

DRAFT

MINUTES

Monday, April 2, 2012
2:00 P.M.

Manistee County Blacker Airport
Conference Room

Members Present: Paul Schulert, Chairperson; Ross Spencer, Vice-Chairperson; Duane Anderson; Glenn Lottie; Ervin Kowalski; Dale Picardat; and Bob Wilson

Members Absent: None

Others Present: Barry Lind, Airport Manager; Russell Pomeroy, Airport Authority Treasurer; George Saylor, Airport Legal Counsel; Tom Kaminski, Manistee County Controller/Administrator; Dave Yarnell, Manistee News Advocate; Jim Gallagher, Public Charters (via telephone); and Rachel Nelson, Airport Authority Secretary

Paul Schulert, Chairperson, called the special meeting to order at 2:00 P.M. Roll was taken by the Secretary.

Mr. Schulert stated that the purpose of the special meeting was to review the proposed grant agreement with the U.S. Department of Transportation (DOT) for the Alternate Essential Air Service (EAS) program (APPENDIX A), and to review the proposed contract with Public Charters, Inc. for providing service at the airport (APPENDIX B).

Mr. Lind stated that the current plan is to start service the week before Memorial Day with a 50 seat regional jet (EMB-145) and a single flight daily (except Saturday). After 30-60 days, service would change to 10 flights per week with a 30 seat turboprop (EMB-120). After six months, service may reduce to a 19 seat turboprop. Mr. Lind outlined the proposed schedule, and noted that with the initial regional jet service, there would only be the 8:15 A.M. and 8:00 P.M. flights on Monday, Tuesday, Thursday, and Friday. Mr. Lind reminded the Authority that Chicago is one hour behind Manistee due to being in a different time zone. It was also noted that if Alpena were to join in the Alternate EAS program and contract with Public Charters, Inc., the schedule would not need to change.

8:15 A.M. Departure (8:15 A.M. arrival at Midway [MDW]) (M, T, Th, F)
12:45 P.M. Arrival (10:45 A.M. departure from MDW) (M, T, Th, F)
3:55 P.M. Departure (3:55 P.M. arrival at MDW) (M, T, W, Th, F, Su)
8:00 P.M. Arrival (6:00 P.M. departure from MDW) (M, T, W, Th, F, Su)

The planned fares, which will be available for purchase directly from P1 online or via phone, are \$60 one way with a 14 day advance purchase; \$80 one way with a 3 day advance purchase; and \$100 and \$120 one way non-advance purchase. If purchased through a global distribution system (GDS) or online travel agency (OTA), it would cost \$174 for a round trip purchased 3 days in advance (\$87 each way), and \$254 for a round trip non-advance purchase (\$127 each way). There will be occasional promotional fares of \$50 one way.

Mr. Lind explained that the Airport Authority enters into a grant agreement with DOT under the Alternate EAS program. The Airport Authority enters into a contract with Public Charters, Inc., which is a Part 380 Indirect Air Carrier, to provide sales, marketing and flights. Public Charters, Inc., contracts with Aerodynamics, Inc. (ADI), or others as a Direct Air Carrier to provide flights. This is known as an ACMI contract - Aircraft, Crew, Maintenance, Insurance. It was noted that Public Charters, Inc., now intends to contract with ADI instead of Charter Air Transport as previously discussed, and that ADI is based in Pontiac and has lots of experience with scheduled service.

Mr. Lind noted that it does appear that TSA will return to the Manistee airport to provide screening services. Mr. Gallagher added that he is working on a color coded bag tag system that would prevent passengers from having to be re-screened at Midway, even if they have checked baggage.

It was noted that Public Charters, Inc., will submit invoices to the Airport Authority, which will be paid after the service is provided. Mr. Saylor noted that the terms and conditions of the grant agreement with DOT will need to be incorporated into the contract with Public Charters, Inc., so there might be a few small tweaks. Mr. Lind is working with the Airport Authority's insurance and Public Charters' insurance regarding liability insurance.

Mr. Spencer wondered about Section 3-g-iii regarding the flowage fee on airport fuel purchases. Mr. Lind explained the tier structure that has been set-up and explained that this would apply to anyone purchasing fuel at the airport. Mr. Spencer stated that he didn't like having the flowage fee waived for the first three months. After discussion, the Airport Authority and Mr. Gallagher agreed to a \$0.02 flowage fee for the first three months regardless of the amount of fuel purchased.

Mr. Pomeroy stated that this will be extra work for his office. He has some concern that there is no administrative fee reserved from the grant funds. He also noted that due to the increased federal funding, the airport will need to perform a single audit, which will be more expensive. It was noted that currently, the Airport Authority pays \$3,000 per year to the County for the services of the Airport Authority Treasurer and Secretary. Mr. Pomeroy anticipates that this fee will need to be raised or reflected in the Airport Authority's appropriation from Manistee County. Mr. Gallagher noted that DOT has standard accounting forms, which should assist with the administration of the program.

It was noted that approximately \$70,000 per year of Public Charters' budget is for marketing, and they have already been in contact with a local graphic designer. Mr. Gallagher stated that he is working on updating his website and should have airline seats available for purchase on their website before the end of April.

There was a motion by Mr. Spencer, supported by Mr. Kowalski to authorize Public Charters, Inc., to begin providing service at Manistee Blacker Airport as soon as possible in accordance with the Airport Lease/Service Agreement, subject to non-substantive modifications, and to authorize and direct the Airport Authority Chairman to execute the agreement.

A roll call vote was taken:

Yeas: 7 (Wilson; Picardat; Kowalski; Lottie; Anderson; Spencer; Schulert)

Nays: 0

Absent: 0

Motion carried.

Mr. Lind stated that the grant agreement for the Small Community Air Service Development program was used as a template for the "Grant Agreement Between the U.S. Department of Transportation and the Manistee Blacker Airport Authority, in Association With the Community of Manistee/Ludington, Michigan, Under the Alternate Essential Air Service Program". Mr. Lind stated that section B-2 lists the conditions that are specific to the Alternate EAS program. It was pointed out that neither the grant agreement with

the DOT or the agreement with Public Charters, Inc. require the signature/approval of the Manistee County Board of Commissioners. It was noted that the County Board has never signed/approved the EAS contracts. Mr. Kaminski pointed out that there are certain requirements (policies, postings, etc.) that the airport would need to comply with since they are not associated with the County in the agreements.

