

ALPENA COUNTY BOARD OF COMMISSIONERS

BOARD ACTION #04

TO: County Clerk, County Treasurer, Airport Manager

FROM: Alpena County Board of Commissioners

SUBJECT: **HAS Commercial Operators Agreement Extension**

BOARD ACTION:

ACTION ITEM #5: Recommendation to approve Huron Aviation Service Commercial Operators Agreement Extension until December 9, 2023 and offer a new Commercial Operators Agreement at that time as presented.

Motion was made by Commissioner Francisco and supported by Commissioner LaHaie to approve the Commercial Operators Agreement extension action item as presented. Roll call vote was taken: AYES: Commissioners Francisco, Konarzewski, Kozlowski, LaHaie, Osmer, Lalonde, Fournier, and Peterson. NAYS: None. Motion carried.

This action was XX APPROVED    DISAPPROVED

BY: Ayes: 8 Nays: 0 Excused: 0 Absent: 0 Abstaining: 0

Alpena County Board Chairman's Signature: 

Alpena County Board Vice-Chairman's Signature: \_\_\_\_\_

Date of the Board Meeting: September 26, 2023

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18 September 2023

To: Board of Commissioners

Re: HAS COA Extension

While reviewing documents pertinent to Huron Aviation Services I found that the Commercial Operators Agreement (COA) between Huron Aviation Services and the County of Alpena had expired on 30 April 2022.

It is recommended that an extension to the current COA until 9 December 2023 be offered to Robert Currier, at which time a new COA will be offered.

Respectfully



**Steven Smigelski**  
Airport Manager  
Alpena County Regional Airport

**ALPENA COUNTY REGIONAL AIRPORT  
COMMERCIAL OPERATOR AGREEMENT**

This agreement is entered into this **TENTH** day of **DECEMBER, 2023** by and between Alpena County Regional Airport, Alpena, Michigan, hereinafter referred to as AIRPORT, and **HURON AVIATION SERVICES**, hereinafter referred to as OPERATOR.

**WITNESSETH:**

**WHEREAS**, Alpena County owns and operates an airport known as Alpena County Regional Airport; and

**WHEREAS**, the OPERATOR desires to operate an air service business on Alpena County Regional Airport; and

**WHEREAS**, the OPERATOR does hold an airport property or premise lease with Alpena County;

**THEREFORE FOR AND IN CONSIDERATION** of the mutual covenants hereafter provided, AIRPORT and OPERATOR agree as follows:

1. **TERM** Subject to early termination as hereafter provided, the OPERATOR shall have the right to conduct its commercial operations as herein set forth for a term of 5 years commencing on the **TENTH** of **DECEMBER, 2023** and ending on the **TENTH** of **DECEMBER, 2028**.

2. **RENTAL**

(a) The OPERATOR shall pay to AIRPORT for the privilege and license to conduct its commercial operations, as above stated, a minimum fee of \$250.00 per year and payable in advance on the first day of **DECEMBER** of each year.

(b) Service Fee: If during the term of this Agreement, the OPERATOR is late in making rental payments or other fees and charges, as provided herein, the OPERATOR shall pay and the AIRPORT shall receive a service charge of one (1%) per cent per month of such late payments, fees and charges each and every month until said amount is paid. This shall be in addition to and in no way affect any other rights reserved to the AIRPORT or existing in the AIRPORT by virtue of the laws of the State of Michigan or by the terms of this Agreement.

### **3. PURPOSES OPERATOR IS GIVEN THE ABILITY TO OPERATE**

Commercial OPERATOR shall be given the opportunity to operate a fixed base service and to perform Part 135 Charter service, aircraft maintenance, repairs, alterations, to sell aircraft parts, accessories, and to supply pilot needs and such other activities, barring fuel or electrical charging, consistent with a Fixed Base Operator.

