



AMENDED CITY COUNCIL AGENDA

PUBLIC NOTICE is hereby given that the City Council of Spanish Fork, Utah, will hold a regular public meeting in the Council Chambers in the City Office Building, **40 South Main Street**, Spanish Fork, Utah, commencing at **6:00 p.m. on December 1, 2009**.

AGENDA ITEMS:

1. CALL TO ORDER, PLEDGE, OPENING CEREMONY, RECOGNITIONS:

- a. Pledge

2. PUBLIC COMMENTS:

Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comment will be limited to three minutes per person. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing. The Mayor or Council may restrict the comments beyond these guidelines.

3. PUBLIC HEARING:

- a. Common Boundary Adjustment with Mapleton (Ensign Bickford Property)

4. COUNCIL COMMENTS:

5. CONSENT ITEMS:

These items are considered by the City Council to be routine and will be enacted by a single motion. If discussion is desired on any particular consent item, that item may be removed from the consent agenda and considered separately.

- a. *Minutes of Spanish Fork City Council Meeting – November 17, 2009
- b. *Concessions Contract for Spanish Oaks Golf Course

6. NEW BUSINESS:

- a. *Suncrest Fuel Trailer Lease for Airport – Cris Child
- b. Independent Financial Audit Report FY 2009 – Larson & Rosenberger LLP
- c. Staff Follow Up to Lynnbrook Subdivision Concerns – Richard Heap

ADJOURN:

* Supporting documentation is available on the City's website www.spanishfork.org

Notice is hereby given that:

- In the event of an absence of a quorum, agenda items will be continued to the next regularly scheduled meeting.
- By motion of the Spanish Fork City Council, pursuant to Title 52, Chapter 4 of the Utah Code, the City Council may vote to hold a closed executive meeting for any of the purposes identified in that Chapter.
- This agenda is also available on the City's webpage at www.spanishfork.org

SPANISH FORK CITY does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the employment or the provision of services. The public is invited to participate in all Spanish Fork City Council Meetings located at 40 South Main St. If you need special accommodation to participate in the meeting, please contact the City Manager's Office at 804-4530.

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**Tentative Minutes
Spanish Fork City Council Meeting
November 17, 2009**

Elected Officials Present: Mayor Pro Tem G. Wayne Andersen, Councilman Steve Leifson, Rod Dart, Richard M. Davis, Jens p. Neilson

Elected Officials Absent: Mayor Joe L Thomas

Staff Present: David Oyler, City Manager; Seth Perrins, Assistant City Manager; Dave Anderson, Economic Development; Junior Baker, City Attorney; Kent Clark, Finance Director; Kimberly Robinson, Recorder

Citizens Present: Keir Scoubes, Michael Lawe, Alex Woerner, Scott Brand, Dave Palica, Ashlan Nevenschwander, Steven Palica, Pat Parkinson, Kayla Walker, Chris Biesinger, Rodger Hardy, Dave Neilson, Andrew Dawe, Taylor Davis, Lance Coomes, Lindsey Pruitt, Cary Hanks, Lana Creer Harris, Adam Wakeland, Jen Allen, Vickie West, Amy Mafi, Cary Hanks

CALL TO ORDER, PLEDGE:

Mayor Pro Tem Andersen called the meeting to order at 6:01 p.m.

Keir Scoubes led in the pledge of allegiance.

PUBLIC COMMENT:

Mr. Richard Heap, the City Engineer, commented on the new pond west of the golf course. He stated it is a great addition to the pressurized irrigation system. The pond helps to add river water instead of well water to the pressurized irrigation system. They want the public to know they are working towards the use of more river water and less well and culinary water. The pond holds 25 acre feet. An acre foot is enough water to cover an acre, one foot deep, with water.

Kayla Walker, 1151 East 660 North, Lynnbrook subdivision
Ms. Walker would like the water issues in the area to be taken care of before they approve a new development.

Amy Mafi, lives in the same neighborhood.

Ms. Mafi said they have water issues. They have a pond in their backyard most of the time and their pumps are going as fast as they can but their home still floods. The developer has built up the dirt and put a sidewalk above the fence on the adjacent property giving them no privacy. They have always had water problems since it is a low water table, but it has been much worse since the development was put in next door.

Councilman Andersen stated they would follow up.

Vickie West,

49 Ms. West lives down from the Mafi's, and has had water in her yard. She explained the
50 secondary problem for the water in her yard is that it is a swamp, starting in March the
51 mosquito's are all over the property all summer long. She is concerned about the
52 children that play in the area.

53

54 Mr. Seth Perrins explained the county has a program for mesquito abatement.

55

56 Chris Biesinger

57 Mr. Biesinger is here for the same reason. He added that surface water that would
58 normally have run into the pond, cant get into the pond. Since Blackhorse run was built it
59 created an area that could not drain. The developer said they would take care of the
60 pond and were told it would be a nice park that would be maintained for the area. The
61 neighborhood is here tonight to ask that the current issues be taken care of before they
62 approve another project by the developer in that area.

63

64 Pat Parkinson

65 Ms. Parkinson asked if the park is all part of the development. She would like to know
66 how it escaped the cities attention that the developer received density bonus when the
67 park never was put in. She also thinks there is a law that drainage cannot go onto
68 adjacent property. She feels the city should rally around the neighborhood and help
69 them. She asked that the Council have a report at the next meeting so the citizens can
70 know an answer to what was requested.

71

72 **COUNCIL COMMENTS:**

73

74 Councilman Leifson commented that as a Council they would like one of the City
75 Employees, Karen Bradford, to know their thoughts and prayers go out to her and want
76 her to know they are thinking of her and her family as well.

77

78 Councilman Dart noted his sympathy to the Barney and Bradford family as well. He
79 would like to give a big thank you to Char'Ree Reynolds for the job she has done with
80 the Chamber. The Chamber has been greatly helped to get back on its feet. He stated
81 Cary Hanks has decided to take the job of director of the Chamber of Commerce.

82

83 Ms. Hanks noted the light parade is coming up November 27th, 7:00 p.m. They have a
84 great amount of parade floats and lights that will be involved. She invites all to come out
85 and join in the fun.

86

87 Mayor Pro Tem Andersen expressed appreciation to those citizens that took the time to
88 study the candidates running this election year. He also thanked those that took the time
89 to come out and vote. He stated he is disappointed in the 21% turnout, and noted that
90 we have been blessed with the opportunity to govern ourselves. If we do not take
91 advantage of it we could lose it. He stated it is important to get out and express your
92 opinions. He challenges those that did not get out and vote to get informed and do so
93 next election.