Mr. Picardat wondered if the payments from the federal government to the airport would come in a timely manner. Mr. Lind stated that the DOT's typical payment process is 14 days.

Mr. Saylor noted that the agreements with DOT and Public Charters, Inc., are linked, and also noted that the DOT agreement requires TSA to be at the airport.

There was a motion by Mr. Lottie, supported by Mr. Picardat to authorize the Airport Authority Chairman to execute and enter into the "Grant Agreement Between the U.S. Department of Transportation and the Manistee Blacker Airport Authority, in Association With the Community of Manistee/Ludington, Michigan, Under the Alternate Essential Air Service Program", subject to non-substantive modifications.

A roll call vote was taken:

Yeas: 7 (Schulert; Spencer; Anderson; Lottie; Kowalski; Picardat; Wilson)

Nays: 0

Absent: 0

Motion carried.

With there being no further business to come before the Authority, the meeting was adjourned at approximately 4:00 P.M.

Respectfully submitted,

Rachel Nelson, Airport Authority Secretary

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to view Calendar of Events, County Board Agendas and Minutes, Committee Meeting Reports (under Board of Commissioners), Airport Authority Minutes (under More Departments and Services), etc.

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**GRANT AGREEMENT BETWEEN THE
U.S. DEPARTMENT OF TRANSPORTATION
AND THE MANISTEE BLACKER AIRPORT AUTHORITY, IN
ASSOCIATION WITH THE COMMUNITY OF
MANISTEE/LUNDINGTON, MICHIGAN, UNDER
THE ALTERNATE ESSENTIAL AIR SERVICE PROGRAM**

WHEREAS, the Manistee Blacker Airport Authority (hereinafter referred to as the Sponsor), in association with Essential Air Service eligible community of Manistee/Ludington, Michigan, has submitted an application for participation in the Alternate Essential Air Service Program (AEAS) and the U.S. Department of Transportation (DOT) has established annual air service levels and total costs. THEREFORE, the DOT, acting for the UNITED STATES, presents this Grant Award and Agreement to the Sponsor for up to \$4,199,076 for Alternate Essential Air Service at the community for a two year term. Unless otherwise defined in this Grant Agreement, capitalized terms shall have the meanings assigned to such terms in Section D hereof.

THIS GRANT AWARD AND AGREEMENT IS MADE ON AND SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

A. GENERAL CONDITIONS

1. The maximum obligation of the United States payable under this Grant Agreement shall be \$4,199,076.
2. Payment by the United States' for Alternate Essential Air Service will be made pursuant to and in accordance with the provisions of such regulations and procedures as DOT may prescribe.
3. The Sponsor, including any third parties shall provide Alternate Essential Air Service without undue delays and in accordance with the terms hereof and pursuant to any regulations and procedures as DOT may prescribe.
4. This Grant Award constitutes an obligation of federal funding. This Grant Award shall expire and the United States shall not be obligated to pay any part of the costs of the project unless the Sponsor signs this Grant Agreement on or before **April XX, 2012**, or such subsequent date as may be prescribed in writing by DOT. If the Sponsor makes any substantive changes to this Grant Agreement, such changes shall constitute amendments to this Grant Award and Agreement and further action on the part of DOT is required in order for DOT to accept such amendments to the initial Grant Award obligation. If not signed and returned to DOT without modification by the Recipient on or before April XX, 2012, DOT may unilaterally terminate this Grant Award and Agreement.
5. The Sponsor shall take all steps, including litigation, if necessary, to recover Federal funds when DOT determines, after consultation with the Sponsor, that such funds have been spent fraudulently, wastefully, or

in violation of Federal laws, or misused in any manner in any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or disbursed by the Sponsor that were originally paid pursuant to this Grant Agreement.

6. The Sponsor shall retain all documents relevant to the Grant Award and Agreement for a period of three years after air service undertaken pursuant to the Grant Agreement and receipt of final reimbursement from the U.S. Treasury, whichever is later. It shall furnish DOT, upon request, all documents and records pertaining to the determination of the amount of the Federal funds or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal funds shall be approved in advance by DOT.
7. The United States shall not be responsible or liable for damage to property or injury to persons that may arise from, or be incident to, compliance with this Grant Agreement.
8. The Sponsor shall ensure compliance with Federal regulations requiring conduct of a Federally-approved audit of any expenditure of funds of \$500,000 or more in a year in Federal awards.
9. The provisions of 49 CFR Part 18.36 (DOT's procurement standards for grants) will apply to the extent that the Sponsor procures property and services in carrying out Alternative Essential Air Service.

B. APPLICATION SPECIFIC CONDITIONS

1. Legal Sponsor: The Manistee Blacker Airport Authority, as the legal Sponsor under the AEAS, shall administer the Grant according to the conditions set forth in this Grant Agreement.

Sponsor Contact:

Mr. Barry Lind
 Airport Director
 Manistee County Blacker Airport
 2323 Airport Road
 Manistee, Michigan 49660
 Phone: (231) 723-4351
 Fax: (231) 723-8814
 Email: manisteeairport@gmail.com

2. Alternate Essential Air Service
 - a. Manistee/Ludington, Michigan, will maintain its designation as a subsidy eligible community in the traditional Essential Air Service program, subject to the existing or any new eligibility requirements.