### **4. CONDUCT OF COMMERCIAL OPERATIONS**

In its exercise and carrying out of the rights, privileges, duties, and obligations granted to it herein, and in its use of the demised premises, the OPERATOR hereby obligates itself to the following requirements and regulations:

(a) The OPERATOR shall not consent to any unlawful use of the demised premises, nor permit any such unlawful use thereof.

(b) The OPERATOR agrees that all of its employees shall have, as required by law, all applicable certificates, or licenses.

(c) The OPERATOR further agrees that all local, federal and state ordinances and laws will be observed, including the rules and regulations of the federal and state aeronautical authorities and the local governing authorities and the standards of service adopted by the AIRPORT.

(d) The operations of the OPERATOR, its employees, invitees and those doing business with it, and the manner in which it supplies goods and services on the demised premises and at Alpena County Regional Airport which it is given the right to do under the terms hereof, shall be conducted in an orderly and proper manner so as not to annoy, disturb or be offensive to others at Alpena County Regional Airport.

(e) The OPERATOR shall comply with all rules and regulations of the State Fire Marshall in conduct of its operations on the demised premises.

(f) The OPERATOR, during the term of this Agreement, or any renewal thereof, agrees to pay:

1. All personal property taxes and assessments and all license fees applicable to its activities, or other charges which are levied or assessed on the personal property situated on the demised premises;

2. Any tax or assessment determined to be properly payable by the OPERATOR under Act 189 of the Public Acts of 1953, as amended, for the lease or use of the demised premises;

3. All sales or use taxes and assessment, license fees or other charges of any nature, without exception, levied or assessed arising out of the activities conducted or the occupancy of the demised premises;

4. All fees for water, gas, sewer, telephone service, electric current and other utilities utilized or consumed by the OPERATOR.

(g) The OPERATOR shall not use the premises or permit such premises to be used for the sale to its employees or to the public of any goods or services not directly related to either general aviation or fixed-base operation activities.

(h) The OPERATOR shall obtain approval from the Airport Manager for all signs, posters and on-site advertisements to be used in conjunction with commercial activity and in advance of such use.

(i) The OPERATOR, at all times, shall keep and conduct its operations so that it is neat, clean and orderly and free from any unsightly accumulation of any nature whatsoever.

## **5. VERIFICATION OF GROSS INCOME**

All books and records regarding the OPERATOR's gross income for any year of this Agreement shall be made available for inspection by the AIRPORT, through its duly authorized representative, during the term of this Agreement. The OPERATOR shall submit such information and documentation with regard to gross income, when and as requested by the AIRPORT, provided at least seven (7) days prior notice is given to the OPERATOR. Annual federal and state income tax returns may be initially submitted by the OPERATOR to the AIRPORT, to assist in verifying the OPERATOR's gross annual income. If the OPERATOR fails to supply the AIRPORT with proper documentation of income within 60 days of written request, the AIRPORT may revoke all right of use of Airport Facilities.

## **6. INSURANCE**

The OPERATOR shall procure, keep and maintain, during the terms of this Agreement or any renewal thereof, insurance policies providing public liability and property damage insurance of not less than One Million Dollars and No/100 (\$1,000,000.00) Dollars for property damage and of not less than One Million and No/100 (\$1,000,000.00) Dollars for public liability. Such policies will cover losses caused by the acts or omissions of the OPERATOR, its agents, licensees, invitees and employees, and shall designate the AIRPORT and the member municipalities as a named insured. The AIRPORT shall be furnished with copies of all insurance policies obtained by the OPERATOR in compliance with this requirement prior to the effective date of this Agreement. The OPERATOR agrees to notify the AIRPORT, in writing, as to any amendment to or cancellation of such policies.

The OPERATOR shall provide fire and extended insurance coverage for the demised premises. The AIRPORT shall be responsible for providing its own insurance coverage for personal property maintained or kept on the demised premises during this Agreement.

The OPERATOR shall secure product liability coverage for the goods sold on the demised premises, and services liability coverage of not less than One Million and No/100 (\$1,000,000.00) Dollars.

#### **7. POLLUTION LIABILITY INSURANCE**

If the OPERATOR engages in a business that works with or uses a material, produces a product or waste considered to be a “hazardous material or waste” under local, state or federal law/regulation, (which includes but is not limited to: flammable explosives, radioactive materials, known carcinogenic materials, volatile chemicals and biological contaminants) the OPERATOR is required to carry pollution liability insurance coverage with limits not less than \$1,000,000. Such coverage shall name the AIRPORT as an additional insured. The policy must cover the OPERATORS completed operations. This insurance must include sudden and gradual coverage for third-party liability including defense costs and completed operations.

#### **8. HOLD HARMLESS PROVISION**

The OPERATOR agrees to defend and hold the AIRPORT harmless from any claim, suit, judgment or processes of any nature whatsoever arising solely out of the alleged negligent, wrongful or unlawful acts or omissions of the OPERATOR, its agents, licenses, invitees and employees during its use or occupancy of the demised premises under the terms of this Agreement, or any extensions thereof. The OPERATOR shall be solely responsible for the services and products sold on the Airport premises.

#### **9. COMPLIANCE WITH FEDERAL LAW**

The OPERATOR for itself and its employees, assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the Agreement that;

(1) No person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities;

(2) That in the construction of any improvements or over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin

shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) That the OPERATOR shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federal-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

10. **The OPERATOR agrees** to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and no unjustly discriminatory prices for each unit or service; provided that the OPERATOR may be allowed to make reasonable and nondiscriminatory discounts, rebates and other similar types or price reductions to volume purchasers.

11. **It is hereby specifically understood** and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the AIRPORT reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature.

12. **The AIRPORT reserves** the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desire or view of the OPERATOR, and without interference or hindrance.

13. **The AIRPORT reserves the right,** but shall not be obligated to the OPERATOR, to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the OPERATOR in this regard.

14. **The OPERATOR shall be subordinate** to the provisions and requirements of any existing or future agreement between the AIRPORT, Michigan Bureau of Aeronautics and the United States, relative to the development, operation, administration, or maintenance of the airport.

15. **The AIRPORT shall retain the right** to temporarily close all or any part of the airport or any of the facilities thereon for maintenance, improvement, or for the safety of the public for as long as the factual situation reasonably warrants.

16. **ASSIGNMENT OF AGREEMENT** The Operator may not assign this Agreement without the prior written approval of the Board of Commissioners of the County of Alpena.

**17. HOLDOVER**

Any holdover beyond the termination date set forth above shall be on a month-to-month basis. In the event of holdover, the rent and other terms of this Agreement shall be as set forth herein.

**18. MODIFICATIONS**

Modifications to this Agreement may be made by the written mutual consent of the parties hereto.

**19. TERMINATION, CANCELLATION, FORFEITURE**

The OPERATOR and the AIRPORT agree that this Agreement shall terminate at the expiration of the term herein specified. Further, that upon the breach by the OPERATOR of any of the covenants, terms, and conditions herein, and/or its failure to carry out its obligation to provide to the public the goods, services and facilities which are called for herein and at the times and in the manner prescribed by the AIRPORT, the AIRPORT shall have the right to give written notice to the OPERATOR, within thirty (30) days from the date of such breach to in "good faith" cure such breach and if such breach is not in "good faith" cured or corrected by the OPERATOR, this Agreement, and all rights, privileges and concessions herein granted, may be deemed forfeited by the OPERATOR and cancelled by the AIRPORT, upon receipt by the OPERATOR of notice in writing from the AIRPORT of such cancellation, termination or forfeiture of all rights hereunder. This shall be in addition to and shall in no way affect any other rights reserved to the AIRPORT and existing in the AIRPORT by virtue of the laws of the State of Michigan or by the terms of this Agreement. The OPERATOR may terminate this Agreement if the Alpena County Regional Airport ceases to be operated as a public airport and landing field, provided that the conditions of Paragraph 4 shall remain in effect.