94

95 **CONSENT ITEMS:**

96

97 **a. Minutes of Spanish Fork City Council Meeting – November 3, 2009**

98
99 Councilman Leifson made a **Motion** to approve the consent items. Councilman Davis
100 **Seconded** and the motion **Passed** all in favor.

101
102 **PUBLIC HEARING:**

103
104 Councilman Dart made a **Motion** to open the public hearing for Application for CDBG
105 Grant for Sewer Line Replacement on 800 North. Councilman Leifson **Seconded** and
106 the motion **Passed** all in favor at 6:27 p.m.

107
108 **Application for CDBG Grant for Sewer Line Replacement on 800 North**

109
110 Mr. Richard Heap explained Spanish Fork City is anticipating applying for a CDBG grant.
111 He explained some of the projects in the past that were funded by this money such as
112 the library and senior center installing elevators, and three sewer line replacement
113 projects. They have done economic surveys and have found that area will qualify. He
114 explained the process. It is our intent to apply for \$300,000 to repair the sewer line. He
115 explained there is a lot of paperwork involved when applying for these grants.

116
117 **COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC HEARING:**

118
119 Councilman G. Wayne Andersen, opened the public hearing for the CDBG program and
120 stated that this hearing is being called to consider potential projects for which funding
121 may be applied under the (2010) Community Development Block Grant Program. It was
122 explained that the grant money must be spent on projects benefiting primarily low and
123 moderate-income persons. The Mountainland Region in which Spanish Fork City is a
124 member, is expecting to receive approximately \$300,000 in this new program year. All
125 eligible activities that can be accomplished under this program are identified in the
126 CDBG Application Guide and interested persons can review it at any time. Councilman
127 G. Wayne Andersen read several of the eligible activities listed including, water line
128 rebuild, 100 South Leland Loop line, sewer line rebuild 5 blocks per year, concrete work
129 (sidewalks and gutters), seal coat, crack seal, and overlay City streets, street rebuild,
130 2000 East Highway 6 connection. Also eligible are loan programs for private businesses
131 which would then hire low income persons and the program can also pay for housing
132 rehabilitation for low income homeowners or for persons owning rental housing for lower
133 income persons. Councilman G. Wayne Andersen indicated that in the past Spanish
134 Fork City has received five (5) grants. The city has handed out its capital investment
135 plan as part of the regional "**Consolidated Plan**". **This list shows which projects the**
136 **city has identified as being needed in the community.** It was asked that anyone with
137 questions, comments or suggestions during the hearing please identify themselves by
138 name, before they speak. The recorder will include your names in the minutes and we
139 would like to specifically respond to your questions and suggestions during the hearing.

140
141 Mayor Pro Tem G. Wayne Andersen then opened the meeting up to further suggestions
142 from the audience. There were no suggestions or public comment given. The Public
143 hearing was adjourned at 6:33 p.m.

145 Councilman Davis made a **Motion** to move out of public hearing at 6:33 p.m.
146 Councilman Nielson **Seconded** and the motion **Passed** all in favor by a roll call vote.

147

148 **Bella Vista Zone Change**

149

150 Council Nielson made a **Motion** to open the public hearing for Bella Vista Zone Change.
151 Councilman Davis **Seconded** and the motion **Passed** all in favor at 6:33 p.m.

152

153 Mr. Dave Anderson explained there are two requests tonight before the Council for Bella
154 Vista. He then gave some orientation as to where the project is located. He noted there
155 are 26 acres included in this proposed development.

156

157 Pat Parkinson

158 Ms. Parkinson is curious about what the north piece of the property will be.

159

160 It was stated the north piece of property would be a park.

161

162 Ms. Parkinson, asked if the park was removed what the allowed density units per acre
163 would be. She feels it is a point of concern for how crowded the development is.

164

165 Councilman Davis made a **Motion** to close the public hearing. Councilman Nielson
166 **Seconded** and the motion **Passed** all in favor by a roll call vote.

167

168 Steve Maddox, Developer of Bella Vista

169 Mr. Maddox stated they had the Army Corp of Engineers come in, they capped 5 wells.

170 They then came in with a series of retention ponds and drainages that are part of the
171 master storm drainage system. It is their intention to watch the water table closely. They
172 are aware of water table issues on the property.

173

174 Councilman Davis made a **Motion** to approve the recommended zone change, changing
175 the zoning from R-3, to R-1-6. Councilman Nielson **Seconded** and the motion **Passed**
176 all in favor by a roll call vote.

177

178 **NEW BUSINESS:**

179

180 **Bella Vista Preliminary Plat**

181

182 Mr. Anderson gave some background and clarified how they came to the design
183 presented. He expressed his appreciation for Mr. Maddox's willingness to work with the
184 City and that he has been good to work with relative to coming up with a design. The
185 design will be easily maintained by the City, with power boxes, water and sewer laterals,
186 in accessible locations. It is Staff's recommendation to approve this preliminary plat.

187

188 Mayor Pro Tem Andersen explained the code section and why the City Council can
189 approve this development based on the superior design, with some of the lots being
190 4,000 square feet instead of 6,000 square feet.

191

192 Mr. Andersen stated the superior design includes the fact that these are single family
193 detached homes. Other superior components are the architecture of the homes,
194 masonry, etc.

195
196 Councilman Dart feels the City needs to keep watch on this project especially after the
197 water concerns that were brought up earlier. He added that the parks will be maintained
198 by city staff and he wants to make sure we follow through with the standards decided.
199

200 Councilman Davis clarified the 5 ft yard setbacks on both sides, and asked that the lots
201 including the 5 ft on one side 10 ft on the other be included where possible.
202

203 Councilman Dart stated there are a lot of things he likes about this proposal, the home
204 sizes, landscaping etc.
205

206 Councilman Leifson appreciates the developer for working with the City, and his
207 willingness to come back and make this work. He pointed out this is a unique project and
208 it is a great place for this project.
209

210 Councilman Davis made a **Motion** to approve the Bella Vista Preliminary Plat based on
211 the following findings and subject to the following conditions:

212 **Findings:**

- 213 1. That the proposed Preliminary Plat conforms to the City's requirements for Master
214 Planned Development in the R-1-6 zone.
- 215 2. With the imposition of the following conditions this development has superior
216 design features which justify the modification of the usual development standards.