- b. The eligibility of Manistee/Ludington, Michigan, under the AEAS shall be contingent upon its continuing to meet all the eligibility criteria for inclusion in the traditional EAS program.
- c. The Sponsor, in association with the community of Manistee/Ludington, Michigan, will forgo participation in the traditional Essential Air Service Program for a two-year period, beginning when scheduled service under the AEAS at the community is inaugurated.
- d. The Sponsor will contract with a Part 380 indirect air carrier to provide scheduled air transportation to Chicago Midway International Airport (MDW), a medium hub airport.
- e. Service for the first six months would be scheduled utilizing two-pilot, twin-engine aircraft with 30 seat or greater equipment and for the remaining eighteen (18) months, service would utilize two-pilot, twin-engine aircraft with 19 seat or greater equipment.
- f. Should service be provided with 50 seat or greater aircraft reduced frequencies will be allowed with the support of the Sponsor.
- g. Equivalent service with substitute aircraft in the event of mechanical problems or other unforeseen circumstances is acceptable.
- h. Service levels may fluctuate to reflect seasonal changes in demand and to provide greater frequency than planned; however, no more than 1,019 completed flight segments per year will be funded under this agreement.
- i. The failure of the indirect air carrier to provide the agreed upon service in a reliable manner will be reason for early termination of the proposed service.
- j. In the event of early termination of the service, the Sponsor shall notify the DOT of its intent to continue to maintain its link to the national air transportation system through AEAS or to re-enter the traditional EAS program. The Sponsor and the indirect air carrier will agree to a "hold-in" period while the Sponsor and DOT secure replacement service depending on the Sponsor's preference to continue the AEAS or traditional EAS.
- k. All scheduled flights performed under this agreement are to be operated in a sterile environment. Passengers and accompanying baggage would be screened by the Transportation Security Administration at MDW and the Manistee County Blacker Airport. At MDW, passengers and accompanying baggage would deplane into sterile terminal environment.
- l. Subject to the terms set forth in this Grant Agreement, DOT reserves the right to terminate the Grant Agreement, and DOT's obligations hereunder, on 90 days' prior written notice, unless otherwise agreed between the Sponsor and DOT, if the Sponsor does not meet the conditions and obligations specified under this Grant Agreement, and/or DOT determines that termination is in the public interest.
- m. Either party may seek to amend or modify this Grant Agreement on 30 days' prior written notice to the other party. The Grant Agreement will be amended or modified only on mutual written agreement by both parties.
- n. At any time, on 30 days' prior written notice, the Sponsor may request termination of this Grant Agreement.

3. Payment

- a. Payment by DOT to the Sponsor for Alternative Essential Air Service at the community shall not exceed \$2,143,294.14 in the first year and \$2,055,781.55 for the second.
- b. Monthly payment by the DOT to the Sponsor during the first year of service will be set at \$1,907.06 per completed flight segment for up to 1,019 segments.
- c. First-year payments by the DOT to the Sponsor shall also include a maximum of \$200,000 for reimbursement of startup costs incurred including, but not limited to, pre-service marketing, station startup costs, personnel training, etc. To seek reimbursement from DOT for start-up costs, the Sponsor shall submit documentary evidence of all associated expenditures on an as needed basis. Each month the Sponsor shall calculate the balance of the funds payable under this paragraph. In addition to the other payments provided in this paragraph, a portion of the remaining funds available, calculated by dividing the remaining funds by the number of months remaining for the first year of this Agreement, shall be payable to the Sponsor. Such that at the end of the first year of the Agreement all funds payable under this paragraph will be expended.
- d. Monthly payment by the DOT to the Sponsor during the second year of service will be set at \$2017.45 per completed flight segment for up to 1,019 segments.
- e. Segments scheduled to operate with 50 seat or greater equipment shall be paid as if $1 \frac{2}{3}$ segments were actually completed, reflecting reduced frequency and higher costs for the providing the equivalent number of seats.
- f. The Sponsor shall ensure that the funds provided by DOT are not misappropriated or misdirected to any other account, need, project, line-item, or the like.
- g. All expenses must be incurred by the date of expiration of this Grant Agreement (see Section B.2.b), unless otherwise agreed between the Sponsor and DOT.
- h. All requests for reimbursement must be made by the Grantee within 60 calendar days after the final date of service (see Section B.2.b) of this Grant Agreement.

4. Reports

Monthly reports shall include the following: (i) number of flights scheduled; (ii) number of flights completed; (iii) number of passengers carried; and (iv) total revenue.

5. Sponsor Obligations

- a. The Sponsor shall, within 15 calendar days after their execution, provide DOT with a copy of all agreements executed between the Sponsor and any air carriers, or other parties with respect to the Project. The Sponsor shall,

within 15 calendar days after execution, also provide DOT with notice of any amendment to, or termination of such agreements. The Sponsor shall ensure that all agreements entered into with third parties regarding this grant are consistent with this Grant Agreement and the documents incorporated by reference into the Grant Agreement, and any amendments or modifications executed, pursuant to Section B.

- b. The Sponsor shall provide evidence on a quarterly basis as set forth in Section C.4. above, to demonstrate the progress that it has made toward securing the third party in-kind contributions per Section C.3.a. above and as described in its application, or alternative third party in-kind contributions approved by DOT.
- c. The Sponsor shall ensure that the obligations set forth in this Grant Agreement are met. Failure to do so may result in termination of the Grant Agreement by DOT.

C. ASSURANCES

The Sponsor shall execute the attached assurances and certifications (Assurances) in conjunction with its signing of this Grant Agreement and shall ensure compliance by the Grant Recipient with these Assurances and any amendments or modifications thereto.

D. DEFINITIONS

Agreement: Any written or oral contract, obligation, commitment, or understanding between the Sponsor and/or all parties identified in the application for AEAS.

Application or AEAS Application: The complete document submitted by the community/sponsor to DOT in Dockets OST-1996-1711 and 2004-18715, including any amendments.

Indirect Air Carrier: a DOT approved tour operator authorized to sell air travel directly to the public, and will contract a DOT certified direct air carrier who carries an FAA issued Air Carrier Certificate for the provision of aircraft and associated flight services necessary to provide air passenger service under this agreement.

Community: All parties identified in the Grant Application as participating in AEAS, including the designated Legal Sponsor.

DOT: United States Department of Transportation.

Execution of Grant Agreement: Signing of the written Grant Agreement by DOT.

Grant Agreement: The written agreement between DOT and the Sponsor for Alternate EAS, incorporating by reference, except to the extent otherwise

inconsistent with the terms of the written agreement, the original application filed on January 5, 2012, in Dockets OST-1996-1711 and 2004-18715, including any amendments.

Grant Recipient/Grantee: Community entity receiving Alternate EAS, including the Sponsor.

Party: DOT and/or the Sponsor, as the context indicates.

Month or Monthly: Reports or other information required for submission on a monthly basis are due no later than 15 calendar days after the close of the calendar quarter.

The Alternate Essential Air Service Program (AEAS): One of *Community and Regional Choice Programs* originally established under Vision 100—The Century in Aviation Reauthorization Act, P.L. 108-176, and codified in 49 U.S.C. 41745. The AEAS Program is designed to allow communities to forego their EAS for a prescribed amount of time in exchange for receiving a grant to spend in a variety of ways that might better suit their individual needs. These options are spelled out in statute and include more frequent service with smaller aircraft, on-demand air taxi service, scheduled or on-demand surface transportation, regionalized air service, or purchasing an aircraft. Under no circumstances could a community participate in both the traditional EAS Program and the AEAS Program at the same time. Communities choosing to withdraw from the AEAS Program may request to be reinstated in the traditional EAS program, but there could be a hiatus in service.

