

AIRPORT MANAGEMENT AND AGENCY AGREEMENT

THIS AGREEMENT, dated as of the 26th day of November, 1986, by and between:

THE CITY OF ERIE, a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, hereinafter referred to as "City" or "City of Erie,"

and

THE ERIE MUNICIPAL AIRPORT AUTHORITY, a body corporate and politic, organized and existing under the laws of the Commonwealth of Pennsylvania, hereinafter referred as the "Authority."

WHEREAS, the Authority was incorporated on January 23, 1951 under the Municipalities Authorities Act of 1945, being the act of May 2, 1945, P.L. 382, as amended, pursuant to an Ordinance enacted on November 28, 1950 by the Council of the City of Erie, Erie County, Pennsylvania; and

WHEREAS, said Ordinance designated the initial project to be undertaken by the Authority as follows: "to acquire, hold, construct, improve, maintain, operate, own or lease, either in capacity of lessor or lessee, the Port Erie Airport and other airports, airfields, lands, buildings, improvements and all facilities necessary or incidental thereto including but not limited to parks, playgrounds, and other recreational facilities, located in the County of Erie, Pennsylvania, to be devoted wholly or partially to public use for income producing purposes in connection with the exercise of ownership and operation of said airports, air-fields and landing fields, and to exercise all powers necessary or incidental thereto"; and

WHEREAS, to carry out the project so designated, the Authority, by deed dated May 13, 1952, acquired from the City its then-existing airport property, including fee simple title to certain real estate, and improvements and other property used or useful in connection with the operation and maintenance of said airport property, and determined to enlarge the same and construct runways, signal control tower and other improvements thereto; and

WHEREAS, the Authority, in order to secure the payment of various and sundry bond indentures issued by the Authority in

order to fund the cost of various capital improvements and maintenance projects, leased the said airport property to the City; and

WHEREAS, the City of Erie appointed the Authority as its agent to "conduct, carry on, improve and expand the airport"; and

WHEREAS, all existing long-term bond indebtedness has been paid in full by the Authority and, as a consequence thereof, the agency agreement dated August 1, 1954 between the City and the Authority is no longer in effect; and

WHEREAS, the City of Erie has exercised its prerogative under Section 321 of the Municipalities Authorities Act by passing Ordinance Number 45-1985 which compels the Authority to convey to the City of Erie all assets of the airport, including real estate, fixtures, personal property, bank accounts, etc., so that the citizens and taxpayers of the City may again benefit from the full ownership of these assets; and

WHEREAS, the Authority has successfully managed the Erie International Airport since its creation by the Erie City Council; and

WHEREAS, the City wishes to maintain the Authority and its staff in essentially the same manner as it has been to date, subject only to clarification and redefinition of the legal relationship between the Authority and the City.

NOW, THEREFORE, the undersigned, with the intent to be legally bound, hereby agree as follows:

1. Until and unless this Agreement is terminated as hereinafter provided, the Authority shall continue to have full charge and direction of the airport, and shall act in cooperation with the Mayor and the Council of the City of Erie under and subject to the following requirements:

a. The Authority shall not hereafter sell, grant or convey any of the real property presently comprising the Airport property and all facilities necessary and/or incidental thereto without the consent and approval of the Council of the City of Erie first had and received by the Authority, it being understood that such property shall be devoted wholly or partially to public use in connection with the exercise of ownership and operation of said property as a public airport and airfield. The foregoing provision shall not be construed to prohibit the Authority from acquiring, holding, constructing, owning, improving, maintaining, operating, or leasing any lands or property,

either in the capacity of lessor or lessee, comprising the Erie International Airport; provided, however, such acts shall be reasonable, necessary or incidental to the proper operation and maintenance of said Airport, and shall not prohibit the Authority from entering into Grant Agreements or similar contracts with the FAA or other agencies of the Federal government or the Commonwealth of Pennsylvania for the purpose of obtaining federal and/or state funds to defray capital and/or operating costs incurred by the Authority, it being expressly understood that the Authority shall hold said real property in trust for the benefit of the City of Erie.

b. The Authority will not, without the consent and approval of the Council of the City of Erie, execute and deliver any trust or bond indenture, or otherwise incur any general debt obligations constituting a lien upon the entire Airport. This Paragraph shall not prohibit the Authority from borrowing funds on a short-term basis in an amount not to exceed ten thousand and 00/100 dollars (\$10,000.00) or borrowing any funds not exceeding two hundred thousand and 00/100 dollars (\$200,000) in the aggregate for a term not exceeding ten (10) years provided the repayment of said latter indebtedness shall be secured by long-term leases with financially responsible entities.

c. The Authority will not, without the consent and approval of the Council of the City of Erie, enter into any leases, agreements or contracts for the exploration and/or drilling of oil and/or gas wells or the removal of any minerals from the Airport property; provided, however, that the Authority is hereby authorized to honor and fulfill all its obligations under the existing agreements previously entered into with Vineyard Oil & Gas Co. of North East, Pennsylvania.

d. All revenues generated by the Authority from the production of natural gas and/or oil, whether received as royalties from third parties or in any other form from wells or other operations now existing or hereafter drilled upon the Airport (hereinafter "revenues"), shall be subject to the following limitations and restrictions:

(1) All well revenues as above defined shall be placed by the Authority in a special escrow account or accounts and shall not thereafter be co-mingled with any other funds of the Authority or otherwise be used for any purpose except as specified herein.

(2) Effective immediately, the Authority shall transmit to the City from said escrow account or accounts, within ten (10) days of receipt thereof, one hundred percent

(100%) of all well revenues received by the Authority, which well revenues will thereafter be allocated and used by the City in any lawful manner it deems appropriate.

(3) Nothing in this Subparagraph (d.) shall be construed to prohibit the Authority from receiving free gas from each well now existing to the extent of 250,000 cubic feet per well per year, under the terms of the agreement previously entered into between the Authority and Vineyard Oil & Gas Co. of North East, Pennsylvania, or receiving credit for such gas production from the National Fuel Corporation or any other public utility selling gas on a commercial basis to the Authority.

(4) In the event any minerals are removed from airport property (by and with the consent of the City) all net revenues derived from such operations shall be paid over to the City.

e. The Authority agrees to operate the Airport in a self-sustaining manner with its annual operating expenses not to exceed, insofar as possible, its annual revenues from all sources excluding any well revenues or other non-airport related revenues.

f. The Authority shall employ and direct the work of all persons required to operate and maintain the Airport, and shall negotiate and fix the rates of pay of such persons.

g. The Authority will contract for and purchase all utilities, supplies, materials and services required to maintain the Airport facilities and operations. The Authority shall determine the amount of and place such insurance as it deems necessary or desirable.

h. Subject to the provisions of Subparagraph (1) below, the Authority shall submit periodic financial reports to the City, monthly or otherwise depending on the nature of the said report. These reports shall include monthly income and expense statements, cumulative income and expense reports for the year to date, operating budget, capital budget, annual and such other financial reports as may be prepared for the benefit of the Authority members. The Authority shall also furnish to the City all such additional financial statements as may be reasonably requested by the Mayor or the City Council.

i. The Authority shall prepare and adopt annual operating budgets. Before the final adoption by the Authority, each such budget of operating expenses shall be submitted to the Mayor for review within the time limitations specified by the

Third Class City Code, or any law which may hereafter be enacted, governing the submission of departmental or bureau budgets of the City of Erie to City Council for approval by ordinance. Unless the Mayor or his designated representative shall notify the Authority, in writing, within thirty (30) days after such submission of any objection(s) to such budget it shall conclusively presume that such budget has been reviewed and approved by the City of Erie. In the event there is an objection(s) to such budget, the City shall specifically state the nature of the objection(s), reasons therefor, and the requested modification, if any. The Authority reserves the right to either accept or reject in writing.

j. The Authority shall project long-term capital needs and requirements for a period of not less than five (5) years in the form of a capital budget, which budget shall be revised annually or more often, as may be required, subject to the availability of the projected share of state and federal funds. The Authority shall determine, on or before November 1st of each calendar year, the Authority's share of the annual capital budget for the next succeeding year and shall notify the City of the amount if any, that the Authority shall require, in addition to any funds reserved by the Authority for such capital needs, to meet the projected capital costs not defrayed by federal, state or Authority funds. The Council of the City of Erie shall review, approve and adopt by ordinance an annual capital budget for the Authority on or before December 31st. In the event that Council shall fail to review and adopt an annual capital budget for the Authority by said date, it shall be conclusively presumed for all purposes that the capital budget submitted by the Authority has been reviewed and approved by the Council as submitted. Council may, in its sole discretion, provide any capital funds needed by the Authority to meet the projected capital costs not defrayed by federal, state or Authority funds.

k. The Authority will continue to assume and perform all the duties and responsibilities required under the terms of the existing Grant Agreements previously entered into with the FAA, including specifically compliance with all the Sponsor's assurances set forth in such Agreements.

l. The Authority will continue its present practice of preparing and submitting all applications for federal and state funds for Airport improvements. The amount of these applications will ordinarily be reflected in the capital budget as hereinbefore stated in Subparagraph (j) above.

m. The City, recognizing the long-standing practices of the Authority and having no desire to jeopardize the operating relationship of the Authority with the FAA or other federal or state authorities, will defer to and cooperate with the Authority in all reasonable respects to insure the continued efficient operation of the Erie International Airport.

5. This Agreement shall remain in effect for an indefinite term subject to (a) termination of the existence of the Authority on January 23, 2001 (in which event this Agreement shall terminate automatically without notice unless the existence of the Authority shall be extended pursuant to law to a subsequent date in which case the subsequent date shall be the date of termination), or (b) violation by the Authority or its failure to substantially perform any of the provisions of this Agreement, or (c) in the event the Council of the City of Erie, at its discretion, shall determine for the public good that all the assets owned by the Authority shall be conveyed to the City of Erie. In the event of occurrence of either of the acts specified in 5(b) or 5(c) above, the City may, upon thirty (30) days written notice, following adoption of a Resolution of the Council of the City of Erie signifying such intent and following receipt of written approval for such probable conveyance by the Federal Aviation Administration as specified in Paragraph 6 of this Agreement, terminate this agreement and receive the assets in the manner specified in Paragraph 7 of this Agreement.

6. The Authority shall not be required to convey any assets to the City of Erie as specified in Paragraph 7 of this Agreement until the City of Erie has presented satisfactory evidence that the Federal Aviation Administration (hereinafter "FAA") of the United States Department of Transportation, or any successor agency or agency having jurisdiction over the Erie International Airport under any Federal laws or regulations then existing, has approved and consented in writing to such transfer upon such terms and conditions as its may then require. The Authority shall, to the fullest extent permitted by law, cooperate with the City to obtain such approval and consent from the FAA. Immediately upon the receipt of FAA certification and/or approval of the City as owner, operator and sponsor of the Erie International Airport, the Authority shall execute and deliver all documents specified in Paragraph 7 as may be then necessary to effectuate the conveyance, subject to the terms and conditions set forth therein.

7. Following the adoption of resolution by the Council of the City of Erie as provided in Paragraph 5 of this Agreement and approval and consent to the conveyance by the FAA or its

successor agency in the manner specified in Paragraph 6 above, the Authority, in an expeditious manner, will prepare and execute all deeds, leases, notes, documents or other appropriate instrument necessary to transfer and convey all real estate, rights-of-way, easements, leases, chattels, personal property, equipment, fixtures, bank accounts, and any and all property of any nature, tangible and intangible, owned by the Authority to the City of Erie, subject to the following conditions:

a. The assumption by the City of Erie of all existing agreements, contracts, duties, liabilities and obligations of the Authority of every nature whatsoever existing at the time of such conveyance under and subject to such terms and conditions as may be imposed by the FAA or its successor agency as a condition to its approval for such conveyance and transfer of assets.

b. Any other terms and conditions as may be mutually agreed upon by the parties at the time of such transfer and conveyance of assets.