217 **Conditions:**

- 218 1. That the home size shall be no less than 1,550 square feet finished.
- 219 2. Exterior materials shall be limited to brick, stone, hard board siding, or stucco.
- 220 3. No identical home (ie. The same floor plan and exterior elevation) shall be
221 allowed within 200 feet of each other.
- 222 4. No exterior color shall be allowed next to a home with the same scheme.
- 223 5. A schematic of homes will be on the final plat showing drive approaches/utility
224 laterals and meters to allow room for all utilities.
- 225 6. Each home will have a minimum two (2) car garage and three (3) car garage
226 where lot size permits.
- 227 7. A minimum roof pitch of 6:12 will be constructed.
- 228 8. Each home will have full front yard landscaping provided by the developer.
- 229 9. A 3+ acre "Public" park will be provided as open space.
- 230 10. Each yard will be fenced by the developer for privacy and livability for all.
- 231 11. That the design of the park be completed as part of the final plat review process
232 on the project's first phase.
- 233 12. That the applicant dedicate the park land with the first phase.
- 234 13. That the applicant bond for the proportionate share of the park construction with
235 the second and third phases.
- 236 14. That the park be constructed with the public improvements in the third phase.
- 237 15. That all of the landscaping that is visible from a public right-of-way be installed at
238 the time of development or when the time homes are constructed.

239 Councilman Nielson **Seconded** and the motion **Passed** all in favor by a roll call vote.

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Scott Brand Appeal of Staff Decision – Requesting an Amended Preliminary Plat

Mr. Anderson explained the current developer is requesting that the City modify some of the fencing requirements. He noted the development was initially approved without the addition of the larger lot owned by the LDS Church. He then gave some history regarding the project.

Scott Brand

Mr. Brand agrees with the history Dave Anderson gave. They are agreeing to install the masonry wall along the mill. They agree to stay consistent in the neighborhood and install a vinyl fence between the school and the development. In today's economics it would be helpful to not have to be bound on two sides by masonry and two side vinyl fencing.

Mr. Anderson explained the purpose for the masonry as being a substantial barrier screen.

Mr. Junior Baker stated the standards do not require masonry walls to be installed at that location. The developer submitted that as part of the approval process. The City did approve the project with this condition.

Councilman Davis explained all the collector roads have masonry walls and that was the way it was approved back in 2007. He feels we need to stick to our standards and upgrade them not downgrade them.

Councilman Leifson asked regarding the utilities in the area.

Mr. Heap explained the reason they allowed the vinyl fence instead of the masonry was so the replacement is not as much if it had to be removed to work on utilities.

Councilman Nielson feels if it is going to be consistent there is no need for masonry fencing.

Councilman Dart asked if the school has been contacted and what feelings they have regarding the fencing.

Mr. Brand stated the school has no concerns regarding the fencing just as long as it is fenced.

Mayor Pro Tem Andersen feels it is a concern when they approve a development based on certain criteria and then they come back and ask for changes to the standards. He explained once the City approves a development they cannot go back and change it. He really does not appreciate developers coming back to the Council and asking to give them leniency on an approved project.

Councilman Nielson feels there is a minimum standard of fencing required, the previous developer presented more than the standard. He feels if we are worried about being

288 consistent they should do masonry fencing, if not then they make the developer meet the
289 standard that the others are required to meet.

290
291 Councilman Leifson would like Public Works recommendation regarding the fence and
292 future utility improvements.

293
294 Mr. Heap explained they have not had to replace fencing along collector roads. There
295 are some utilities in the area that will need to be maintained. The other concern they had
296 was that both intersections must be dropped to 3 feet at the entrance. It can be done
297 either way, but feels it would be more expensive for utilities and repair with masonry.

298
299 Mr. Brand apologized for bringing it before the Council again. He feels the previous
300 developer was over zealous. They are committed to making a quality development and
301 feel it will still be so.

302
303 Councilman Davis asked how the grade will be brought into the fence on the property
304 owners side.

305
306 Mr. Brand stated there will be an adjustment to the grade and feels the vinyl is more
307 workable.

308
309 Mr. Heap explained when this was first approved the trail plan was not finalized. He
310 stated the developer would add additional concrete for the trail. Part of the trade off to
311 get the extra wide sidewalk for the trail is if they can use vinyl fencing instead of
312 masonry.

313
314 Councilman Dart made a **Motion** to approve the DRC's recommendation.
315 The Motion died for lack of a **Second**.

316
317 Councilman Nielson made a **Motion** to approve the appeal allowing vinyl on the north
318 side along West Park Drive and south side next to ALA; because it meets the standards
319 all the developers have to comply with.
320 The **Motion** died for lack of a **Second**.

321
322 Councilman Nielson made a **Motion** to approve the DRC's recommendation allowing
323 vinyl fencing along West Park Drive and 900 south with the rest masonry wall.

324 Councilman Dart **Seconded** and a roll call vote was made.

325 Aye - Councilman Nielson

326 Councilman Dart

327 Nay - Councilman Davis

328 Councilman Leifson

329 Mayor Pro Tem Andersen

330 The **Motion** did not carry by roll call vote.

331
332 Councilman Davis made a **Motion** to deny the requested amendment to the plat on Academy
333 Park "A". Councilman Andersen **Seconded** and the motion **Passed** by roll call vote.

334 Aye – Mayor Pro Tem Andersen

335 Councilman Leifson

336 Councilman Davis
337 Councilman Dart
338 Nay - Councilman Nielson
339

340 **Canvass of the 2009 General Municipal Election (recount)**
341

342 Ms. Kimberly Robinson presented the Official Canvass for the 2009 General Municipal
343 Election Recount. She then stated the winners:

344 G. Wayne Andersen for Mayor
345 Steve Leifson for Councilman
346 Keir A. Scoubes for Councilman
347

348 Mayor:

349 G. Wayne Andersen with 1,813 votes.
350 Sherman E. Huff with 1,380 votes.
351

352 Councilman:

353 Steve Leifson with 1,890 votes.
354 Mathew McEwen with 1,028 votes.
355 Keir A. Scoubes with 1,711 votes.
356 Seth V. Sorensen with 1,700 votes.
357

358 Councilman Nielson made a **Motion** to approve the canvass of votes 2009 General
359 Election after the recount. Councilman Leifson **Seconded** and the motion passed all in
360 favor.
361

362 ADJOURN:
363

364 Councilman Leifson made a **Motion** to adjourn to executive session to discuss the sale
365 of real property, and pending or reasonably imminent litigation. Councilman Dart
366 **Seconded** and the motion **Passed** all in favor at 8:00 p.m.
367

368 ADOPTED:
369
370

Kimberly Robinson, City Recorder

MEMO

To: Mayor and Council
From: S. Junior Baker
Date: 24 November 2009
Re: Golf Course Concessions Contract

On the City Council agenda, for December 1, is an item to approve a contract for the golf course concessions. The contract was placed out for bid last year. Stephen Cody Pughe won that bid and operated the concessions this year. The City has an option to renew the contract for three additional years. Rather than do that, Aaron and Mr. Pughe prefer to redo the contract and make it a year to year arrangement. There are two minor changes from the last contract. The first requires Pughe to operate the concessions from March through October, except when weather is bad. Aaron and he are allowed to work out those details. The second is Pughe no longer has exclusive rights for catered lunches. Corporate sponsors sometimes like to bring their own caterer. Pughe retains exclusive rights to the grill and vending machines.