Sponsor Obligations: Material responsibilities of the Sponsor under this Grant Agreement and those documents incorporated by reference into the Grant Agreement as set forth above (Definition of Grant Agreement).

Sponsor or Legal Sponsor: The designated representative to administer and oversee implementation of the Grant Agreement and fulfillment of the authorized Alternate EAS.

GRANT AWARD

This Grant Award and Agreement is made in accordance with 49 U.S.C. §§ 41731 and 41745 and is subject to the terms and conditions and the Assurances attached hereto and incorporated herein.

Executed this _____ day of _____, 2012.

(SEAL)

United States Department of Transportation

ACCEPTANCE

The undersigned Sponsor agrees to accomplish Alternate Essential Air Service in compliance with the terms and conditions of this Grant Agreement and the Assurances attached hereto and incorporated herein.

Executed this _____ day of _____, 2012.

(SEAL)

Manistee County Blacker Airport Authority
Manistee, Michigan

By: _____
Signature of Sponsor's Designated Official Representative

Printed Name

Title

Attest: _____

Title: _____

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:
That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State (or Commonwealth) of _____.
Further, I have examined the foregoing Grant Agreement, and the actions taken by said Sponsor relating thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State (or Commonwealth) and Title 49 U.S.C. In addition, for grants involving projects to be carried out on property not owned by the Sponsor or where Sponsor may make payments to others, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement, including the Assurances, constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Signature of Sponsor's Attorney

Date

Printed or Typed Name

Telephone

**OFFICE OF THE SECRETARY
DEPARTMENT OF TRANSPORTATION**

**TITLE VI ASSURANCE
(Implementing Title VI of the Civil Rights Act of 1964, as amended)**

**ASSURANCE CONCERNING NONDISCRIMINATION ON THE
BASIS OF DISABILITY IN FEDERALLY-ASSISTED PROGRAMS
AND ACTIVITIES RECEIVING OR BENEFITING FROM
FEDERAL FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the
Air Carrier Access Act of 1986)

49 CFR Parts 21 and 27 and 14 CFR Parts 271 and 382

_____ (the Grant Recipient) HEREBY AGREES THAT,
(Name of Grant Recipient)

I. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply: with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d--42 U.S.C. 2000d-4; all requirements imposed by or pursuant to: Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; and other pertinent directives so that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 21.7(a) and Title 14, Code of Federal Regulations, section 271.9(c).

II. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); the Air Carrier Access Act of 1986 (49 U.S.C. 1374(c)); and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, Title 14, Code of Federal Regulations, Part 382, Nondiscrimination on the Basis of Handicap in Air Travel; and other pertinent directives so that no otherwise qualified person with a disability, be excluded from participation in, be denied the benefits of, be discriminated against by reason of such handicap in the provision of air transportation, or otherwise be subjected to discrimination under any program for which the Recipient receives Federal financial assistance

from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 27.9 and Title 14, Code of Federal Regulations, sections 271.9(c) and 382.9.

III. It will promptly take any measures necessary to effectuate this Grant Agreement. The Recipient further agrees that it shall take reasonable actions to guarantee that it, its contractors and subcontractors subject to the Department of Transportation regulations cited above, transferees, and successors in interest will comply with all requirements imposed or pursuant to the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

IV. These assurances obligate the Recipient for the period during which Federal financial assistance is extended. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

V. These assurances are given for the purpose of obtaining Federal grant assistance under the Alternate Essential Air Service Program and are binding on the Recipient, contractors, subcontractors, transferees, successors in interest, and all other participants receiving Federal grant assistance in the Alternate Essential Air Service Program. The person or persons whose signatures appear below are authorized to sign this Grant Agreement on behalf of the Grant Recipient.

VI. In addition to these assurances, the Recipient agrees to file: a summary of all complaints filed against it within the past year that allege violation(s) by the Recipient of Title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended, or the Air Carrier Access Act of 1986; or a statement that there have been no complaints filed against it. The summary should include the date the complaint was filed, the nature of the complaint, the status or outcome of the complaint (*i.e.*, whether it is still pending or how it was resolved).

Date

Legal Name of Grant Recipient

By:

Signature of Authorized Official

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
OFFICE OF AVIATION ANALYSIS**

CERTIFICATION REGARDING INFLUENCING ACTIVITIES

Certification for Contracts, Grants, Loans,
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Influencing Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Title

Grant Recipient

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
OFFICE OF AVIATION ANALYSIS

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
IN THE PERFORMANCE OF AIR SERVICE PURSUANT TO GRANT AWARD UNDER THE
ALTERNATE ESSENTIAL AIR SERVICE PROGRAM

A. The grant recipient certifies that it will, or will continue, to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grant recipient's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment supported by the grant award, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Office of Aviation Analysis. Notice shall include the order number of the grant award;
- (f) Taking one of the following actions, within 30 days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grant recipient *may*, but is not required to, insert in the space provided below the site for the performance of work done in connection with the specific grant.

Places of Performance (street address, city, county, state, zip code). For the provision of air service pursuant to the grant award, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

Check [] if there are workplaces on file that are not identified here.

Grant Recipient Signature

Date

ALTERNATE ESSENTIAL AIR SERVICE PROGRAM

GRANT ASSURANCES

Certification. The Grantee hereby assures and certifies, with respect to this grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this project, including, but not limited to the following::

I. General Federal Requirements.

Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq. Airport Assurances (9/99)
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469a through 469c.
- g. Native Americans Grave Repatriation Act - 25 U.S.C. 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended.
- i. Coastal Zone Management Act, P.L. 92-583, as amended.
- j. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.1
- k. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- l. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- m. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.
- n. Power Plant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C.8373.
- o. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- p. Copeland Anti-kickback Act - 18 U.S.C. 874.
- q. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- r. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- s. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.
- t. Section 404 of the Clean Water Act, as amended.

Executive Orders

Executive Order 13513 – Text Messaging While Driving (see attached clause entitled “Financial Assistance Policy to Ban Text Messaging While Driving”)

Executive Order 11246 - Equal Employment Opportunity

Executive Order 11990 - Protection of Wetlands

Executive Order 11998 – Flood Plain Management

Executive Order 12372 - Intergovernmental Review of Federal Programs.

Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.

- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 29 CFR Part 1 - Procedures for predetermination of wage rates.
- d. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- e. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).
- f. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).
- g. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.
- h. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.
- i. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.
- j. 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- k. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations
- c. A-102 - Grants and Cooperative Agreements with State and Local Governments.
- d. Any other applicable OMB Circular based upon the specific grant recipient.

The Sponsor shall ensure that any use of airport funds in conjunction with this project comply fully with all regulations and policies of the Federal Aviation Administration for use of those funds. Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Grantee.

It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. Funds Availability. It has sufficient funds available for that portion of the project costs that are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement that it will own or control.

4. Preserving Rights and Powers.

a. It will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the DOT, and will act promptly to acquire, extinguish, or modify any outstanding rights

or claims of right of others that would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the DOT.

5. Accounting System, Audit, and Record Keeping Requirements.

a. It shall keep all project accounts and records that fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501-7507).

b. It shall make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The DOT may require that a recipient conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

6. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141 et seq.), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

7. Economic Nondiscrimination. In any agreement, contract, lease, or other arrangement under any project funded under this grant agreement and for which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the Grantee will insert and enforce provisions requiring the contractor to (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

8. Engineering and Design Services. It will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 1101-1104) or an equivalent qualifications-based requirement prescribed for or by the Grantee.

10. Relocation and Real Property Acquisition. (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

11. Buy America. In accordance with DOT annual appropriations restrictions, funds provided under this award must be expended consistent with Sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the “Buy American Act”). In accepting this award, the Grantee agrees to comply with such provisions and to review the provisions of the Act to ensure that all expenditures made under this award are consistent with such Act.

Grant Recipient

Signature of Authorized Grant Recipient Official

Date

DRAFT

OFFICE OF THE SECRETARY OF TRANSPORTATION

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS**

2 C.F.R. Part 1200, 49 C.F.R. Part 32

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered

transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Affiliation

Title

Date

**OFFICE OF THE SECRETARY OF TRANSPORTATION
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED
TRANSACTIONS**

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion -- Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Title

Affiliation

Date

AIRPORT LEASE/SERVICE AGREEMENT

This Agreement, made and entered into as of _____, 2012, by and between the Manistee Blacker Airport Authority, a body corporate, under the provisions of Act 206, Public Acts of 1957, of the State of Michigan, of 2323 Airport Road, Manistee, MI 49660 (hereinafter referred to as "Airport"), and Public Charters, Inc., a _____ corporation and a Part 380 Indirect Air Carrier, of 201 Hangar Road, Avoca, PA 88641 (the "Indirect Air Carrier").

WITNESSETH:

WHEREAS, Airport owns, operates and controls the Manistee County Blacker Airport, located in the Township of Manistee, Manistee County, Michigan, the Airport being a body corporate organized under Michigan law and for which its sole member is the County of Manistee, Michigan; and

WHEREAS, Airport has a terminal building, offices, ramp space and other facilities available at the Airport, and has the power and authority to grant certain rights and privileges with respect to same, and

WHEREAS, Indirect Air Carrier has agreed to provide certain airline service at the Airport, and desires to lease certain facilities for its operations, and

WHEREAS, Airport desires to make certain airport facilities available to Indirect Air Carrier, so that Indirect Air Carrier may more readily provide airline service to the area.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties hereto, It Is Agreed, As Follows:

1. That Airport hereby leases to Indirect Air Carrier and Indirect Air Carrier hereby leases from Airport, the following facilities at the Airport, to-wit:

The exclusive use of approximately 295 square feet of space in the South central portion of the Terminal Building, and the non-exclusive use by the Indirect Air Carrier, its employees, passengers, guests, patrons and invitees, in common with others, of 1407 square feet in the Terminal Building, including baggage handling area, check in area and the secure waiting area. In addition the Indirect Air Carrier, its employees, passengers, guests, patrons and invitees, in common with others shall have access to additional public spaces including its lobby, waiting rooms, hallways, restrooms and other public spaces. The space herein demised to the Indirect Air Carrier for its exclusive use may be used by Indirect Air Carrier for ticket office, operations office, passenger service, office and baggage service purposes or such other purposes as Indirect Air Carrier may deem desirable in the conduct of its scheduled airline service.

2. TERM AND RENTAL: That Airport shall lease to Indirect Air Carrier space within the Airport Terminal, as above-described, for the term of this Agreement, commencing on the ___ day of May, 2012 and terminating on the 31st day of May, 2014, and during that term Indirect Air Carrier shall pay rental to Airport, as follows, to-wit:

Office space at \$21.83 per square foot (295 square feet)	\$ 6,439.85
Electrical utility reimbursement (\$1.51 per square foot - 1702 square feet)	\$ 2,570.02
Airline Lobby/Waiting/Baggage Area at \$19.53 per square foot (1407 square feet)	<u>\$27,478.71</u>
Total Annual Rental	\$36,488.58
Total Monthly Rental	\$ 3,040.72

The monthly rate of \$3,040.72 shall be prorated at \$98.09 per day from when air service commences for the first month, with a payment due on the 1st day of each month thereafter of the full monthly rate.

3. AIRLINE SERVICE: This Agreement is entered into and expressly contingent upon the securing and maintaining by the Airport of grant funding through the United States Department of Transportation (“USDOT”) under the Alternative Essential Air Service Program as described in 49 U.S.C. § 41745. If for any reason the Airport is unable to secure grant funding through the USDOT or, once secured, grant funding is terminated, the obligations of the parties pursuant to this Agreement shall immediately terminate.

It is a condition of this Agreement that the Indirect Air Carrier secure the following minimum air service for the Airport:

- a. 520 scheduled annual round trips to Chicago Midway Airport, a medium hub, with a minimum of twin engine 19 seat aircraft;
 - i. Service for the first six (6) months will be scheduled with 30 seat or greater turbo prop equipment, for the remaining eighteen (18) months, service will be scheduled with 19 seat or greater turbo prop equipment.
 - ii. In the event of mechanical problem, Indirect Air Carrier shall have the ability to substitute aircraft, as long as the substituted aircraft has a minimum number of seats so that all passengers booked on any given flight segment are transported as booked. When substitute aircraft are provided, Indirect Air Carrier will be paid only for the original flight segment, notwithstanding that multiple substitute aircraft may have been utilized to fulfill bookings, subject to any other approval requirements provided for in this Agreement.
 - iii. Any reduction in service less than this minimum shall be subject to the approval of the Airport.

