agreement.

CITY OF CHARLOTTE

CHARLOTTE AVIATION SERVICES, LLC

Michael Armitage, Mayor

Todd Cotter, Manager

DATED: _____

DATED: _____

Approved as to form:

Thomas M. Hitch, City Attorney