The Recreation Department and Golf Pro recommend adoption of the contract

AGREEMENT

This Agreement is executed this _____ day of December, 2009, by and between Spanish Fork City, a municipal corporation and political subdivision of the State of Utah, (hereinafter referred to as “City”), and Stephen Cody Pughe (hereinafter referred to as Pughe).

RECITALS

WHEREAS, City operates the Spanish Oaks Golf Course, (hereinafter referred to as the “facility”); and

WHEREAS, City has made concession services available to patrons of the facility: and

WHEREAS, the City has issued a request for proposals to provide concession services at the facility; and

WHEREAS, Based on the proposal submitted by Pughe, he has operated the concessions during the 2009 golf year; and

WHEREAS, City wishes to extend the agreement with Pughe for a period of one year, to continue thereafter on a year to year basis, provided Pughe’s performance continues to be acceptable to City.

COVENANTS

NOW THEREFORE, in consideration of the mutual covenants of the parties as hereinafter set forth, City and Pughe mutually agree as follows:

1. City hereby grants Pughe the right to provide the concession food services at the facility for the period beginning on January 1, 2010 and ending on December 31, 2010.
2. Pughe will operate the grill at the clubhouse every day the golf course is open between March 1st through October 31st, except those days when stormy weather

or cold temperatures exist, such that there would be very few, if any, golfers.

Pughe and the golf course pro may negotiate more detail about weather/cold conditions.

3. City will allow Pughe to use and operate any City concession equipment at the facility, to be returned at the end of the year in the same operating condition, less normal wear and tear due to intended usage.
4. City will provide the facility in a condition that complies with any and all regulations of the City Parks and Recreation Department and/or the Utah County Health Department.
5. Pughe agrees to maintain the menu of concession products at a reasonable consumer price point.
6. Pughe agrees to adequately stock and maintain the concession products daily, or as often as needed to maintain fresh product and adequate volume to meet the consumer demand.
7. Pughe agrees to provide all staffing and staffing related services necessary to maintain the facility.
8. Pughe agrees to meet regularly with a designated liaison of the City for the purpose of coordinating any issue or problem that may arise with the operation of the concession services. These issues may include but are not limited to staffing, operations, product, and/or marketing of the concessions services.
9. Pughe will be allowed to market and promote the concession services at the facility with the approval of the Golf Course Manager or his designee. Pughe will have exclusive rights to sell all grill concessions and items from vending

machines at the facility, with the exception of the Rotary, Alumni, or other corporate sponsored golf tournaments. To the extent that corporate sponsored events opt to have catered food provided at the clubhouse, City will encourage them to allow Pughe to bid for their contract.

10. Pughe shall indemnify City against any and all loss or damage to any City property resulting from Pughe's use of said property or resulting from Pughe's activities under this Agreement. Pursuant hereto Pughe shall reimburse City for any damage caused.
11. Pughe shall indemnify and hold City and its officers, officials, employees, agents and volunteers harmless from and against all claims, damages, losses and expenses (including attorney's fees), and costs arising out of or resulting from Pughe's acts or failures to act in performing this Agreement. However, Pughe shall not be liable for City's own negligent acts.
12. Pughe shall procure and maintain the following types of insurance for the duration of this Agreement: Commercial General Liability (ACGL) insurance with coverage that is at least as broad as the Insurance Services Office Commercial General Liability coverage, Worker's Compensation insurance as required by the State of Utah, and Employer's Liability Insurance.
 - 12.1 Coverage Limits. Pughe's required insurance shall have the following minimum, coverage limits:
 - 12.1.1 Commercial General Liability. \$1,000,000.00 combined single limit per occurrence for bodily injury, personal injury and property damage.
 - 12.2 Policy Provisions. The policies shall contain, or be endorsed to contain,

the following provisions.

- 12.2.1 Additional Insured. The City; its officers, officials, employees and volunteers shall be listed as additional insured under the CGL policy.
- 12.2.2 Primary Insurance. Pughe's insurance coverage shall be primary insurance. Any insurance or self-insurance maintained by City shall be excess of Pughe's insurance and shall not contribute with it.
- 12.2.3 Reporting. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, employees, or volunteers.
- 12.2.4 Separate Application. Pughe's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurers liability.
- 12.2.5 Cancellation. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. If required insurance lapses, the City may terminate this agreement.
- 12.3 Best's Rating. Each insurer shall have a Best's rating of A-VII or better.
- 12.4 Certificates of Insurance. Pughe shall provide City with certificates of insurance and with original endorsements effecting coverage required by this Agreement.
- 12.5 Subcontractors. Pughe shall include any subcontractors as insureds under

its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

13. Pughe must maintain a healthy, clean, and safe environment for employees and patrons that is acceptable through regular inspections of the City Parks and Recreation Department and/or Utah County Health Department. Any and all violations penalties, and/or fines from the failure to comply with these regulations as they are related to the concession services at the facilities will be the sole responsibility of Pughe. Pughe further agrees to clean the concession related debris inside and around the concession area of the facility on a daily basis. City shall provide the facility to Pughe in a healthy, clean, and safe condition. Pughe shall not held responsible for any claims arising from facility conditions prior to the date of execution of this agreement or any claims resulting from the negligence of City, City employees, or other facility employees/contractors not related to Pughe's operation.
14. Pughe shall not be held responsible for violations or claims relating to areas and/or departments of the facility which have not been detailed in this agreement as Pughe's responsibility.
15. City has the option of terminating this contract for violation of any condition hereof by giving written notice of default to Pughe and allowing fifteen (15) days for Pughe to correct the same. Either party may terminate this contract at the end of any calendar year, by giving written notice to the other on or before the first day of December of each year.