- b. The type of aircraft utilized and flight schedules shall be subject to approval of the Airport. Changes to airfares exceeding 20% of the average initial fares shall be subject to the approval of the Airport.
- c. The Indirect Air Carrier shall maintain a mechanical reliability average of 90% On Time Performance during the Term. Delays due to weather, air traffic control, or other factors beyond the control of the Indirect Air Carrier or the Direct Air Carrier will not be counted toward this average. An "On Time" departure is considered to be any departure that has commenced departure from the gate area of the Manistee County Blacker Airport within 15 minutes of the scheduled departure time. If the Indirect Air Carrier's On Time Performance falls below 90% for any 3 month look back period, the Airport shall have the right to terminate this agreement subject to written notice and the agreement to Hold-In upon termination.
- d. All scheduled flights performed under this agreement are to be operated in a sterile environment. Passengers and accompanying baggage would be screened at MDW and the Manistee County Blacker Airport. At MDW, passengers and accompanying baggage would deplane into the sterile terminal environment.
- e. Payment made to Indirect Air Carrier pursuant to this Agreement shall be as follows:
 - i. A Two Hundred Thousand (\$200,000.00) Dollar payment upon receipt of funds from USDOT to cover startup costs incurred including, but not limited to, pre-service marketing, station startup costs, personnel training, etc. Payment of the amount provided in this paragraph shall be made to Indirect Air Carrier upon submission by it of invoices requesting reimbursement for out of pocket expenses and for advanced payments of costs incurred to provide the intended air service contained in this agreement.. Airport shall make payment upon receipt of invoice and

- reduce the deposit amount by any amounts paid to Indirect Air carrier. Each month Airport shall calculate the balance of the funds payable under this paragraph and pay to Indirect Air Carrier, in addition to the other payments provided in this paragraph, a portion of the remaining funds available, calculated by dividing the remaining funds by the number of months remaining for the first year of this Agreement.
- ii. Completed flight segments scheduled to operate with 50 seat or greater equipment shall be paid as if $1 \frac{2}{3}$ segments were actually completed, reflecting reduced frequency and higher costs for providing the equivalent number of seats;
 - iii. One Thousand Nine Hundred Seven and 06/100ths (\$1,907.06) Dollars for each completed flight segment, up to 1019 segments, for the first 12 months of this Agreement;
 - iv. The cap on subsidy costs would be Two Million One Hundred Forty-three, Two Hundred Ninety-four and 14/100ths (\$2,143,294.14) Dollars for the first 12 months of this Agreement (cap computed based upon the combination of payments under paragraphs 3. a. i. and ii. above);
 - v. Two Thousand Seventeen and 45/100ths (\$2,017.45) for each completed flight segment, up to 1019 segments, for the last 12 months of this Agreement;
 - vi. The cap on subsidy costs for the last 12 months of this Agreement would be Two Million Fifty-five Thousand Seven Hundred Eighty-one and 55/100ths (\$2,055,781.55) Dollars; and
 - vii. Payments made by Airport to Indirect Air Carrier remain contingent upon, and are due upon, the receipt of funds from the USDOT under the terms of the Alternative Essential Air Service Grant.
- f. Indirect Air Carrier shall pay to Airport Monthly handling fees of Thirteen Thousand Six Hundred Eighty-Seven and 50/100ths (\$13,687.50) Dollars based upon the following computation: $\$450/\text{day} \times 365 \text{ days per year} = \$164,250/12$. If payment has not been made for the sum provided for in this paragraph, Airport retains the right to offset the payment obligations owed under paragraph 3. c. above by the amount owed under this paragraph.
- g. Any agreement entered into between Indirect Air Carrier and a Direct Air Carrier to provide service under the terms of this Agreement shall include the following financial obligations owed by Direct Air Carrier to Airport:

- i. Monthly landing fees of Eight Hundred Sixty-six and 67/100ths (\$866.67) Dollars computed as \$20/landing x 10 landings per week x 52 weeks per year for a total annual landing fee of Ten Thousand Four Hundred (\$10,400.00) Dollars /12 months; and
- ii. Direct Air Carrier to pay to Airport the sum of Two Hundred Fifty Dollars (\$250.00) per month from October through March representing reimbursement for estimated electrical utility service associated with aircraft de-icing and ground power unit (GPU) usage. Direct Air Carrier may secure, at its cost, separately metered utility service in which case there shall be no obligation to pay the estimated electrical utility service provided for in this paragraph. The obligation provided for in this paragraph is dependent upon the use by Direct Air Carrier of electrical service for de-icing;
- iii. The Direct Air Carrier and the Indirect Air Carrier will pay a per gallon airport flowage fee for on airport fuel purchases based on the following rate schedule: \$0.15 per gallon for the first 1000 gallons purchased during a calendar month, \$0.08 for next 4000 gallons purchased during a calendar month and \$0.02 for each gallon above 5000 purchased during a calendar month. Furthermore for the first three months of this agreement the flowage fee will be waived.

The above monthly payments shall be made to Manistee Blacker Airport Authority at the Authority's mailing address, unless otherwise designated by the Authority in writing.

4. TAXES: Indirect Air Carrier shall pay all personal property taxes levied against the personal property of Indirect Air Carrier and located upon or within said leased premises, and shall pay all taxes, assessments and/or fees related to the operation of its business upon or within said leased business premises.

5. UTILITIES AND CUSTODIAL SERVICES: Airport shall pay and be responsible for heat and electricity, except as provided in paragraph 2 above, and shall also clean and maintain the leased areas excepting the leased office space.

6. ACCESS AREAS: Airport agrees to provide Indirect Air Carrier's customers and employees with access to the terminal building's main lobby, restrooms, and parking lot.

7. REPAIR AND MAINTENANCE OF PREMISES: Indirect Air Carrier agrees to and does hereby accept the premises herein leased in the condition existing at the commencement of the rental term. Indirect Air Carrier agrees to keep the premises in good repair, reasonable wear and tear excepted, and to return the premises at the expiration of the term in like condition as when taken, and from time to time improved by either the Airport or the Indirect Air Carrier. No structural changes shall be made in the leased premises without the prior written approval of Airport, which shall not be unreasonably withheld. Airport shall be responsible for preserving the structural integrity of the building, including plumbing and electrical systems.

8. DAMAGE BY FIRE OR OTHER CASUALTY TO BUILDING: In the event the building or structural improvements on the premises are injured or destroyed by fire or other casualty during the term of this Lease, the Airport shall repair and restore the same to tenantable condition as promptly as is practical, and the rent herein provided shall abate during the time that said premises are untenable in proportion to the extent that the Indirect Air Carrier is deprived of the use of the building. If the building or structural improvements shall be damaged or destroyed to the extent of more than one-half (1/2) of its then current value, Airport shall not be obligated to rebuild or repair the same and if Airport so elects, this Lease shall be terminated forthwith by thirty (30) days written notice to Indirect Air Carrier.

9. WAR OR DECLARED EMERGENCY: During time of war or declared emergency, Airport shall have the right to enter into an agreement with the United States Government for use, including military use, of part or all of the landing area, the publicly owned air navigation facilities, and/or other areas or facilities of the Airport. The Airport may further be closed by lawful authority for a period of time, or its use restricted in such manner as to substantially interfere with the use of the premises by Indirect Air Carrier. In the event the Airport is closed for a period of time by lawful authority or its use restricted in such manner as to substantially interfere with the use of the premises by Indirect Air Carrier or in the event Airport enters into an agreement with the United States Government which substantially interferes with the use of the premises by Indirect Air Carrier, no rent shall be payable during such period and Indirect Air Carrier may elect to terminate this Lease Agreement by thirty (30) days written notice to the Airport.

10. AIRPORT'S LIABILITY: Airport will not be liable to the Indirect Air Carrier, its agents, employees, or invitees on account of any injury or death to persons occurring on and about the demised premises during the term of this Lease, except if such damage, injury or death may be the direct result of the negligent acts or omissions of Airport or its agents or employees.

11. AIRPORT'S RESERVATIONS: Airport reserves the right to operate, maintain or develop the landing area and all publicly owned facilities of the Airport as it sees fit, regardless of the desires or views of Indirect Air Carrier; without interference or hindrance of Indirect Air Carrier; and, without being obligated to Indirect Air Carrier. Airport reserves the right to take any action it considers necessary to protect the aerial

approaches of the Airport against obstruction, together with the right to prevent Indirect Air Carrier from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of Airport, would limit the usefulness of the Airport or constitute a hazard to aircraft.

12. REMOVAL OF FIXTURES: Airport agrees that all signs and fixtures erected in or attached to premises by Indirect Air Carrier may be removed by Indirect Air Carrier at the termination of this Lease, providing such removal does not result in substantial damage to the premises and further provided that any damage resulting from such removal shall be repaired by Indirect Air Carrier.

13. QUIET ENJOYMENT: Airport covenants and agrees that upon payment of the rents herein provided and upon compliance with all of the other terms and conditions hereof, the Indirect Air Carrier may peacefully and quietly have, hold and enjoy the leased premises for the term hereinabove stated.

14. PASSENGER SERVICE REQUIREMENTS/PASSENGER FACILITY CHARGE: Indirect Air Carrier shall ensure that passenger service from the Airport is as required under the Certificate of Public Necessity and Convenience. Airport intends to continue its participation in the Passenger Facility Charge (PFC) Program and Indirect Air Carrier agrees to cooperate with Airport in assessing said charges.

15. LAW, ORDINANCES AND REGULATIONS: Indirect Air Carrier agrees that in its use of the leased premises it will comply with all present and future valid laws, ordinances, rules and regulations of the Federal Government, State of Michigan, County of Manistee, Township of Manistee, Manistee Blacker Airport Authority (as its rules are reasonably promulgated), and agencies thereof relating to the occupancy or

use of the leased premises and that it will not use the leased premises or allow them to be used for any illegal or unsafe purpose. Indirect Air Carrier will ensure that it, and any party with which it contracts, will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a) Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- b) Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq. Airport Assurances (9/99)
- c) Hatch Act - 5 U.S.C. 1501, et seq.
- d) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.
- e) National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- f) Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- g) Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- h) Clean Air Act, P.L. 90-148, as amended.
- i) Coastal Zone Management Act, P.L. 93-205, as amended.
- j) Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.1
- k) Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- l) American Indian Religious Freedom Act, P.L. 95-341, as amended.
- m) Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.
- n) Power Plant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C.8373.
- o) Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- p) Copeland Anti-kickback Act - 18 U.S.C. 874.
- q) National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- r) Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- s) Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.

Executive Orders

- Executive Order 11246 - Equal Employment Opportunity
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11998 - Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs.
- Executive Order 12898 - Environmental Justice

Federal Regulations

- a) 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b) 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c) 29 CFR Part 1 - Procedures for predetermination of wage rates.
- d) 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- e) 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).
- f) 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).
- g) 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.
- h) 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.
- i) 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.
- j) 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- k) 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

16. SIGNS: Indirect Air Carrier agrees that any signs erected on Airport property shall conform to the Manistee County and Manistee Township Sign Ordinances and the promulgated rules of the Manistee County Blacker Airport Authority. Signs erected by Indirect Air Carrier, shall be at its expense and shall be erected only after written approval by the Airport Director, which shall not be unreasonably withheld. Indirect Air Carrier agrees to remove such signs at its expense, if it vacates the leased premises or if this Lease is terminated.

17. ASSIGNMENT OR SUB-LETTING: Indirect Air Carrier may not assign or transfer this Lease, or any interest herein, or sublet the leased premises or any part thereof, without prior written consent of Airport and any attempt to assign, transfer or

sublet same without consent of Airport shall be void, and, at the option of Airport, deemed sufficient grounds for cancellation and termination of this Lease.

18. INDEMNITY AND INSURANCE AGAINST LIABILITY: Indirect Air Carrier shall provide adequate compensation insurance covering all of its employees sufficient to satisfy the requirements of the Worker's Compensation Act of the State of Michigan, and evidence of such coverage shall be submitted to the Airport Director. Indirect Air Carrier shall also procure and maintain, at its own expense, during the term of this Lease, \$5,000,000 combined single limit bodily injury and property damage liability insurance covering Airport liability, Products and Completed Operations liability, and premises liability. Indirect Air Carrier agrees to include the Airport as an additional insured on each policy. Indirect Air Carrier further agrees to indemnify, defend and hold harmless and to protect the Airport and all its officers, agents, and representatives in their official capacity, from all loss, risk of loss (including expenses) sustained or incurred because of or by reason of any kind, including death or property damage arising out of or relating to Indirect Air Carrier's operations at the Manistee County Blacker Airport, unless caused by Airport's intentional or negligent acts. Airport agrees to indemnify, defend and hold harmless and to protect the Indirect Air Carrier and all its officers, agents, and representatives in their official capacity, from all loss, risk of loss (including expenses) sustained or incurred because of or by reason of any kind, including death or property damage, arising out of or relating the intentional or negligent acts of Airport.

The Indirect Air Carrier shall also furnish a certificate of insurance confirming the foregoing insurance coverages and provide thirty (30) days (10 days for nonpayment of premium) written notice to Airport prior to cancellation of same.

19. RIGHT OF ENTRY: Airport reserves the right for its officers, agents and representatives to enter upon the leased premises at any reasonable time and with reasonable notice for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the conditions of this Lease Agreement.

20. DEFAULT: If Indirect Air Carrier defaults in payment of rent as herein provided and such default continues for sixty (60) days, or if either party fails to perform any covenant or condition of the Lease required to be performed by the other party, within sixty (60) days after written notice is submitted to either party of the nature of such breach, or if Indirect Air Carrier becomes insolvent, makes an assignment for the benefit of creditors or is adjudicated bankrupt, or a receiver is appointed for Indirect Air Carrier at its request, or Indirect Air Carrier abandons or vacates said leased premises before the end of the term, then, in any such event, it shall be lawful for Airport at any time thereafter to terminate this Lease Agreement in accordance with applicable Michigan law and statute.

21. SUBORDINATION: This Lease and Agreement shall be subject and subordinate to (a) any existing or future federal or state statute and/or any other governmental agency having jurisdiction over the leased premises, (b) any existing or future deed, lease or agreement between Airport and the United States or the State of Michigan relative to the development, construction, operation, or maintenance of Manistee County Blacker Airport, the execution of which has been or may be required

as a condition precedent to the expenditure of federal or state funds for the development, construction, operation, or maintenance of said Airport. Provided, however, that in the event any such approval, deed, lease agreement or other conditions hereinbefore set forth in this paragraph restrict Indirect Air Carrier's use of said premises as provided for in this Lease in such a manner as to interfere with the use of the premises by Indirect Air Carrier, no rent shall be payable during such period and Indirect Air Carrier may elect to terminate this Lease Agreement by thirty (30) days written notice to Airport.

22. COMPLIANCE WITH CIVIL RIGHTS ACT: Indirect Air Carrier, for itself, its successors and assigns, agrees to comply with the Civil Rights Act of 1964 (78 Stat 252) and the regulations of the Department of Transportation (439 CFR Part 21) issued pursuant to said Act, and as those statutes and regulations may be amended.

- a) Indirect Air Carrier assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, creed, color, national origin, handicap or sex, be excluded from participating in any employment activities covered in this Lease, and that no person shall be excluded on the grounds from participation in or receiving the services or benefits of any program or activity covered herein. Indirect Air Carrier further assures that it will require that its covered suborganizations provide assurances to Indirect Air Carrier 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 the same effect.

b) Indirect Air Carrier, pursuant to the requirements of Act 453, P.A. 1976, as amended, (Michigan Civil Rights Act) agrees not to discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement with respect to their hire, tenure, terms, conditions or privileges or employment, or any matter directly or indirectly relating to employment, because of his race, color, religion, national origin, ancestry, sex, height, weight, marital status, or age, except where a requirement as to age is based on a bona fide occupational qualification. Indirect Air Carrier further agrees that every sub-contract entered into for the performance of this Lease will contain a provision requiring non-discrimination in employment as herein specified.

23. AGREEMENT BINDING ON SUCCESSORS AND ASSIGNS: The covenants, conditions and agreement made and entered into by the parties hereto are declared binding on their respective successors and/or assigns.

24. FEDERAL AVIATION ACT: Nothing herein contained shall be construed to grant or authorize the granting of any exclusive right prohibited under the Federal Aviation Act of 1958, as amended.

25. HOLDING OVER: Except as otherwise herein provided, any holding over after the expiration of the original term of this Lease, or after the expiration of the extension or renewal thereof pursuant to the terms of this instrument, shall create no rights in said Indirect Air Carrier and no tenancy of any duration shall be created thereby.

26. TERMINATION: This Lease may be terminated by Airport or Indirect Air Carrier in accordance with the terms, covenants, conditions and agreements herein.

27. AGREEMENT TO HOLD-IN: In the event of termination of this Agreement and at the conclusion of the Agreement, the Airport and the Indirect Air Carrier agree to a "hold-in" period while the Airport and USDOT secure replacement services under either the Alternate Essential Air Service or Essential Air Service program. In the event of termination, both parties agree to provide written notice of termination to the USDOT, the Airport shall notify USDOT of its intent to remain in the Alternative Essential Air Service Program or seek reinstatement in the Essential Air Service Program, Airport shall work with USDOT to secure replacement air service as soon as practical and Indirect Air Carrier will work with the replacement air carrier toward an acceptable transition date.

28. NOTICES: All notices or demands given or required to be given hereunder shall be in writing and sent by first class mail, postage prepaid, through the United States Postal System, addressed to the party to be affected at the addresses provided in the body of this Lease, provided that either party, by like written notice, may designate any different address to which subsequent notices shall be sent.

a) Notices to Public Charters, Inc. should be sent to:

Public Charters, Inc.
201 Hangar Road
Avoca, PA 18641

29. FORCE MAJEURE: This contract is subject to force majeure, and is contingent on strikes, accidents, acts of God, inability to secure labor, fire, or delays by suppliers or subcontractors beyond the control of the parties. If performance of this contract is

prevented by any cause of force majeure, then this contract shall be void without penalty to either party for any such portion not delivered.

30. MODIFICATION OF AGREEMENT: This document constitutes the entire agreement between the parties hereto and may only be modified by mutual written agreement.

31. EXECUTION OF AGREEMENT: The individuals signing this Agreement on behalf of a party represent and warrant that they are duly authorized to execute the Agreement on behalf of such party and have full authority to bind such party to this Agreement. This Agreement may be signed in separate counterparts, each of which shall be deemed an original but when taken together shall be considered one Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this ___ day of _____, 2012.

MANISTEE BLACKER AIRPORT
AUTHORITY, a body corporate

By _____
Paul Schulert
Its: Board Chairman

Public Charters, Inc.

By _____
Its: _____

STATE OF MICHIGAN)
) SS:

