Commercial Operator Agreement Policy and Procedures

Minden-Tahoe Airport

Douglas County
Nevada

Adopted Date: February 3, 2011

COMMERCIAL OPERATOR AGREEMENT (COA) POLICY AND PROCEDURES

Douglas County, Nevada (County) owns and operates the Minden-Tahoe Airport (Airport) in Minden, Nevada.

The Airport provides a variety of general aviation services to the public. The Airport and businesses thereon offer a variety of commercial aeronautical services for sailplanes, propeller fixed wing and turbojet aircraft and helicopters. This policy document provides the basic policies and procedures for requesting and qualifying for a Commercial Operator Agreement. All individuals or businesses that receive compensation for services must have a current Commercial Operator Agreement and be compliant with all terms and conditions within the agreement.

COA POLICY

This document is intended to provide commercial operators an understanding of the policies and procedures required by the County when requesting an application to provide aeronautical services for compensation or hire. This policy also establishes specific reasons for why an application may be denied or revoked.

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SECTION I: INTRODUCTION

Douglas County, Nevada (County) owns and operates the Airport. As set forth by the Federal Aviation Administration (FAA) by way of its Airport Sponsor Assurances, any airport developed with federal grant assistance is required to operate for the use and benefit of the public and is to be made available to all types, kinds, and classes of aeronautical activity on fair and reasonable terms and without unjust discrimination. As the Airport's sponsor, the County receives federal airport development funding. This *Commercial Operator Agreement Policy & Procedures* document will assist the County in maintaining compliance with the Airport Sponsor Assurances, so as not to jeopardize its ability to obtain future federal airport funding, as well as to provide for the fair and equitable treatment of all aeronautical tenants and users. This Policy has further been developed to assist the County in competing fairly with other airports and to maintain fiscal responsibility of the Airport assets entrusted to the County.

The purpose of this document is to set forth a standardized system when considering application for entities interested in providing commercial aeronautical services and will assist the County in maintaining compliance with the FAA policies, regulations, guidance documents and Advisory Circulars.

SECTION II - POLICY STATEMENT

The County is committed to promoting safe operations, providing high-quality airport services and facilities, and continually striving to improve the quality of service through innovative approaches and proven industry standards. The Airport will consistently respond to tenants, users and community needs in an equitable, efficient and effective manner.

The County is committed to having the Minden-Tahoe Airport be the airport of choice for the region's businesses and travelers by providing a cost-effective, safe, friendly and enjoyable customer experience. The Airport further supports the goals of the County by offering services and support to the region's general aviation and recreational pilots.

SECTION III - DEFINITIONS

A. Aircraft

(1) Aircraft - any device used or designed for navigation or flight in the air including, but not limited to, an airplane, sailplane, glider, helicopter, gyrocopter, ultra-light, balloon, or blimp.

(2) Air Charter or Taxi - the commercial operation of providing air transportation of person(s) or property for hire by either on a charter basis or as an air taxi operator.

(3) Aircraft Fuel - all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion, jet, or turbine engine.

(4) Aircraft Operation - an aircraft arrival at, or departure from, the Airport.

(5) Aircraft Owner - a person or entity holding legal title to an aircraft, or any person having exclusive possession of an aircraft.

(6) Aircraft Parking and Storage Areas - those hangar and apron locations of the Airport designated by the County for the parking and storage of aircraft.

(7) Aircraft Rental - the commercial operation of renting or leasing aircraft to the public for compensation.

(8) Aircraft Sales - the sale of new or used aircraft through brokerage, ownership, franchise, distributorship, or licensed dealership.

(9) Based Aircraft - an aircraft that the owner physically locates at the Airport for an undetermined period, and whenever absent from the Airport, its owner intends to return the aircraft to the Airport for long-term storage.

B. General

(1) Aeronautical Activity - any activity or service conducted at the Airport that involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations. These activities include, but are not limited to, air taxi and charter operations, aircraft fueling, aircraft storage, flight training, aircraft rental, aircraft sales, aircraft repair and maintenance, and any other activities, that, because of their relationship to the operation of aircraft, can appropriately be regarded as an "aeronautical activity."

(2) Airframe and Power Plant Maintenance - the commercial operation of providing airframe and power plant services, which includes the repair, maintenance, inspection, construction, and making of modifications and alterations to aircraft, aircraft engines, propellers and appliances, including the removal of engines for major overhaul. This category of service also includes the sale of aircraft parts and accessories.

(3) Airport - the County–owned Airport, and all of the County-owned or leased real or personal property, buildings, facilities and improvements within the boundaries of the Airport as it presently exists, or as it may exist when it is hereafter modified. "Airport" includes all of its facilities as shown on the most current Airport Layout Plan.

(4) ALP - the current Airport Layout Plan or drawings available for the Airport.

(5) Commercial Aeronautical Activity - the conduct of any aspect of a business, concession, operation, or agency in order to provide goods or services to any person for compensation or hire. An activity is considered a commercial activity regardless of whether the business is nonprofit, charitable, or tax-exempt.

(6) Commercial Operator (Operator) - a person, firm, corporation, or other entity conducting commercial aeronautical services or activities at the Airport for compensation or hire.

(7) Exclusive Right - a power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either

by express agreement, by the imposition of unreasonable standards or requirements, or by any other means.

(8) General Aviation - all phases of aviation other than aircraft manufacturing, military aviation, and scheduled or non-scheduled commercial air carrier operations.

(9) Minimum Standards - the qualifications or criteria, which may be established by the County as the minimum requirements that shall be met by businesses offering commercial aeronautical activities for the privilege to conduct those activities.

C. <u>Governmental</u>

(1) FAA - the Federal Aviation Administration.

(2) FAR - the Federal Aviation Regulations as published by the FAA.

(3) Airport Manager - the duly appointed Airport Manager, or the Manager's designee.

D. <u>Fueling</u>

(1) Fueling or Fuel Handling - the transportation, sale, delivery, dispensing, or draining of fuel or fuel waste products to or from aircraft.

(2) Fuel Storage Area - any portion of the Airport designated temporarily or permanently by the County as an area in which gasoline or any other type of fuel may be stored or loaded.

(3) Self-Fueling - the commercial operation of an unmanned stationary fuel tank and dispensing equipment for general use via a card reader. This includes the operations of anyone utilizing this type of equipment to provide fuel for sale or reuse.

(4) ***Self-Service Fueling*** - Individuals with approved fuel storage for use in owned aircraft only or individuals dispensing fuel into aircraft they own from portable containers.

E. Lease and Agreements

(1) Lease - the written contract between the County and an Operator or tenant (Lessee) specifying the terms and conditions under which an Operator may occupy and operate from certain Airport facilities and/or property.

(2) Sublease - the written agreement stating the terms and conditions under which a third party Operator leases space from a Lessee (with written approval from the County) for the purpose of providing aeronautical services at the Airport.

(3) Agreement - the written agreement between the County and an Operator specifying the terms and conditions under which the Operator may conduct commercial aviation activities or access the airport property "through-the-fence ."

(4) Permit - administrative approval issued by the County to a person or company to conduct a commercial aeronautical activity, and provide such services, to based and transient aircraft, only from facilities and locations where such services are authorized.

(5) Person - an individual, corporation, firm, partnership, association, organization, and any other group acting as an entity, to conduct business on the Airport. Person includes a trustee, receiver, assignee or similar representative.

F. Commercial Aeronautical Activities

(1) Avionics Sales and Maintenance - the commercial operation of providing for the repair and maintenance of aircraft radios, instruments and accessories. Such operation may include the sale of new or used aircraft radios, instruments and accessories.

(2) Fixed Base Operator (FBO) - a commercial operator that engages in the activity of aircraft refueling, and additionally has the option to conduct any of the approved secondary activities: airframe and power plant maintenance, flight training, aircraft rental, avionics maintenance and sales, air charter or taxi, and aircraft storage/hangars.

(3) Flight Training - the commercial operation of instructing pilots in dual and solo flight, in fixed or rotary wing aircraft, and related ground school instruction as necessary to complete a FAA written pilot's examination and flight check ride for various categories of pilots' licenses and ratings.

(4) Flying Club – a non-commercial and nonprofit entity organized for the purpose of providing its members with any number of aircraft for their personal use and enjoyment. Aircraft must be vested in the name of the flying club owners on a pro-rata share, and the club may not derive greater revenue from the use of the aircraft than the cost to operate, maintain, and replace the aircraft.

(5) Preventive Aircraft Maintenance - maintenance that is not considered a major aircraft alteration or repair and does not involve complex assembly operations as listed in 14 CFR 43, except for Item 22 in the Regulation. Item 22 involves the replacement of prefabricated fuel lines, and shall, for purposes of these regulations, be considered a major aircraft repair.

(6) Specialized Aviation Service Operation (SASO) - an aeronautical business that offers a single or limited service according to established Minimum Standards. Examples of a SASO include, but are not limited to flight training, aircraft maintenance, air charter or taxi, aircraft sales, avionics maintenance and sales, and aircraft storage.

G. Infrastructure

(1) Airport Operations Area or AOA - the area of the Airport used for aircraft landing, takeoff, or surface maneuvering including the hangars, navigation, and communication facilities.

(2) Airpark – a development or area not located on, but lying adjacent to, and with access to the AOA. Said area may include permanent residences, structures, and taxilanes.

(3) Roadway - any street or road whether improved or unimproved, within the boundaries of the Airport and designated for use by ground vehicles.

(4) Taxilane - the portion of the Airport apron area, or any other area, used for access between taxiways and aircraft parking or storage areas.

(5) Taxiway - a defined path established for the taxiing of aircraft from one part of the Airport to another.

(6) UNICOM - a two-way communication system operated by a non-governmental entity that provides airport advisory information.

(7) Vehicle Parking Area - any portion of the Airport designated and made available temporarily or permanently by the Airport for the parking of vehicles.

SECTION IV - APPLICATION

4.1 Application

Each corporation, person, or business desirous of becoming a commercial operator at the Airport must complete and submit a Commercial Operator Agreement application form for review and consideration.

The Airport reserves the right to request from a prospective commercial operator in written form, at the time of, and as part of its application, the following information and thereafter such additional information as may be required, requested or modified by the Airport Manager or the Manager's Designee. Said request may be applied to either new operators or existing operators requesting a renewal or modification to an existing agreement.

As a prerequisite to the granting of commercial operating privileges at the Airport, the prospective Operator must submit a specific, detailed description of the scope of the intended commercial aeronautical activities, and the means and methods to be employed to accomplish the contemplated activities. Required information for a Commercial Operator Agreement shall include, but not be limited to:

A. The legal name of the entity filing the Application and its business name (if different).
B. The name, address, and telephone number of the entity and primary contact person.
C. The names, addresses, and phone numbers of all owners of 5 percent or more equity interest, management control, or debt in the entity.
D. The proposed date for commencement of the intended activities and proposed term for conducting same.
E. A comprehensive listing of all activities proposed to be offered, along with copies of all applicable federal, state, or local operating certificates and licenses held.
F. The proposed number of persons to be employed, including the names and qualifications of each management/supervisory person, and specifications as to whether the employees will be full-time, part-time, or seasonal.

G. The number of aircraft to be utilized in connection with the proposed activities and the make, model, passenger seating capacity, cargo capacity, aircraft registration number, and copies of applicable operating certificates for each aircraft.

H. The tools, equipment, vehicles, and inventory proposed to be utilized in connection with the intended activities.

4.2 Financial Responsibility

As evidence of the Applicant's financial capability, the prospective Operator shall provide a statement from a bank or similar financial institution or from such other source as may be acceptable to the County and readily verified through normal banking channels. The prospective Operator must also demonstrate the financial capability to initiate the activities, construct proposed improvements, and provide working capital to perform proposed activities. The demonstration of financial capabilities shall also include cash flow and profit and loss calculations for the five-years of the COA period.

4.3 Experience

The prospective operator shall furnish the County a statement of its past experience in providing the specified commercial aeronautical service for which the application is being made, including resumes of management individuals who will be directly responsible for the proposed operation, together with, business, financial and managerial references. This information must be presented in a form acceptable to the County.

SECTION V - GENERAL PROVISIONS

5.1 Process

Once the County has received the application and all required documentation, and the Applicant has read the Minimum Standards and the Airport Rules and Regulations, the application package will be presented to the Board of County Commissioners for consideration.

5.2 Term

The initial term of the COA is for a period of five (5) years. The COA can be extended for an additional five (5) year period if the applicant is in compliance with the Minimum Standards and Rules and Regulations. The applicant must apply for an extension 180-days prior to the expiration of the existing agreement and the extension is at the discretion of the County.

5.3 Suspension and Termination

In the event the Operator performs any commercial activity which is not permitted by this Agreement or otherwise violates any of the terms of this Agreement or any Airport Rules and Regulations or Minimum Standards, the Agreement may be suspended or terminated in accordance with the requirements as detailed within the COA.

5.4 Insurance Requirements

Each Applicant shall at all times maintain the applicable types of insurance, to include commercial general liability, personal injury, contractual liability, vehicular liability, aircraft liability, hangarkeeper's liability, products-completed operations liability, and environmental clean-up liability insurance.

Each Applicant shall maintain at all times fire and extended property coverage for all improvements and fixtures on premises in an amount not less than the full replacement cost of same improvements and fixtures. In addition, if applicable, shall maintain Worker's Compensation insurance as required by State of Nevada law at all times.

Each Applicant shall provide the County with a proof of insurance certificate annually. All insurance policies shall contain indemnification and hold harmless language that covers the County and its employees, and officers (individually or collectively), and contracted management as additional insured(s) with respect to liability arising from activities performed.

5.5 Ownership Transfer of COA

The Commercial Operator Agreement is not transferable.

5.6 Minimum Standards and Exclusive Rights

The County owns and operates the Airport, and receives federal airport development assistance and assumes contractual grant obligations, including compliance with the Federal Aviation Administration (FAA) Advisory Circular 150/5190-7, Minimum Standards For Commercial Aeronautical Activities effective August, 2006. Minimum Standards are developed to provide the threshold entry requirements for those persons desiring to provide commercial aeronautical services to the public at the Airport. The Minimum Standards are established based upon the conditions at the individual Airport or class of airports, the existing and planned facilities at the Airport, and the aviation role of the Airport. The prospective commercial aeronautical operator shall agree to offer the described minimum level of services in order to obtain an agreement to operate on the Airport. In summary, the Airport's Minimum Standards establish the minimum requirements to be met by individuals and companies for the privilege of providing commercial aeronautical services at the selected Airport. All operators are encouraged to exceed the "minimum" in terms of quality of facilities and/or services.

The FAA policy on exclusive rights prohibits the creation or continuance of agreements at the Airport granting exclusive rights to a single commercial operator or service provider. The FAA concludes that the existence of an "exclusive right" aeronautical activity or a local monopoly at an airport restricts the public use of the airport through the absence of competitive enterprise. The County is prohibited from granting an exclusive right to a single operator on the Airport, In accordance with FAA Grant Assurances. However, it should be noted that a single commercial operator does not represent the granting of an "exclusive right" or monopoly to that operator.

SECTION VI - APPLICABLE DOCUMENTS

All COA applicants are encouraged to become familiar with Airport management documents, which can be obtained by contacting the Airport. The following lists of documents are recommended. However, it is recommended that a prospective commercial operator contact the Airport Manager for information on other pertinent policies regarding proposed operations.

- Leasing Policy
- Rules and Regulations
- Master Plan
- Minimum Standards
- Commercial Operator Agreement Policy and Procedures

SECTION VII - GROUNDS FOR DENIAL OF APPLICATION

The County may deny any application for any one (or more) of the following reasons.

(A) The Applicant's proposed activities, operation, would create a safety hazard at the Airport and/or surrounding community.

(B) The Applicant, for any reason, does not fully meet the qualifications, standards, and requirements of the County. The burden of proof shall be on the prospective operator and the standard of proof shall be by clear, convincing evidence.

(C) The granting of the application will require the County to expend funds, or supply labor or materials, in connection with the proposed activity and/or construction that the County is unwilling to spend, or the proposed activity and will result in a financial loss (or hardship) to the Airport.

(D) The Applicant has either intentionally or unintentionally misrepresented or omitted material facts in the application or in supporting documents.

(E) The Applicant has failed to make full disclosure in the application or in supporting documents.

(F) The Applicant or an officer, director, agent, representative, shareholder, or employee of the Applicant, has a record of violating the rules, regulations, statues, ordinances, laws, or orders of the County Airport or any other airport, civil air regulation, FAA regulations, or any other rules, regulations, statutes, ordinances, laws, or orders applicable to the Airport.

(G) The Applicant has a history of FAA violations, suspensions, accidents, or incidents as defined by the FAA.

(H) The Applicant or an officer, director, agent, representative, shareholder, or employee of applicant has defaulted in the performance of any other agreement.

(I) On the basis of current financial information, the Applicant does not, in the sole discretion of the County, exhibit adequate financial responsibility or capability to undertake the proposed operation and activities.

(J) The Applicant cannot or will not provide applicable insurance in the amounts and type required for the proposed activity.

(K) The Applicant or an officer, director, agent, representative, shareholder or employee of applicant has been convicted of any felony or of a misdemeanor involving moral turpitude.

(L) Applicant's activities or operations could be detrimental to the Airport.