16. The parties represent that each of them has lawfully entered into this Agreement, having complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to their operation.
17. This contract shall be interpreted pursuant to the laws of the State of Utah.
18. Time shall be of the essence of this Agreement.
19. The invalidity of any portion of the Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa and the use of any gender shall include the other gender. The paragraph and section headings in this agreement are for convenience only, and do not constitute a part of the provisions hereof.
20. This agreement may be modified or amended only by a written document.
21. Should any provision of this agreement require judicial interpretation, the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly against the person who himself or through his agents, prepared the same, it being acknowledged that both parties have participated in the preparation hereto.
22. The Agreement shall be binding upon the successors, administrators and assigns of each of the parties hereto.
23. The Agreement between the parties dated May 2009 is hereby terminated and replaced by this Agreement.

DATED this ____ day of December, 2009.

SPANISH FORK CITY by:

JOE L THOMAS, Mayor

Attest:

KIMBERLY ROBINSON, City Recorder

STEPHEN CODY PUGHE

GROUND LEASE AGREEMENT
SPANISH FORK/SPRINGVILLE AIRPORT
LESSOR:SPANISH FORK/SPRINGVILLE AIRPORT

LESSEE: SUNCREST AVIATION

DATED:_____

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HANGAR GROUND LEASE AGREEMENT

LEASE AGREEMENT made _____, 2009, between SUNCREST AVIATION herein called Lessee, and SPANISH FORK CITY and SPRINGVILLE CITY through the SPANISH FORK/SPRINGVILLE AIRPORT BOARD, herein called Lessor.

RECITALS

A. Lessor owns and operates the SPANISH FORK/SPRINGVILLE AIRPORT located in Utah County, State of Utah, herein called Airport.

B. Lessee desires to lease a parcel of land on the Airport premises for the purpose of erecting and/or maintaining a hangar or storage facility for the storage of a fuel trailer.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

I. PREMISES. Lessor hereby leases to Lessee the Parcel of land only which is known as _____ at the Spanish Fork/Springville Airport, more fully described on Exhibit "A" attached hereto and made part hereof.

II. TERM. Subject to all other provisions of this Agreement regarding termination reserved herein, the term of this lease shall commence on _____, 2009 and end on _____, 2010 at 5:00 p.m.

III. FIRST RIGHT OF REFUSAL TO RENEW LEASE. Lessee shall have the first right of refusal to renew this lease agreement on the condition that Lessee is not in default hereunder at the time of such renewal and provided the renewal term does not exceed one (1) year. This lease shall automatically renew at the expiration thereof unless Lessor provides a minimum of thirty (30) days written notice to Lessee prior to the expiration of the initial lease term stating Lessor

will not renew the lease. The terms and conditions contained herein shall govern any renewal of this lease unless otherwise agreed between the parties hereto.

IV. LESSEE'S RIGHT TO REMOVE IMPROVEMENTS. Upon the termination of this lease, Lessee shall have the right to remove any improvements erected by Lessee on the premises during the lease term or any renewal thereof except those items which have become fixtures. Both parties agree that the berm pad erected, if any, shall be a permanent fixture with the land. Lessee, upon removal of any improvements, shall restore the land to as good condition as it was in prior to the erection of any improvements thereon. Lessee hereby agrees that removal of any and all improvements shall be completed on or before thirty (30) days from termination of this lease. Lessee hereby consents and agrees that any improvements remaining on the premises after the thirty (60) day removal period shall be deemed abandoned and owned by Lessor without any claim or right whatsoever in Lessee.

V. RENTALS, FEES AND CHARGES. Subject to renegotiation and change of rental rates as hereinafter provided, the Lessee agrees to pay Lessor for the use of the premises, facilities, rights, services and privileges granted herein, the following rental, payable to Springville City. **All payments shall be due on the first business day of a given month.**

A. Short Term Rates

The land that Lessee utilizes for trailer space on the airport premises shall be billed at a rate of \$40.00 per month, if Lessee pays said rents on or before the first day of the month. In the event the Lessor has to bill Lessee for said usage, or take action to collect rent for trailer space, the monthly rate shall be \$80.00 per month.

B. Long Term Rates

In the event Lessee chooses to pay annually and in advance, the annual rate for one trailer space as measured and designated by the Airport Manager, shall be \$350.00 per year.

C. The rent of the above described land for each following year of the agreement shall be set by the Spanish Fork/Springville Airport Board on an annual basis provided the lease may not increase more than 20% per year, and is due and payable to Springville City in advance, on the first day of each calendar year of the Agreement.

D. All payments due Lessor under this lease, including rent, that are not paid on or before thirty (30) days from the due date shall incur a late fee of one (1%) percent per month (12% per annum) or \$5.00, whichever is greater. This late fee will accrue on a DAILY basis until paid.

E. All payments due Lessor under this lease shall be delivered to Springville City 50 South Main Springville, Utah 84663 or as otherwise directed in writing by Lessor.

F. FLOWAGE FEES shall also be paid to the Spanish Fork / Springville Airport Board on a monthly basis. Lessee agrees to monitor the amount of fuel flowage dispersed on Lessor's premises on a monthly basis and report said flowage amounts to the Lessor on a monthly basis. Lessee shall pay Lessor at the current rate of \$ 0.05 per gallon of fuel distributed on site at the airport property at the end of each month.

VI. USE OF PREMISES. The leased premises, once constructed, and any and all improvements located thereon.

A. Fuel Tank Storage.

Lessee acknowledges that the premises may not be used for commercial purposes or

as a Fixed-Base Operator without Lessee meeting, complying with and obtaining approval from Lessor for the minimum standards as may exist at that time for such operation. In the event these minimum standards are met, Lessee would need to negotiate a new lease allowing the expanded use of the premises. Nothing herein is intended to imply that Lessor would approve Lessee as a Fixed Base Operator.

VII. CONSTRUCTION-IMPROVEMENTS. Subject to the terms of sections IV, VIII C and L, and XX Lessee will maintain existing improvements on the premises as a pad lot of not less than 200 square feet.

VIII. OBLIGATIONS OF LESSEE

A. Lessee agrees to notify the airport manager, in writing, within ten (10) days of placement of a fuel trailer, of the registration number of the fuel trailer, if any, and the person(s) responsible for it, including off hours emergency phone numbers, for all trailer(s) stored on the leased premises.

B. Lessee shall be solely responsible for all costs or charges for utility services, if any, required by the Lessee during the term of this lease.

