



## COUNTY OF HUMBOLDT

AGENDA ITEM NO.

**C-26**

For the meeting of: August 18, 2015

Date: July 1, 2015

To: Board of Supervisors

From:  Thomas K. Mattson, Public Works Director


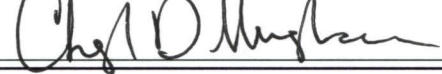










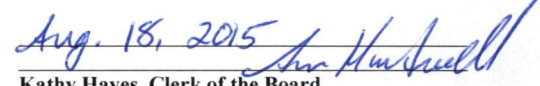
**SUBJECT: LICENSE AGREEMENT BETWEEN COUNTY AND TIMOTHY E. FROST, DBA GROUNDS KEEPER LANDSCAPE MAINTENANCE.**

RECOMMENDATION(S): That the Board of Supervisors (4/5 vote required):

1. Approves and authorizes the Chairperson to execute the attached license agreement with Timothy E. Frost, dba Grounds Keeper Landscape Maintenance.
2. Directs the Clerk of the Board to return a certified copy of the fully executed license agreement to the Land Use Division for further processing, and retain the original license agreement with meeting records.

SOURCE OF FUNDING: Aviation Enterprise Fund

DISCUSSION: Timothy E. Frost, dba Grounds Keeper Landscape Maintenance (Licensee) desires to enter into a new license agreement with County. Licensee has used County's property since October 2000 under similar license agreements for storage of landscaping materials. The current license agreement will expire September 30, 2015.

Prepared by	Erin D. Damm, Real Property Agent 	CAO Approval	
REVIEW:			
Auditor		County Counsel	
		Human Resources	
		Other	
TYPE OF ITEM:			
<input checked="" type="checkbox"/> Consent			
<input type="checkbox"/> Departmental			
<input type="checkbox"/> Public Hearing			
<input type="checkbox"/> Other			
PREVIOUS ACTION/REFERRAL:			
Board Order No.	C-14		
Meeting of:	September 28, 2010		
<b>BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT</b>			
Upon motion of Supervisor 		Seconded by Supervisor 	
Ayes  ,  ,  ,  , 			
Nays			
Abstain			
Absent			
and carried by those members present, the Board hereby approves the recommended action contained in this Board report.			
Dated:			
By:	Kathy Hayes, Clerk of the Board		

Staff has updated the rent fee to current rates and included Consumer Price Index (CPI) adjustments to be calculated annually. Staff is recommending approval and execution of the new license agreement, with an effective start date October 1, 2015.

FINANCIAL IMPACT: The rental income amount from this license agreement will be Sixteen Hundred Seventy-nine Dollars and Twenty-eight Cents (\$1,679.28) annually, plus any applicable CPI adjustment, for five years from the date of execution of this license agreement. If approved, the total revenue to the Aviation Enterprise Fund from the license agreement will be \$8,396.40 over the full term.

The requested action conforms to the Board of Supervisors' core goal of supporting business and workforce development.

OTHER AGENCY INVOLVEMENT: U.S. Department of Transportation Federal Aviation Administration

ALTERNATIVES TO STAFF RECOMMENDATIONS: The Board may deny approval of this license agreement; disapproval of this license agreement will result in revenue loss to the Aviation Enterprise Fund of \$8,396.40 over the next five years. Further, disapproval of this license agreement would then cause the Department staff to remove licensee and its materials from the licensed area, and then expend further funds to secure the licensed area to prevent any unauthorized use.

ATTACHMENTS:

1. License Agreement with Timothy E. Frost, dba Grounds Keeper Landscape Maintenance

## LICENSE AGREEMENT

This Agreement, made and entered into on August 18, 2015, by and between the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter called COUNTY, and TIMOTHY E. FROST, DBA GROUNDS KEEPER LANDSCAPE MAINTENANCE, a sole proprietorship, hereinafter called LICENSEE, who agree as follows:

### 1. LICENSE

COUNTY gives LICENSEE its permission, subject to all the terms and conditions of this Agreement to use that portion of the Arcata/Eureka Airport located in McKinleyville, California, hereinafter referred to as Airport, described in Section 2 below.