**20. SEVERABILITY**



If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby.

**21. ARBITRATION**

Any disputes relating to or arising from this Commercial OPERATOR's Agreement shall be resolved by binding arbitration pursuant to the rules of the American Arbitration Association then in force.

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

**WITNESSES:**




\_\_\_\_\_

**WITNESSES:**

\_\_\_\_\_

\_\_\_\_\_

**AIRPORT: COUNTY of ALPENA**

BY:   
**BILL PETERSON, CHAIRMAN**

BY: \_\_\_\_\_  
**STEVEN SMIGELSKI, AIRPORT MANAGER**

**OPERATOR: HURON AVIAION SERVICES**

BY: \_\_\_\_\_  
**ROBERT CURRIER**  
**PRESIDENT HURON AVIATION SERVCIES**

ALPENA COUNTY BOARD OF COMMISSIONERS  
BOARD ACTION #01

TO: County Clerk, County Treasurer, Airport Manager  
FROM: Alpena County Board of Commissioners  
SUBJECT: AIRPORT-COMMERCIAL OPERATOR AGREEMENT

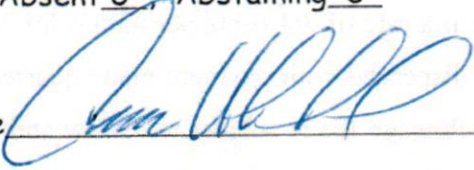
BOARD ACTION:

ACTION ITEM #AC-1: The Committee recommends that a five year Commercial Operator Agreement be executed with Huron Aviation Services and recommend the Airport Manager and Chairman of the Board sign any pertinent documents.

Moved by Commissioner Kozlowski and supported by Commissioner Fournier to approve the Consent Calendar, which includes actions as listed above and filing of all reports. Roll call vote was taken: AYES: Commissioners McRoberts, Adrian, Modrzynski, Fournier, McDonald, Kozlowski, and Habermehl. NAYS: None. Commissioner Peterson excused. Motion carried.

This action was xx APPROVED      DISAPPROVED

BY: Ayes 7, Nays 0, Excused 1, Absent 0, Abstaining 0

Alpena County Board Chairman's Signature 

Alpena County Board Vice-Chairman's Signature \_\_\_\_\_

Date of the Board Meeting April 24, 2018

**ALPENA COUNTY REGIONAL AIRPORT  
COMMERCIAL OPERATOR AGREEMENT**

This agreement is entered into this **FIRST** day of **MARCH, 2018** by and between Alpena County Regional Airport, Alpena, Michigan, hereinafter referred to as AIRPORT, and **BRAD SHRINER, DBA HURON AVIATION SERVICES**, hereinafter referred to as OPERATOR.

**WITNESSETH:**

**WHEREAS**, Alpena County owns and operates an airport known as Alpena County Regional Airport; and

**WHEREAS**, the OPERATOR desires to operate an air service business on Alpena County Regional Airport; and

**WHEREAS**, the OPERATOR does hold an airport property or premise lease with Alpena County;

**THEREFORE FOR AND IN CONSIDERATION** of the mutual covenants hereafter provided, AIRPORT and OPERATOR agree as follows:

1. **TERM** Subject to early termination as hereafter provided, OPERATOR shall have the right to conduct its commercial operations as herein set forth for a term of 5 years commencing on the **FIRST of MARCH, 2018** and ending on the **THIRTIETH of APRIL, 2022.**

**2. RENTAL**

(a) OPERATOR shall pay to AIRPORT for the privilege and license to conduct its commercial operations, as above stated, a minimum fee of \$250.00 per year and payable in advance on the first day of **MARCH** of each year.

(b) Any OPERATOR conducting fueling operations shall pay to AIRPORT fuel flowage fees at a rate of .04 cents per gallon for 100LL and .05 cents per gallon for JetA for all fuel dispensed with payment made quarterly covering the preceding three months. This fuel flowage fee is subject to review and if agreed upon by both parties the fee may be adjusted.

(c) Service Fee: If during the term of this Agreement, OPERATOR is late in making rental payments or other fees and charges, as provided herein, OPERATOR shall pay and AIRPORT shall receive a service charge of one (1%) per cent per month of such late

2. Any tax or assessment determined to be properly payable by OPERATOR under Act 189 of the Public Acts of 1953, as amended, for the lease or use of the demised premises;

3. All sales or use taxes and assessment, license fees or other charges of any nature, without exception, levied or assessed arising out of the activities conducted or the occupancy of the demised premises;

4. All fees for water, gas, sewer, telephone service, electric current and other utilities utilized or consumed by OPERATOR.

(g) OPERATOR shall not use the premises or permit such premises to be used for the sale to its employees or to the public of any goods or services not directly related to either general aviation or fixed-base operation activities.

(h) OPERATOR shall obtain approval from the Airport Manager for all signs, posters and on-site advertisements to be used in conjunction with commercial activity and in advance of such use.

(i) OPERATOR, at all times, shall keep and conduct its operations so that it is neat, clean and orderly and free from any unsightly accumulation of any nature whatsoever.

## **5. VERIFICATION OF GROSS INCOME**

All books and records regarding OPERATOR's gross income for any year of this Agreement shall be made available for inspection by AIRPORT, through its duly authorized representative, during the term of this Agreement. OPERATOR shall submit such information and documentation with regard to gross income, when and as requested by AIRPORT, provided at least seven (7) days prior notice is given to OPERATOR. Annual federal and state income tax returns may be initially submitted by OPERATOR to AIRPORT, to assist in verifying OPERATOR's gross annual income. If OPERATOR fails to supply AIRPORT with proper documentation of income within 60 days of written request, AIRPORT may revoke all right of use of Airport Facilities and OPERATOR shall remove all buildings, equipment and improvements from Airport Property.

## **6. INSURANCE**

OPERATOR shall procure, keep and maintain, during the terms of this Agreement or any renewal thereof, insurance policies providing public liability and property damage insurance of not less than One Million Dollars and No/100 (\$1,000,000.00) Dollars for property damage and of not less than One Million and No/100 (\$1,000,000.00) Dollars for public liability. Such policies will cover losses caused by the acts or omissions of OPERATOR, its agents, licensees,

The OPERATOR for itself and its employees, assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the Agreement that;

(1) No person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities;

(2) That in the construction of any improvements or over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) That the OPERATOR shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federal-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

10. **The OPERATOR agrees** to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and no unjustly discriminatory prices for each unit or service; provided that the OPERATOR may be allowed to make reasonable and nondiscriminatory discounts, rebates and other similar types or price reductions to volume purchasers.

11. **It is hereby specifically understood** and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the AIRPORT reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical nature.

12. **The AIRPORT reserves** the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desire or view of the OPERATOR, and without interference or hindrance.

13. **The AIRPORT reserves the right,** but shall not be obligated to the OPERATOR, to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the OPERATOR in this regard.

terminate this Agreement if the Alpena County Regional Airport ceases to be operated as a public airport and landing field, provided that the conditions of Paragraph 4 shall remain in effect.

**20. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby.

**21. ARBITRATION**

Any disputes relating to or arising from this Commercial OPERATOR's Agreement shall be resolved by binding arbitration pursuant to the rules of the American Arbitration Association then in force.

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

**WITNESSES:**

Michelle Labarge

Shard Stein

**WITNESSES:**

Julia Gallner

Edward D. ...

**LESSOR: ALPENA COUNTY**

BY: [Signature]

**ITS: CHAIRMAN**

BY: [Signature]

**ITS: AIRPORT MANAGER**

**LESSEE:** Huron Aviation

BY: [Signature]

**ITS: President, Huron Aviation Services**