C. Subject to the terms of sections VIII L and XX, Lessee agrees to repair and maintain the demised premises in a reasonably neat, orderly and safe condition, and free from waste, rubbish, snow or other hazards throughout the term of this Lease. Lessee shall not store or let stand any equipment or property belonging to the Lessee or under the Lessee's custody, outside the boundaries of the leased areas without prior consent of the Airport Manager, except when such equipment or property is in the process of being loaded or unloaded. Should the Lessee fail to repair and maintain the leased premises in proper condition, the Airport Manager shall so notify the Lessee

in writing. If the Lessee then fails to make such repair or maintenance within ten (10) days after the notice has been sent, or such longer period of time as is reasonably required if the repair or maintenance is not capable of being made within ten days for any reasonable reason, including complying with all applicable rules and regulation applicable to Lessee, the Lessor may cause such repair or maintenance service to be made. Lessee agrees to pay all Lessor's costs incurred thereby and reimburse Lessor therefore on demand. If said costs and expenses are not paid within fifteen (15) days after demand therefore, this Lease shall be deemed to be in default and the Lessor shall be entitled to all legal remedies provided hereunder, including termination of this Lease.

D. Lessee shall exercise due and reasonable caution to prevent fire, accidents, hazards or nuisances on the premises. Should the Lessee fail to remove or abate said hazard or nuisance after notified to do so, the Lessor may abate said hazard or nuisance and charge the cost thereof to the Lessee as provided in paragraph C above. Lessor shall comply, in all respects, with the International Fire Code.

E. Lessee agrees, at its own expense, to cause the premises and improvements and appurtenances thereto to be maintained in a presentable condition consistent with good maintenance practices. This shall include, although not be limited to, the obligations of the Lessee to maintain the premises in a clean, neat and orderly condition at all times, and to perform any necessary mowing, weed abatement and snow removal on the premises during the appropriate periods of the year. Lessor will assist in snow removal when capability and priority permit.

F. Lessee shall not erect, install, or cause to permit to be erected, installed or operated upon the premises herein any sign or advertising device without first having obtained, from Spanish Fork City, a sign permit regulating size, construction, location and general

appearance.

G. Lessee agrees to keep the demised premises free of any mechanic's or materialmen's liens or other lien of any kind or nature for any work done, labor performed or material furnished thereon at instance or occasion of the Lessee and the Lessee further agrees to indemnify and save the Lessor harmless from and against any and all claims, demands, costs and expenses of any nature whatsoever from any such work done, labor performed or materials furnished.

H. Lessee shall obey all applicable rules, regulations, ordinances and laws that may be from time to time promulgated by the City, State and Federal Government or agency thereof.

I. Lessee agrees to cause to be removed from the premises, at its own expense, all waste, garbage, and rubbish and agrees not to deposit the same, except temporarily in connection with collection for removal from the Airport in designated locations.

J. The Lessee shall provide the City with a copy of the bond to protect mechanics and material men as required by Utah Code Ann. §14-1-5 as amended, during the course of construction of any improvements on the leased land.

K. Lessee agrees to comply with the requirements found in the Code of Federal Regulations 40 Part 112 (C.F.R. 40:112) and must include in said compliance the following basic requirements: (1) Fueling trucks are considered to be containers and must have secondary containment; (2) Any oil contaminated surface drainage leaving the containment area shall be passed through an oil separating system; (3) Design plans for secondary containment for tanks and fuel trucks parking must be submitted to the Lessor prior to construction; (4) Lessee shall prepare and

implement a written spill prevention/spill control plan, which addresses spill prevention measures, control measures and counter measures in the event of an accident.

L. Lessee agrees to follow Federal guidelines in the construction of any parking berm in that it be constructed (1) at least ten (10) feet from any parking area; (2) at least fifty (50) feet from any airport building, hangar or other airport structure housing equipment or the public; (3) take adequate measures to prevent any leakage from draining to an adjacent building or from entering the storm drainage system; (4) Minimize exposure to damage or trajectory from out-of-control vehicles. Lessor further agrees to comply with the minimum standards and safety requirements pertaining to fuel tank/storage areas on airports found in the FAA Advisory Circular 150/5230-4 Change 1, Appendix 7, as amended.

IX INDEMNIFICATION AND HOLD HARMLESS.

Lessor and Lessee agree to indemnify and hold harmless the other for all damages, claims, suits and actions arising out of its own actions or omissions or the acts or omissions of its officers, agents, or employees in connection with this Agreement. It is expressly agreed between the parties that the obligation to indemnify is limited to the dollar amounts set forth in the Governmental Immunity Act, Section 63-30-34 and that this provision is not a waiver of the Governmental Immunity Act. Lessor and Lessee shall promptly give written notice to the other of any claim, demand, lien, liability, or damage with respect to which indemnification is sought.

X. CHAPTER 7.12 SPANISH FORK CITY ORDINANCES. Lessor hereby acknowledges the applicability of Chapter 7.12 Spanish Fork City Municipal Code to this Lease Agreement. Lessee hereby acknowledges notice of the terms, conditions and requirements presently contained therein and agrees, so far as said ordinance applies to persons such as Lessee herein, to

comply with such ordinance as now in effect or as it may be amended during the term of this Lease or any renewal to the extent consistent with the terms and conditions of this agreement.

XI. INSURANCE. Concurrent with the execution of this Lease and as partial performance of the obligations assumed under Clause IX, (INDEMNIFICATION AND HOLD HARMLESS) hereof, the Lessee shall have, from a reliable insurance company or companies authorized to do business in the State of Utah, liability insurance. The following minimum coverage requirements shall be maintained by Lessee:

A. Commercial General Liability Insurance and, if necessary, Commercial Umbrella Insurance shall have a limit of not less than two (2) million dollars (\$2,000,000.00) for each occurrence.

B. Commercial Automobile Liability Insurance, and if necessary, Commercial Umbrella Insurance shall have a limit of not less than one (1) million dollars (\$1,000,000.00) for each accident. Coverage shall include pollution liability endorsements.

C. Pollution Legal Liability Insurance shall have a limit of not less than one (1) million dollars (\$1,000,000.00) per loss, with an annual aggregate of at least one (1) million dollars (\$1,000,000.00). Coverage shall include clean up costs and an extended reporting period of three (3) years beginning from the time that self-fueling operations are no longer provided at the airport.

D. Workers Comp. The above insurance policy or policies shall contain an endorsement which provides that the Lessor is named as an additional insured as it pertains to said leasehold. Lessee shall provide Lessor with written evidence of said insurance at all times this Lease is in effect.

