

## TEMPORARY LICENSE AGREEMENT

This Temporary License Agreement (“**Agreement**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between City of Marshall, a Minnesota municipal corporation (“**City**”), and Chet Lockwood (“**Licensee**”). City and Licensee may hereinafter be referred to individually as a “party” or collectively as the “parties.”

### RECITALS

- A. City owns the Southwest Minnesota Regional Airport, 1650 W. College Drive, Marshall, Minnesota 56258 (“**Airport**”).
- B. Licensee desires to enter into a development and lease agreement (“**D&L Agreement**”) with City to allow Licensee to construct and operate a hangar and related improvements at the Airport (“**Hanger Project**”).
- C. City is in the process of considering the Hangar Project and the proposed D&L Agreement, but has not acted to approve the Hanger Project or a D&L Agreement with Licensee.
- D. While City is considering the proposed Hangar Project, Licensee has asked City for permission to store gravel at the Airport to support the Hanger Project if City does approve the Hangar Project and enters into a D&L Agreement with Licensee.
- E. City is willing to grant Licensee a temporary license to store gravel on a portion of the Airport, but only in accordance with the terms and conditions of this Agreement.

### AGREEMENT

In consideration of the mutual promises and agreements contained herein, and intending to be legally bound, the parties hereby agree as follows:

- 1. License Granted. City hereby grants to Licensee, its successors and assigns, subject to all of the terms and conditions of this Agreement, a non-exclusive temporary license for the sole purpose of allowing Licensee to deliver and store gravel on the portion of the Airport property (“**Storage Site**”) identified by the Airport Supervisor. If City does not approve the Hangar Project, or if the parties are not able to reach mutual agreement on a D&L Agreement, by \_\_\_\_\_, 2023, Licensee shall remove all gravel from the Storage Site by no later than \_\_\_\_\_. The City may, but is not required to, grant an extension to either of those dates in writing.
- 2. Compensation. Licensee shall pay City \$\_\_\_\_\_ for storing gravel at the Storage Site at the Airport pursuant to this Agreement. City is not responsible for any costs associated with the delivery or storage of the gravel, or for the removal of the gravel if that becomes necessary. If Licensee requests an extension, City may require Licensee pay additional compensation to City for the extended period of storage as a condition of the extension.

3. Specific Limitations and Requirements. Licensee's use of the Airport for storing gravel must not interfere with normal Airport operations or with any federal, state, or local laws, rules, regulations, or ordinances related to the operation of the Airport. To help ensure no such interferences or violations occur, Licensee's use of the Airport for storing gravel is subject to compliance with the directions provided by the Airport Supervisor on matters including, but not limited to, those set out below.
  - (a) The specific location and boundaries of the Storage Site on the Airport.
  - (b) The amount of gravel that may be stored at the Storage Site.
  - (c) The hours during which Licensee may have the gravel delivered or removed.
  - (d) The route those delivering the gravel must take to access the Storage Site and to depart from the Airport.
  - (e) Such other matters as the Airport Supervisor reasonably determines must be done, or not done, to avoid interfering with Airport operations or safety.
  
4. General Limitations and Requirements. The license granted by the Agreement is subject to the following understandings, limitations, requirements, and agreements set out in this section.
  - (a) This license is limited exclusively to Licensee storing gravel at the Storage Site at the Airport. This Agreement does not authorize the Hangar Project or any other work or storage at the Airport. The parties agree the gravel to be stored at the Storage Site is exclusively for the Hangar Project, not for any other use off of the Airport.
  - (b) Licensee shall be solely responsible for all work and costs to accomplish the storage of gravel at the Storage Site. Licensee shall instruct any persons entering the Airport related to its storage of gravel of the limitations and requirements imposed by the Airport Supervisor.
  - (c) If Licensee, or any contractor or other person acting on its behalf, cause any damage to the Airport grounds or facilities, Licensee agrees to repair and restore the land to the condition it was in prior to said damage or better, at Licensee's sole expense. If Licensee fails, within 15 days after notice from City, to fully repair and restore the Airport in the event of damage thereto, City shall have the right to make all such repairs and restoration it deems necessary. If City determines the condition of Airport is such that it cannot wait 15 days for Licensee to make the repairs, City may immediately take steps to cause the repairs to be made or to otherwise act to protect public safety. City shall bill Licensee for all associated costs it incurred related to the work, including City's administrative and legal costs. If Licensee or its successors or assigns fail to reimburse City for its costs and expenses within 30 days of receipt of an invoice for such costs, City shall have the right to recover its costs as provided in this Agreement.