8. In consideration of the execution and delivery of this Agreement by the Authority to the City of Erie, it is hereby agreed that the Authority shall not be required to transfer the assets of the Authority to the City of Erie in accordance with the provisions of Ordinance Number 45-1985 unless and until the City of Erie shall hereafter make a demand for such transfer in accordance with the provisions of Paragraph 5 of this Agreement.

9. Should any of the foregoing provisions be found to be inoperable or against public policy by a Court of competent jurisdiction, any such provision shall be severed from this Agreement and shall not invalidate the remaining provisions thereof.

This Agreement shall constitute the entire agreement between the parties relative to the operation by the Authority and management by the Authority of all its assets, including the Erie International Airport, no other written or oral agreement to the contract withstanding. This Agreement may only be modified by an instrument in writing duly executed by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement consisting of nine (9) pages and no others, to be executed and sealed, and the Mayor, Controller and Council President of the

City of Erie have hereunto set their hands and affixed the common and corporate seal of the City of Erie the day and year first above written.

THE CITY OF ERIE

By: Louis J. Lullo
Louis J. Lullo, Mayor

APPROVED AS TO FORM
[Signature]
City Solicitor

By: Philip English
Philip English
City Controller

By: Joseph A. Walczak, Jr.
Joseph A. Walczak, Jr.
City Council President

ATTEST:

[Signature]
James Klemm, City Clerk

THE ERIE MUNICIPAL AIRPORT
AUTHORITY

ATTEST:

[Signature]
Kim Barbara Scott, Secretary

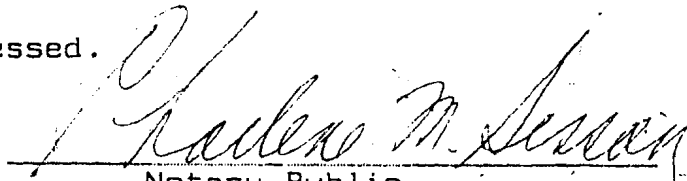
By: Rita Cappello
Rita Cappello, President

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ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF ERIE :

Before me, a notary public in and for the said Commonwealth and County, personally appeared Louis J. Tullio, Philip English, Joseph A. Walczak, Jr., and James Klemm, as the Mayor, City Controller, City Council President and City Clerk of the City of Erie, respectively, who acknowledged that they are the persons whose names appear on the foregoing document, and that they, being authorized to do so, authorized the foregoing instrument for the purposes therein expressed.

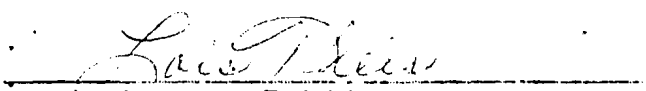


Notary Public
Chadler M. Benson, Notary Public
Erie, Erie County, Pennsylvania
My Commission Expires Nov. 9, 1989

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF ERIE :

SS.

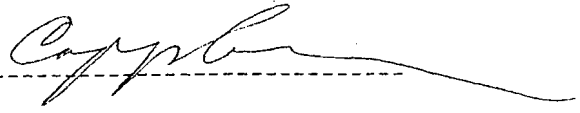
Before me, a notary public in and for the said Commonwealth and County, personally appeared Rita Cappello and Kim Barbara Scott, as the President and Secretary, respectively, who acknowledged that they are the persons whose names appear on the foregoing document, and that they, being authorized to do so, authorized the foregoing instrument for the purposes therein expressed.



Notary Public
Lois Theis, Notary Public
Millcreek Twp., Erie County, Penna.
My Commission Expires Aug. 11, 1990

By ~~Mr.~~ Brabender

SECONDED BY:



COUNCIL CHAMBERS

Erie, Pa. ----- November 26, 1986

Resolved, by the Council of the City of Erie,

That the proper City Officials are authorized and directed to execute a MANAGEMENT AGREEMENT between the City of Erie and The Erie Municipal Airport Authority, as amended.

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CITY COUNCIL, CITY OF ERIE, PA

No.

1986	Ayes	Nays
BAGNONI	1	1
BRABENDER		1
CAPPABIANCA	1	
DOMBROWSKI	1	
MIFSUD	1	
SAVOCCHIO	1	
WALCZAK	1	

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