All insurance policies secured by the Lessee providing the coverages which affect the leasehold premises required under this Lease shall require each insurer to notify the Lessor by registered or certified mail of any modification, termination or cancellation of any policy of insurance that affects the leasehold premises no less than thirty (30) days prior to the effective date of such modification, termination or cancellation. Notice by the insurer shall be effective upon the receipt of said notice by the Lessor. In addition to any other requirements of this Lease, the Lessee shall notify the Lessor of any modification which affects the leasehold premises, termination or cancellation of any policy of insurance secured by the Lessee pursuant to this paragraph as soon as the Lessee learns of any such modification, termination or cancellation. Each of said policies shall stipulate that the policy provided coverage is not subordinate to nor contributing with any other insurance coverage held or maintained by the Lessor. The procuring of such policy or policies of insurance shall not be construed to be a waiver of performance on the Lessee's part of the indemnification and hold harmless provisions of this Lease; and the Lessee understands and agrees that notwithstanding any policy or policies of insurance it remains the Lessee's obligation to indemnify and hold harmless the Lessor hereunder for the full and total amount of any damage, injuries, loss, expense, costs or liabilities, caused by or in any manner connected with or attributed to the negligent acts or omissions of the Lessee, its officers, agents, employees, licensees or the operations conducted by the Lessee, or the Lessee's use, misuse, or neglect of the premises described herein.

XII PERMITS, LICENSES AND CERTIFICATES. Lessee shall obtain any and all permits, licenses and certificates which may be required in connection with the improvement and use of the demised premises.. Lessee shall comply with all applicable federal, state and local laws

and regulations and the Lessee shall keep in effect any and all licenses, permits, notices and certificates as are required. Lessee shall obtain a business license form Spanish Fork City prior to selling fuel to any third party if fuel is sold or distributed by Lessee.

XIII ASSIGNMENT. Lessee shall not assign this Lease, or sublease any part of the premises without prior written approval of the Lessor, which approval may be withheld at the sole discretion of the Lessor. Lessor hereby agrees that this Lease may be assigned as security for any loan required by Lessee, provided that such assignment permits Lessee to remain in possession except in the event of foreclosure. In the event of foreclosure or forfeiture by the holder of such security, the Lessor consents to further assignment to any person, firm or corporation which is fully competent and has the necessary facilities, experience, and financial resources to perform the obligations contained in this agreement on the part of the Lessee to be performed, provided such proposed assignee shall expressly assume said obligations in writing.

XIV RIGHT OF ENTRY AND INSPECTION. Lessor hereby reserves the right to enter into and upon the leased premises and any improvements thereon at all reasonable times and for all reasonable purposes without prior notice. The Airport Manager or his designated representative shall exercise this right.

XV RULES AND REGULATIONS. The Lessor shall have the right to adopt and enforce reasonable rules and regulations with respect to the use of the airport and the public terminal building and appurtenances, provided that such rules and regulations shall not be inconsistent with safety and with rules and regulations of the Federal Aviation Administration with respect to aircraft operations at the airport. Lessee agrees to abide by all of the rules so adopted. Failure to follow all of the rules will be considered a default of the Lease Agreement.

XVI GOVERNMENTAL RESERVATIONS AND RESTRICTIONS.

A. During the time of war or national emergency, the Lessor shall have the right to lease the landing area, or any part thereof, to the United States Government for military or naval use, and if such lease is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the lease to the government, shall be suspended.

B. The Lessor reserves the right to further develop or improve the airport as it sees fit, regardless of the desires or views of the Lessee and without interference or hindrance from Lessee.

C. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises hereby leased, together with the right to cause such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace, landing at, or taking off from or operating on the airport.

D. The Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the airport against obstructions together with the right to prevent the Lessee from erecting, or permitting to be erected, or maintaining any building or other structure on or adjacent to the airport which, in the sole opinion of the Lessor, would limit the usefulness of the airport or constitute a hazard to aircraft. It is understood and agreed that nothing in this Lease shall be construed to grant or authorize the granting of any exclusive rights to Lessee within the meaning of the Civil Aeronautics Act.

XVII LESSOR'S RIGHT OF CANCELLATION. In addition to all other remedies reserved by Lessor, this agreement, shall be subject to cancellation by the Lessor should one or more

of the following events occur:

A. If the Lessee fails to pay when due the whole or any part of the amounts agreed upon for rents and charges and such default continues for ten (10) days after the Lessor has demanded payment in writing.

B. If the Lessee shall fail to perform or keep and observe any of the covenants and conditions contained in this contract to be performed, kept and observed by Lessee, and Lessee fails to correct any breach hereof after thirty (30) days written notice from Lessor, or commence corrective action within said thirty day period should the breach not reasonably be capable of correction within thirty days of notice thereof, then and in such event the Lessor shall have the right at once to declare this contract terminated.

C. Upon election by the Lessor to terminate the agreement as outlined under Section III of this Agreement.

XVIII LESSEE'S RIGHT OF CANCELLATION. In addition to all other remedies available to the Lessee, this agreement shall be subject to cancellation by the Lessee should any one or more of the following events occur:

A. The permanent and complete abandonment of the airport as an aviation facility.

B. The issuance by any court of competent jurisdiction of an injunction in any way preventing or restricting the use of the airport and the remaining in force of such injunction for at least thirty (30) days.

C. The breach by the Lessor of any terms, conditions and covenants of this agreement to be kept, performed and observed by the Lessor and the failure to remedy such a

breach for a period of thirty (30) days after written notice from the Lessee of the existence of such a breach or commence corrective action within said thirty day period should the breach not reasonably be capable of correction within thirty days of notice thereof.

D. The assumption by the United States Government, or any authorized agents of the same, of the operation, control or use of the airport and its facilities, in such a manner as to substantially restrict the Lessor from normal use, if such restriction is continued for a period of ninety (90) days or more.

E. Upon election by the Lessee to terminate the agreement as outlined under Section III of this Agreement

XIX FORCE MAJEURE. If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason or act of God, flood, hurricane, tornado, earthquake, strikes, lockouts, which are beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period of the performance of any such act shall be extended for a period equivalent to the period of such delays; provided, however, nothing in this clause shall excuse the Lessee from the prompt payment of rental or other charges required hereunder to be paid by Lessee except as may expressly be provided elsewhere in this Lease.