- (d) Licensee agrees not to suffer or allow any liens, claims and processes to be placed against City's rights to or interest in the Airport as a result of its use of the Airport including, without limitation, any liens for labor or materials provided for the purchase or hauling of gravel.
  - (e) City makes no representations or warranties as to the condition of Airport or the Storage Area, or their suitability for gravel storage.
  - (f) Nothing in this Agreement constitutes an agreement, or a promise to agree, to the Hangar Project or a D&L Agreement.
  - (g) Licensee agrees that the use of the Airport and the Storage Area is with City's permission and is not open, continuous, notorious or in any other manner supportive of a claim of adverse possession, prescriptive easement, or other entitlement to any portion of the Airport. The parties acknowledge that this Agreement is a license to use the Storage Area for the purpose described herein, it is not a lease or easement and does not confer any estate or interest in real property to Licensee beyond what is specifically recited herein. Furthermore, the parties agree the granting of this license does not constitute any intent by City to abandon or vacate any portion of its Airport.
  - (h) Licensee assumes all risk with respect to its activities within, and use of, the Airport and the Storage Area. City shall not be liable for and damages or loss associated with Licensee's storage of gravel at the Storage Area. City is not in any way responsible for safeguarding Licensee's gravel.
  - (i) Nothing herein shall be construed as limiting City's right to use, maintain, or improve its Airport.
5. Term and Revocation. This Agreement shall commence on the date first written above and shall terminate on the date provided herein for Licensee to remove the gravel from the Storage Area, unless the City agrees to an extension in writing. If extended, this Agreement shall terminate on the extension date agreed to by City. Licensee's obligation to remove the gravel and to indemnify City shall survive the termination of this Agreement. If the parties enter into a D&L Agreement for the Hangar Project, this Agreement shall merge into and be replaced by the D&L Agreement as of its effective date.
6. Removal of Gravel. If City does not approve a D&L Agreement for the Hangar Project by the deadline indicated above, Licensee shall be responsible, at its own cost, for removing the gravel from the Storage Area and restore the Storage Area to at least the same condition it was in prior to the storage by no later than the deadline established herein. If Licensee fails to timely remove the gravel, City may do so and charge Licensee for its reasonable costs. If Licensee fails to pay City's costs within 30 days of City having billed for the costs, City may recover its costs as provided herein.
7. Indemnification. Licensee shall indemnify, hold harmless and defend City, its officials, employees, contractors and agents, from and against any and all claims, losses,

proceedings, damages, causes of action, liability, costs or expenses (including reasonable attorneys' fees), arising from or in connection with or caused by any act, omission or negligence of Licensee, its contractors, or others acting on its behalf in connection with the gravel storage or Licensee's use of the Storage Area. Nothing in this Agreement shall be construed as either party waiving any exception from, or limitation on, its liability provided in Minnesota Statutes, chapter 466 or in other law.

8. Cost Recovery. The parties agree that any amounts City is entitled to recover from Licensee, or its successors and assigns, under this Agreement may be collected by City in any of the following methods, none of which are exclusive, if they remain unpaid for 30 days after billing. City may include and recover its collection costs and related attorneys' fees in addition to the unpaid amounts collected hereunder. City will provide Licensee at least 10 days written notice and an opportunity to be heard prior to invoicing any amounts against Licensee under this Agreement.
  - (a) Service Charge. The parties agree that any unpaid amounts constitute a service charge City may collect together with property taxes levied against any property Licensee owns in the state as provided in Minnesota Statutes, section 366.012, which is available to City under Minnesota Statutes, section 415.01, subdivision 1.
  - (b) Lien. City may place a lien any of Licensee's properties in accordance with Minnesota Statutes, section 514.67.
  - (c) Other Authority. City may exercise any other authority available to it under law to collect any unpaid amounts from Licensee and its successors and assigns.
9. Governing Law and Amendments. This Agreement shall be governed by the laws of the State of Minnesota and may only be modified or amended with the written consent of both parties.
10. Binding Agreement. This Agreement constitutes the entire agreement between the parties regarding this matter and is binding on the parties until terminated by mutual agreement or revoked by City.
11. Not Construed Against Drafter. The language of this Agreement shall not be interpreted in favor of or against any Party as the drafter of this Agreement.
12. Incorporation. The recitals contained herein are incorporated in and made part of this Agreement.
13. Counterparts. For the convenience of the parties, any number of counterparts hereof may be executed and each such executed counterpart shall be deemed an original, but all such counterparts together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

**LICENSEE**

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Chet Lockwood

**CITY OF MARSHALL**

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Robert Byrnes, Mayor

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Steven Anderson, Clerk