### 2. PREMISES

COUNTY hereby grants to LICENSEE permission to use a parcel approximately one hundred feet by six hundred feet (100' X 600') at the AIRPORT, at the location described and indicated on Exhibits A1 and A2, which are attached hereto and incorporated herein.

### 3. TERM

The term of this Agreement will become effective October 1, 2015 as authorized on the date of execution hereof by the Board of Supervisors and terminate September 30, 2020.

### 4. RENT

In consideration of the rights and privileges herein granted, LICENSEE agrees to pay COUNTY One Hundred Thirty-nine Dollars and Ninety-four Cents (\$139.94), per month for the space provided. The rent is payable in advance without prior notice or demand, on the first day of each month during the term of this Agreement. Payments shall be made to:

County of Humboldt  
Department of Public Works – Aviation Division  
1106 Second Street  
Eureka, CA 95501

Commencing the fiscal year July 1 of the current year, and continuing on through June 30, of the following year and each extension thereafter of this Agreement, said rate used to calculate the monthly rent shall be adjusted by the percentage increase in the Consumer Price Index (CPI), for Urban Wage Earners and Clerical Workers, U.S. city average, all items, (1982-1984=100), as published by the United States Department of Labor, Bureau of Labor Statistics (called "the Index"). The Internet link to CPI data is <http://www.bls.gov/data/>

In calculating the percentage increase, the CPI for the month of February of the current year to February of the prior year shall be used. In the event the Index is unavailable, or is calculated using different criteria following the date of this Agreement, another published official Index which most closely reflects this CPI shall be substituted by COUNTY.

The Consumer Price Index increase for any one year shall be no more than three percent (3%). In no event shall the rent be less than the previous year.

The CPI is applied to the rate. The new rate is then rounded up to the nearest cent. The new rate is then used to calculate the new rent amount. The new rent amount is rounded up to the nearest dollar.



**5. LATE FEE**

Fees shall be due and payable on the first day of every month. In the event fees are not paid by the tenth (10<sup>th</sup>) day of the month, LICENSEE shall pay COUNTY a twenty percent (20%) late fee.

**6. USE OF PREMISES**

LICENSEE shall be allowed to use the property to store landscaping materials. The landscaping materials shall not be over thirty (30) feet high. LICENSEE shall not conduct any other activities on AIRPORT. The Humboldt County Planning and Building Department may require a grading permit pursuant to Section 331-14, Humboldt County code, "Grading, Excavation, Erosion and Sedimentation Control". In addition, an erosion control plan may also be required.

**7. EMERGENCY CONTACTS**

LICENSEE shall provide to the Airports Manager, and keep current, a list of supervisory employees and telephone numbers for emergency purposes.

**8. AIRPORT MAINTENANCE AND IMPROVEMENTS**

COUNTY reserves the right, but shall not be obligated to LICENSEE, to maintain, repair, or improve runways, taxiways, parking areas, or any other part of said Airport(s). COUNTY also reserves the right to enter COUNTY property and to grant easements over and under the property covered by this Agreement, together with the right to direct and control all activities of LICENSEE related to the maintenance, repair, and improvements covered by this Section.

LICENSEE waives any and all claims against COUNTY for any loss of profit or increased costs due to COUNTY'S maintenance, repair, or improvements on or about Airport(s).

**9. FIRE HAZARD**

LICENSEE shall keep the areas rented or used clear of oil and trash that may be deemed a fire hazard.

COUNTY reserves the right to restrict LICENSEE from conducting any activity or storing inflammable materials or substances which would increase COUNTY'S insurance rate or cause COUNTY'S insurance to be canceled.

**10. NO SMOKING ORDINANCE**

Pursuant to Humboldt County Code Section 971-1 et seq., COUNTY owned or leased premises are smoke free. LICENSEE shall comply with said provision.

**11. PERFORMANCE BOND**

LICENSEE shall, to the satisfaction of the Department of Public Works, provide a performance bond in the amount of Three Hundred Seventy-Five Dollars (\$375.00). The use of cash deposit, pledged savings account, or time certificate will be acceptable in lieu of performance bond.