XX DESTRUCTION OF PREMISES. Subject to the terms of Section VIII, should the improvements to the demised premises be damaged or destroyed in whole or in part, by fire, earthquake or any other casualty at any time during the term of this Lease so that Lessor cannot commence repairs to the improvements within ninety (90) working days to repair the improvements to substantially the same condition it was in immediately prior to the happening of such casualty,

then either the Lessor or the Lessee may, within fifteen (15) working days after the ninety (90) working days after the happening of such casualty, terminate this Lease as of the date of said casualty if Lessor has not at Lessor's option commenced, within ninety (90) working days, with the restoration and reconstruction of the improvements on the demised premises to substantially the same condition in which they were in prior to the happening of the casualty. In no event shall the Lessor be liable to the Lessee for any damages resulting to the Lessee from the happening of such fire or other casualty or from the repair or construction of the demised premises or from the termination of this Lease as herein provided, nor shall the Lessee be released thereby from any of its obligations hereunder except as expressly stated in this clause.

XXI COSTS OF SUSTAINING AN ACTION FOR BREACH OR DEFAULT. In the event either the Lessor or the Lessee commences legal action against the other claiming a breach or default of this Lease, the prevailing party in such litigation shall be entitled to recover from the other reasonable attorney fees and all costs, including expert witness fees, connected with said litigation.

XXII PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

XXIII ABANDONMENT. If the Lessee shall abandon or be dispossessed by process of law or otherwise, any personal property belonging to the Lessee and left on the premises after 60 days from such abandonment or dispossession shall be deemed to have been transferred to the Lessor; and the Lessor shall have the right to remove and to dispose of the same without liability

to account therefore to the Lessor or to any person claiming under the Lessee.

XXIV AFFIRMATIVE ACTION. The Lessee assures that it will undertake and comply with the program as required by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, to insure that no person shall on the grounds of race, creed, color, national origin, sex or other prescribed ground, be excluded from participation in any employment activities covered in said Title 49. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by the subpart. The Lessee assures that it will require assurances from their sub-organizations to provide assurance to the Lessor that they similarly will undertake and comply with the Title 49 programs and laws.

XXV UNLAWFUL USE. Lessee agrees that no improvement shall be erected, placed upon, operated or maintained on the demised premises, nor shall business be conducted or carried on therein in violation of the terms of this Lease or any applicable law, statute, ordinance, regulation, rule or order of any governmental agency having jurisdiction hereover.

XXVI LEASE SUBORDINATE TO AGREEMENTS WITH U.S.A. This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditures of Federal funds for the development of the Airport.

XXVII WAR OR NATIONAL EMERGENCY. This Lease and all of the provisions hereof shall be subject to whatever right the United States Government has or may have affecting

the control, operation and taking over of said Airport, or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency. In such event, the parties' obligations to each other under this Lease thereby made inconsistent shall be suspended.

XXVIII DEVELOPMENT OF AIRPORT. Lessor reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or views of the Lessee and without interference or hindrance by the Lessee.

XXIX AIRPORT FACILITIES. Lessee is hereby granted the nonexclusive right, in common with all present and future users, to the use of such of the Lessor's Spanish Fork/Springville Airport public facilities as are designated by the Airport Manager from time to time. As an incident to all the other uses provided for in this Lease, the Lessee, its employees, authorized representatives, invitees, permittees, licensees, customers and patrons shall have the right to use all public waiting rooms and public lavatories provided such use shall be in common with others and may be suspended during any period when maintenance, repairs or improvements are being made thereto.

XXX BANKRUPTCY. Should the Lessee make an assignment for the benefit of creditors or should a voluntary or involuntary petition of bankruptcy or for reorganization or any arrangement be filed by or against the Lessee, or if the Lessee should become bankrupt or insolvent or if a receiver be appointed at the request of the Lessee's creditors (except as a receiver appointed at the request of the Lessee) such action shall constitute a breach of this Lease for which the Lessor at its option, may terminate all rights of the Lessee or Lessee's successors in interest under this Lease.

XXXI TAXES AND ASSESSMENTS. Lessee shall pay before delinquency, all

taxes, license fees, assessments and other charges which are levied and assessed against and upon the premises, fixtures, equipment or other property caused or suffered by the Lessee to be installed, located or placed upon the leased premises. The Lessee shall furnish the Lessor with satisfactory evidence of these payments upon demand from the Lessor. Lessee acknowledges that this Lease may create a possessory interest subject to property taxation and that the Lessee may be subject to the payment of property taxes levied on such interest. Lessee agrees to assume and pay any such assessment.

XXXII MARGINAL CAPTIONS. The various headings and numbers herein and the grouping of the provisions of this Lease into separate section, paragraphs and clauses are for the purpose of convenience only and shall not be considered a part thereof.

XXXIII AMENDMENTS TO BE IN WRITING. This Lease sets forth all of the agreements and understandings of the parties and is not subject to modification except in writing, duly executed by the legally authorized representatives of each of the parties.

XXXIV SUCCESSORS IN INTEREST. The covenants herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto; and all of the parties shall be jointly and severally liable hereunder.

XXXV NONEXCLUSIVE RIGHTS. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 1349, of the United States Code.

XXXVI WAIVER OF RIGHTS. The failure of the Lessor to insist upon strict enforcement of any of the terms, conditions and covenants herein shall not be deemed a waiver of

any rights or remedies that the Lessor may have and shall not be deemed a waiver of any subsequent breach or default by Lessee of the terms, conditions and covenants herein contained.

XXXVII NOTICES. All notices given or to be given, by either party to the other shall be given in writing and shall be addressed or delivered to the parties at the addresses hereinafter set forth or at such other addresses as the parties may by written notice hereafter designate. Notices to the Lessor and the Lessee shall be addressed as follows:

TO: LESSOR
Airport Manager
2050 N 300 W
Spanish Fork, Ut 84660

TO: LESSEE
Suncrest Aviation
826 N 100E
Spanish Fork, Ut 84660

XXXVIII HOLDOVER. In the event the Lessee shall hold over after the term granted herein, then such holding over shall be construed to be a tenancy from month-to-month only. Prepayment of rent beyond one month shall not be construed to alter or change the month-to-month status of any holdover tenancy. Lessee agrees to comply and abide with all other terms and conditions of this Lease in the event Lessee holds over after the term provided in this Lease expires.

XXXIX TIME. Time is of the essence of this Lease.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed, in triplicate, with all the formalities required by law on the respective dates set forth opposite their signatures to be effective the day and year first above written.

SPANISH FORK CITY, by

_____ Date:
JOE THOMAS, Mayor

ATTEST:

Date:
KIMBERLY ROBINSON, Recorder

SPRINGVILLE City by,

Date:
GENE MANGLESON, Mayor

ATTEST:

Date:
KIM C. BIRD, Recorder

LESSOR:

SUNCREST AVIATION

Date:
BY: JOHN A KAY