**12. MAINTENANCE AND REPAIRS**

LICENSEE shall be responsible for any repairs or damage to Airport premises caused intentionally or by negligence of LICENSEE, its agents, employees, or subcontractors.



**13. OPERATIONAL OBLIGATIONS**

LICENSEE must conform to all applicable federal/state/county/municipal building, safety, health, fire, sanitary codes, ordinances, and Airport(s) rules and regulations that are in effect or that may be hereafter adopted pertaining to LICENSEE'S activities on Airport(s). To the extent necessary to protect the rights and interests of COUNTY or to ascertain compliance with the standards, rules, and regulations, the Director of Public Works or his authorized representative shall have the right to inspect, during reasonable hours, all premises and facilities on the Airport(s).

**14. SIGNS**

LICENSEE shall not install any signs without prior approval of the Director of Public Works or his authorized representative.

**15. EXTENT OF GRANT LICENSE**

This Agreement and the license herein granted are valid only to the extent of COUNTY'S jurisdiction as a landowner. Acquisition of any other necessary permits or entitlements for use is the responsibility of LICENSEE. Nothing contained in this Agreement shall be construed as a relinquishment of any rights now held by COUNTY.

**16. HOLD HARMLESS/INDEMNIFICATION**

A. LICENSEE shall indemnify, defend and hold harmless COUNTY and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with LICENSEE'S duties and obligations under this Agreement and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. Acceptance of insurance, if required by this Agreement, does not relieve LICENSEE from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by LICENSEE'S operations regardless if any insurance is applicable or not.

**17. INSURANCE**

**A. LICENSEE'S INSURANCE**

THIS AGREEMENT SHALL NOT BE EXECUTED BY COUNTY and the LICENSEE is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.

Without limiting LICENSEE'S indemnification obligations provided for herein, LICENSEE shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Agreement and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of LICENSEE, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

**1. Comprehensive or Commercial General Liability Insurance:**

Comprehensive or General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$2,000,000 for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate

limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.

**2. Workers Compensation Insurance Compensation Coverage:**

If required by California Law, and in accordance with the statutory limits set forth therein, said policy shall contain or be endorsed to contain a waiver of subrogation against COUNTY, its officers, agents, and employees and provide for thirty (30) days prior written notice in the event of cancellation.

**3. Automobile Liability Insurance:**

With coverage at least as broad as Insurance Services Office Form CA 0001 06092, Code 1 (any auto), for vehicles used in the performance of this Agreement with minimum coverage of not less than \$2,000,000 per accident combined single limit (CSL). Such policy shall contain or be endorsed with the provision that coverage shall not be cancelled or materially reduced in coverage without thirty (30) days prior written notice, ten (10) days for non-payment of premium, to COUNTY by certified mail.

**B. SPECIAL INSURANCE REQUIREMENTS**

Said policies shall unless otherwise specified herein be endorsed with the following provisions:

1. The Comprehensive General Liability Policy shall provide that COUNTY, its officers, officials, employees, and volunteers are endorsed as additional insured for liability arising out of the operations performed by or on behalf of LICENSEE. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:

- a. Includes contractual liability.
- b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- c. Is primary insurance as regards to County of Humboldt.
- d. Does not contain a pro-rata, excess only, and /or escape clause.
- e. Contains a cross liability, severability of interest or separation of insureds clause.
- f. Shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section 24. It is further understood that LICENSEE shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.
- g. Is primary coverage to COUNTY, and insurance or self-insurance programs maintained by COUNTY are excess to LICENSEE'S insurance and will not be called upon to contribute with it.

2. LICENSEE shall furnish COUNTY with certificates and original endorsements affecting the required coverage prior to execution of this Agreement by COUNTY. The endorsements shall be on forms as approved by COUNTY'S Risk Manager or County Counsel. Any deductible or self-insured retention over \$100,000 shall be disclosed to and approved of by COUNTY. If LICENSEE does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and LICENSEE agrees to pay the cost of said insurance.



3. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and LICENSEE shall be required to purchase additional coverage to meet the aggregate limits set forth above.

4. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

5. Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to LICENSEE, COUNTY, their officers, officials, employees, and volunteers.

**18. LIABILITY FOR LOSS OR DAMAGE TO COUNTY PROPERTY**

LICENSEE shall be liable for any loss or damage to the premises resulting from the acts or omissions of LICENSEE, its officers, agents, employees, and volunteers.

**19. LICENSE IS PERSONAL**

The license herein granted is personal to LICENSEE and no right hereunder may be assigned, sublet, or otherwise transferred in whole or in part without the prior written consent of COUNTY, and any attempt to assign, sublet, or transfer shall be of no force or effect whatsoever unless and until COUNTY shall have given its written consent thereto.

**20. PROVISIONS ARE CONDITIONS OF USE/OCCUPANCY**

Each provision of this Agreement shall be deemed a condition of the right of LICENSEE to use or continue to use the premises. If LICENSEE fails to perform any provision of this Agreement at the time and in the manner herein provided, COUNTY may, at its option, immediately terminate this Agreement. This right to terminate shall be cumulative to any other legal right or remedy available to COUNTY.

**21. POSSESSORY INTEREST**

This Agreement may create a possessory interest, as described in Section 107 et seq. of the Revenue and Taxation Code of the State of California, in tax-exempt property. If such an interest is created, it may be subject to property taxation and the party in whom the possessory interest is vested may be subject to the payment of taxes on such interest.

**22. LICENSEE TO ACT IN INDEPENDENT CAPACITY**

LICENSEE, its officers, Board, agents, and employees shall act in an independent capacity and shall not represent themselves to be or be construed to be officers, agents, or employees of COUNTY.

**23. LICENSE NOT A LEASE**

This Agreement does not constitute a lease, but constitutes a mere revocable license, and LICENSEE is limited to the use of the premises expressly and specifically described in Sections 2 and 6.

**24. NOTICE**

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.



LICENSEE: Timothy E. Frost  
dba Grounds Keeper Landscape Maintenance  
PO Box 2905  
McKinleyville, CA 95519

COUNTY: County of Humboldt  
Public Works – Aviation Division  
1106 Second Street  
Eureka, CA 95501

All insurance notifications shall also be addressed to:

County of Humboldt  
Attn: Risk Management  
825 5<sup>th</sup> Street, Room 131  
Eureka, CA 95501

Each party may at any time change its address for notice by giving written notice of such change to the other party in the manner provided in this Section.

**25. NUCLEAR FREE CLAUSE**

LICENSEE certifies by its signature below that LICENSEE is not a nuclear weapons contractor, in that LICENSEE is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. LICENSEE agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor as defined above. COUNTY may immediately terminate this Agreement if it determines that the foregoing certification is false or if LICENSEE becomes a nuclear weapons contractor.

**26. DRUG FREE WORKPLACE**

LICENSEE is aware that COUNTY adheres to and certifies that it will provide a drug free workplace. LICENSEE shall notify COUNTY immediately of any unlawful manufacturing, distribution, dispensing, transporting, storing, possession, or use of a controlled substance on Airport(s) property.

**27. NON-EXCLUSIVE 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 49 U.S. Code Sections 40103(e) and 47107(a)(4).

**28. ACTS OF GOD, WAR/TERRORISM, AND OTHER CASUALTIES**

COUNTY shall not be responsible for monetary losses or damage to personal property, equipment, or materials of LICENSEE caused by Acts of God, fire, epidemics, labor strikes, or public enemy including but not limited to acts of war and/or terrorism. LICENSEE hereby waives any claims for damages against COUNTY resulting from said acts.

**29. TERMINATION**

Except as provided elsewhere herein, COUNTY reserves the right to terminate this Agreement on seven (7) days notice for any cause or reason provided by the Agreement itself, or by law, or upon the happening of one or more of the following:

- A. Filing a petition of voluntary or involuntary bankruptcy with respect to LICENSEE.

B. The making by LICENSEE of any general assignment for the benefit of creditors.

C. The abandonment or discontinuance of any operation or activity which LICENSEE has agreed to provide under the terms of the Agreement. If this condition exists for a period of ten (10) days without prior written consent of the COUNTY, it will constitute an abandonment of the land or facilities and of this Agreement.

D. The failure of LICENSEE to pay promptly when due all rents, charges, fees, or other payments in accordance with this Agreement.

E. The failure of LICENSEE to remedy any default, breach, or violation of Airport(s) rules and regulations by it or its employees.

F. Violation of any of the provisions of this Agreement or failure to maintain current licenses required for its operation.

G. Intentionally supplying COUNTY with false or misleading information or misrepresenting any material fact on its application or documents, or in its statement to or before COUNTY, or intentional failure to make full disclosure on its financial statement or other documents.

**30. LICENSEE'S DEFAULT**

LICENSEE shall be in default of this Agreement if it fails or refuses to perform any material provision of this Agreement that it is obligated to perform if the failure to perform is not cured within ten (10) days after written notice of the default has been given by COUNTY to LICENSEE. If the default cannot reasonably be cured within ten (10) days, LICENSEE shall not be in default of this Agreement if LICENSEE commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default.

**31. COUNTY'S REMEDIES ON LICENSEE'S DEFAULT**

COUNTY, at any time after LICENSEE is in default, can terminate this Agreement or can cure the default at LICENSEE'S cost. If COUNTY at any time, by reason of LICENSEE'S default, pays any sum or does any act that requires the payment of any sum, the sum paid by COUNTY shall be due from LICENSEE to COUNTY within ten (10) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate COUNTY is permitted by law to charge from the date the sum is paid by COUNTY until COUNTY is reimbursed by LICENSEE. The remedies set forth in this Section are in addition to and do not in any manner limit other remedies set for in particular Sections of this Agreement.

**32. ATTORNEYS' FEES**

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Agreement to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover, in addition to court costs, reasonable attorneys' fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorneys' fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, "the party prevailing" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

**33. NON-DISCRIMINATION AND COMPLIANCE WITH LAWS**

**A. NON-DISCRIMINATION AND AFFIRMATIVE ACTION PROVISIONS – FAA RULES**



LICENSEE assures that it will undertake an affirmative action program as required by federal and state regulations, to ensure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities. LICENSEE 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 this subpart. LICENSEE assures that it will require that its covered sub-organizations provide assurance to the COUNTY that they similarly will require assurances from their sub-organizations, as required by federal and state regulations, to the same effect.

**B. COMPLIANCE WITH FAA, STATE, AND COUNTY REGULATIONS**

LICENSEE agrees to abide by all FAA rules and regulations pertaining to the operation of Airport(s), said rules being more particularly set forth in the FAA Lease and Use Agreement Provisions, which are attached hereto and incorporated herein as **Exhibit B**. Failure to comply with said rules and regulations shall be grounds for the termination of this Agreement.

LICENSEE and its officers, agents, and employees shall carry on its activities and operations at AIRPORT in compliance with federal laws and Federal Aviation Administration regulations, state statutes, and the rules and regulations governing the use of AIRPORT and all other applicable COUNTY ordinances and regulations.

**C. DESIGNATION**

LICENSEE shall designate in writing to COUNTY the name and title of the officer or member responsible for compliance with Sections 33(A) and 33(B).

**D. TERMINATION**

COUNTY shall have the right to terminate this Agreement upon seven (7) days written notice if any of the above mentioned applicable laws, standards, or criteria are not complied with.

**34. NO CONTINUING WAIVER**

The waiver by COUNTY of any breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same, or of any other provision.

**35. PRIOR LICENSE AGREEMENT SUPERSEDED**

This Agreement terminates and supersedes that License Agreement between COUNTY and TIMOTHY E. FROST DBA GROUNDS KEEPER LANDSCAPE MAINTENANCE dated September 28, 2010.

**36. GENERAL PROVISIONS**

**A. Time of the Essence:** Time is and shall be of the essence in this Agreement and in each and every provision contained in this Agreement.

**B. Incorporation of Prior Agreements; Amendments:** This Agreement contains all the agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification, and this sentence may not be modified or waived by any oral agreement.

**C. Binding Effect; Choice of Law; Venue:** This Agreement shall be binding upon and inure to the benefit of the parties, their personal representatives, successors, and assigns. This Agreement



shall be governed by the laws of the State of California and shall be deemed to have been entered into in the City of Eureka, County of Humboldt, State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §§394 and 395.

D. **Consents:** Wherever in this Agreement consent of one party is required to an act of the other party, such consent shall not be unreasonably withheld or delayed.

E. **Construction of Agreement; Severability:** To the extent allowed by law, the provisions in this Agreement shall be construed and given effect in a manner that avoids any violation of statute, regulations, or law. COUNTY and LICENSEE agree that in the event any provision of this Agreement is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such provision shall in no way affect any other provisions of this Agreement.

F. **Relationship:** The parties intend by this Agreement to establish the relationship of licensor and licensee only, and do not intend to create a partnership, joint venture, joint enterprise, or any business relationship other than that of licensor and licensee.

### 37. **INTERPRETATIONS**

As this Agreement was jointly prepared by both parties, the language in all parts of this Agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto upon the date first written above.

(SEAL)  
ATTEST:  
CLERK OF THE BOARD

LICENSEE:  
TIMOTHY E. FROST  
DBA, GROUND KEEPER  
LANDSCAPE ~~AND~~ MAINTENANCE  
A SOLE PROPRIETORSHIP

BY

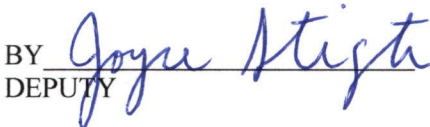


BY

  
OWNER

APPROVED AS TO FORM:  
COUNTY COUNSEL

BY

  
DEPUTY


COUNTY OF HUMBOLDT:

INSURANCE CERTIFICATES  
REVIEWED AND APPROVED:

BY

  
RISK MANAGER

BY

  
CHAIRPERSON  
BOARD OF SUPERVISORS  
COUNTY OF HUMBOLDT  
STATE OF CALIFORNIA





LICENSE AGREEMENT - TIM E. FROST dba GROUNDS KEEPER LANDSCAPE MAINTENANCE  
ARCATA/EUREKA AIRPORT





LICENSE AGREEMENT – TIM E. FROST dba GROUNDS KEEPER LANDSCAPE MAINTENANCE  
ARCATA/EUREKA AIRPORT

EXHIBIT A-2



## FAA LEASE AND USE AGREEMENT PROVISIONS

### Definitions (For information purposes only)

Aeronautical Activities: Any activity 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. Activities within this definition, commonly conducted at airports, include but are not limited to air taxi and charter operations, scheduled and nonscheduled air carrier services, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute, glider, balloon or ultralight activities and any other activities which, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities.

Nonaeronautical activities: These include but are not limited to ground transportation (taxis, car rentals, limousines), restaurants, barber shops, auto parking lots, non-aviation businesses, recreational facilities and any other commodities, services, or accommodations made available to the general public that are of a nonaeronautical nature.

Assurance: A provision contained in a federal grant agreement with which the recipient of federal airport development assistance has voluntarily agreed to comply in consideration of the assistance provided.

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 by express agreement, by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right.

Federal Obligation: Used in the context of a federal grant program, federal airport development assistance, land transfers, or other federal aid. It refers to an airport sponsor's legal duty and responsibility to comply with the terms of conveyance instruments and grant agreements.

Minimum Standards: The qualifications or criteria which may be established by an airport owner as the minimum requirements that must be met by businesses engaged in on-airport aeronautical activities for the right to conduct those activities.

Revenue Diversion: The use of airport revenue for purposes other than the capital or operating cost of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

Self-Sustaining: The requirement to maintain a schedule of charges for use of the airport which will make the airport as self-sustaining as possible under the circumstances existing at the airport.

- a) For aeronautical users, reasonable rates and charges that reflect the sponsor's cost of providing aeronautical services and facilities are satisfactory.
- b) For nonaeronautical users, rates and charges must be based on the fair market value of the services and facilities provided.

### PROVISIONS:

1. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does



hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The (contractor, tenant, concessionaire, lessee) assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates the (tenant, concessionaire, lessee) or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the contract.

2. The airport owner/sponsor reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or views of the (lessee, licensee, permittee, etc.) and without interference or hindrance.

3. The airport owner/sponsor reserves the right, but shall not be obligated to the (lessee, licensee, permittee), to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the (lessee, licensee, permittee, etc.) in this regard.

4. This (lease, license, permit, etc.) shall be subordinate to the provisions and requirements of any existing or future agreement between the airport owner/sponsor and the United States, relative to the development, operation, or maintenance of the airport. Failure of the (lessee, licensee, permittee) or any occupant to comply with the requirements of any existing or future agreement between the lessor and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of (lessee's, licensee, permittee's) rights hereunder.

5. There is reserved to the airport owner/sponsor, 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 (leased, licensed, permitted) premises. This public right of flight shall include the right to



cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operating on the airport premises.

6. The (lessee, licensee, permittee) agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the (leased, licensed, permitted) premises or in the event of any planned modification or alteration of any present or future building or structure situated on the (leased, licensed, permitted) premises. . This requires the submission of FAA Form 7460-1, *Notice of Construction or Alteration* to the FAA.

7. The (lessee, licensee, permittee) by accepting this (lease, license, permit) agreement expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or building nor permit object of natural growth or other obstruction on the land leased hereunder above a height as determined by the application of the requirements of Title 14 CFR Part 77. In the event the aforesaid covenants are breached, the owner reserves the right to enter upon the land hereunder and to remove the offending structure or object or cut the offending natural growth, all of which shall be at the expense of the (lessee, licensee, permittee).

8. The (lessee, licensee, permittee) by accepting this (lease, license, permit) agrees for itself, its successors and assigns that it will not make use of the (leased, licensed, permitted) premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the owner reserves the right to enter upon the premises hereby (leased, licensed, permitted) and cause the abatement of such interference at the expense of the (lessee, licensee, permittee).

9. 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 U.S. Code 40103 (e) and 47107(a)(4).

10. This (lease, license, permit) and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation 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.

11. The (lessee, licensee, permittee) will furnish services on a reasonable and not unjustly discriminatory basis to all users, and 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.

12. The (lessee, licensee, permittee) will conform to airport and Federal Aviation Administration safety and security rules and regulations regarding use of the airport operations area including runways, taxiways, aircraft aprons by vehicles, employees, customers, visitors, etc. in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; will complete and pass airfield safe driving instruction program when offered or required by the airport; and will be subject to penalties as prescribed by the airport for violations of the airport safety and security requirements.

Revised: January 2004 (AWP-620.1)





# CERTIFICATE OF LIABILITY INSURANCE

GROUN-1

OP ID: JS

DATE (MM/DD/YYYY)

02/24/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Anderson Robinson Starkey Insurance Agency Inc. P O Box 1105 Arcata, CA 95518-1105 Carl Pellatz/Commercial	<b>CONTACT NAME:</b>		
	<b>PHONE (A/C, No, Ext):</b> 707-822-7251	<b>FAX (A/C, No):</b> 707-826-9021	
<b>INSURED</b> Grounds Keeper Tim & Chris Frost P. O. Box 2905 McKinleyville, CA 95519	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A:</b> Nationwide Mutual Insurance Co		23787
	<b>INSURER B:</b>		
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		
	<b>INSURER F:</b>		

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	ACP7821220505	03/05/2015	03/05/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		ACP7821220505	03/05/2015	03/05/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$		ACP7821220505	03/05/2015	03/05/2016	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Owners or other interests from whom land has been leased are included as Additional Insureds. Cancel as per policy provisions.

**CERTIFICATE HOLDER****CANCELLATION**

COUNHU2

County of Humboldt  
Darcy Gray  
3033 H St., Rm 17  
Eureka, CA 95501

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE