

LICENSE AGREEMENT
between
CITY OF SUNRISE, FLORIDA
and
CAVANAUGH CHARTERS, INC.

THIS LICENSE AGREEMENT ("Agreement") is entered into this ___ day of _____, 2016 between the City of Sunrise, a Florida municipality ("CITY") and Cavanaugh Charters, Inc., a United States Virgin Islands corporation authorized to transact business in the State of Florida ("OPERATOR").

WHEREAS, CITY holds a Memorial Day event on May 30, 2016 ("Memorial Day event"); and

WHEREAS, OPERATOR desires to fly-in a Bell 47 Helicopter ("Helicopter") for the Memorial Day event and to conduct a static display of the Helicopter on property owned by CITY and located at the southeast corner of Oakland Park Boulevard and Josh Lee Boulevard in Sunrise, Florida ("City Premises"); and

WHEREAS, CITY is willing to permit OPERATOR to utilize City Premises for the permitted activities described in this Agreement.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and undertakings and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do mutually covenant and agree as follows:

1. PERMITTED ACTIVITIES.

1.1 The Parties agree that during the period of 7:30 a.m. to 2:00 p.m. on May 30, 2016, OPERATOR may utilize that portion of the City Premises that is depicted as the Landing Area on Exhibit "A," which is incorporated herein by reference, for the limited purpose of conducting the following permitted activities during the CITY's Memorial Day event:

A. OPERATOR shall be allowed to fly-in the Helicopter and land it on City Premises for purposes of a static display during the CITY's Memorial Day event. OPERATOR shall land the Helicopter by 7:30 a.m. on May 30, 2016. Once landed, OPERATOR's Helicopter shall remain parked during CITY's Memorial Day event until it is time for OPERATOR to depart. CITY's Memorial Day event concludes at approximately 11:00 a.m. OPERATOR shall remove the Helicopter after all members of the public have exited and shall have such Helicopter removed by 2:00 p.m. on May 30, 2016.

B. OPERATOR, in OPERATOR's discretion, may allow members of the public to enter its Helicopter. OPERATOR shall not charge members of the public any fee for viewing or participating in the static display. OPERATOR shall supervise any members of the public entering its Helicopter.

C. OPERATOR shall not utilize any person identified on any Florida or National registry as a sex offender or sex predator to provide services under this Agreement. OPERATOR, its principal owners, corporate officers and employees do not have any criminal convictions or any criminal charges pending.

1.2 OPERATOR agrees to comply with all requests of CITY personnel relating to City Premises during the term of this Agreement.

1.3 OPERATOR shall comply with and obtain at its expense:

A. All applicable Federal, State, County, and CITY laws, rules, regulations, certificates and licenses related to the Memorial Day event, and shall provide CITY's Director of Leisure Services documentation of said compliance, including but not limited to copies of each pilot's current commercial and/or private operator's certificate which authorizes the pilot to operate and fly the Helicopter, no later than seven (7) days prior to the Memorial Day event. OPERATOR shall pay all fees related to the permitted activities together with all applicable sales, consumer, use and other similar taxes required by law.

B. All requirements relating to any fly-in of Helicopter including but not limited to FAA regulations and radio control tower regulations.

1.4 OPERATOR shall not interfere with or obstruct any right of way over the City Premises, including any right of way for ingress and/or egress for pedestrian and vehicular traffic. OPERATOR shall not interfere with or obstruct any property owned by CITY except as provided in this Agreement.

1.5 OPERATOR shall conduct all permitted activities in accordance with aeronautical safety and public event standards. OPERATOR, at OPERATOR's expense, shall obtain all necessary permits and licenses OPERATOR requires to conduct the permitted activities under this Agreement.

1.6 OPERATOR shall not give away, offer for free, or sell any merchandise, food or beverage.

2. TERM AND TERMINATION. This Agreement shall become effective upon execution by both parties and shall continue in effect through May 31, 2016, unless otherwise terminated earlier. Any terms or conditions of this Agreement that require acts beyond the date of the term of this Agreement, including, but not limited to Section 4 Insurance, shall survive termination of this Agreement and shall remain in full force and effect unless and until the terms or conditions are

completed and shall be fully enforceable by either party. Either party may terminate this Agreement by providing the other party with three (3) days written Notice.

3. RELATIONSHIP OF THE PARTIES.

3.1 Independent Contractor: OPERATOR, its instructors, employees, subcontractors, volunteers and agents shall be and remain independent contractors and not agents or employees of CITY with respect to the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create an employer/employee relationship, a partnership association, joint venture or undertaking between the parties.

3.2 Control of Work: OPERATOR shall control the manner, means and procedures used in providing the permitted activities set out in this Agreement.

3.3 Duty to Use Reasonable Care for Accident Prevention: OPERATOR shall exercise reasonable care and precaution at all times for the protection of persons and property on City Premises.

4. INSURANCE.

4.1 OPERATOR agrees to maintain, on a primary, non-contributory basis and at its sole expense, at all times during the life of the Agreement including endorsements described herein. The requirements contained herein, as well as CITY'S review or acceptance of insurance maintained by OPERATOR is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by OPERATOR under this Agreement.

4.2 Business Aircraft Liability Insurance OPERATOR agrees to maintain with respect to scheduled FAA Cert. N262MV Bell 47 aircraft owned, non-owned, or operated by, or on behalf of, the OPERATOR a combined single limit bodily injury and property damage, including passengers, in an amount not less than \$20,000,000 Each Occurrence.

4.3 Additional Insured: OPERATOR agrees to endorse the CITY as an Additional Insured on the Business Aircraft Liability insurance required herein as a Scheduled person or organization included under liability coverage in Section 5.2 above, but only as respects operations of OPERATOR. The Additional Insured shall read "City of Sunrise." OPERATOR shall provide an actual copy of the endorsement affording Additional Insured status to the CITY notwithstanding the requirements set forth in Section 5.5 below.

4.4 Waiver of Subrogation: OPERATOR agrees by entering into this Agreement to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit OPERATOR to enter into an pre-loss agreement to waive subrogation without an endorsement,

then OPERATOR agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should OPERATOR enter into such an agreement on a pre-loss basis.

4.5 Certificate(s) of Insurance: OPERATOR agrees to provide CITY a Certificate of Insurance, including a copy of the Additional Insured endorsement required in Section 5.3 above, evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty **(30)** day endeavor to notify due to cancellation or non-renewal of coverage, when available by OPERATOR'S insurance carrier. If OPERATOR receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, OPERATOR agrees to notify the City by fax or email within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder address, fax number and email address are as follows: The Certificate Holder address shall read:

Original to:

City of Sunrise
Attn: Leisure Service Director
Leisure Services Department
10610 W. Oakland Park Blvd.
Sunrise, FL 33351
Fax (954) 572-2476

Copy to:

City of Sunrise
Attn: Risk Manager
Risk Management Division
10770 W. Oakland Park Blvd.
Sunrise, FL 33351
Riskmanagement@sunrisefl.gov

4.6 Right to Revise or Reject: CITY's Risk Manager reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverage and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

5. WARRANTIES.

5.1 OPERATOR warrants to CITY that it shall comply with all applicable federal, state, and local laws, regulations and orders in carrying out its obligations under the Agreement.

5.2 OPERATOR warrants to CITY that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the Agreement.

6. PUBLIC RECORDS. The OPERATOR shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the OPERATOR and this Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the OPERATOR shall: (a) keep and maintain public records required by the City to perform the services provided hereunder; (b) upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the OPERATOR does not transfer the records to the City; and (d) upon completion of the Agreement, transfer, at no cost, to the City all public records in the possession of the OPERATOR or keep and maintain public records required by the City to perform the service. If the OPERATOR transfers all public records to the City upon completion of the Agreement, the OPERATOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the OPERATOR keeps and maintains public records upon completion of the Agreement, the OPERATOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City. If the OPERATOR fails to comply with the requirements in this Section 7, the City may enforce these provisions in accordance with the terms of this Agreement. If the OPERATOR fails to provide the public records to the City within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE OPERATOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE OPERATOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE OPERATOR SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), e-mail (CityClerk @sunrisefl.gov), or mail (City of Sunrise, Office of the City Clerk, 10770 West Oakland Park Boulevard, Sunrise, Florida 33351).

7. SAFETY.

7.1 The OPERATOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the permitted activities. The OPERATOR shall comply with the rules and regulations of the

Florida Department of Commerce regarding industrial safety (Florida Statutes Section 440.56) and with the standards set forth in the Occupational Safety and Health Act of 1970 (OSHA) and their amendments.

7.2 The OPERATOR shall take all reasonable precautions for the safety of and shall provide all reasonable protection to prevent damage, injury or loss to:

- (a) All persons on the City premises.
- (b) All materials and equipment.
- (c) Other property at the site or adjacent to the site, including trees, shrubs, lawns, walks, pavements, structures and utilities not designated for removal, relocation or replacement in the course of the work.

8. CLEANING UP. OPERATOR shall be provided with activity space while utilizing City Premises. OPERATOR shall keep the CITY Premises free from accumulation of waste material or rubbish caused by OPERATOR. At the completion of the Memorial Day event, OPERATOR shall remove its materials and equipment.

9. ASSIGNMENT. CITY recognizes that the services of the OPERATOR are personal in nature and therefore, the OPERATOR shall not assign, or transfer its rights, title or interests in the Agreement nor shall OPERATOR delegate any of the duties and obligations undertaken by OPERATOR without CITY'S prior written approval.

10. NON-EXCLUSIVITY. This Agreement is considered a non-exclusive Agreement between the parties. The CITY shall have the right to purchase the same kind of services to be provided by OPERATOR from other sources during the term of this Agreement.

11. NON-DISCRIMINATION. No person, on the grounds of race, color, national origin, religion, age, or sex shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination.

12. THIRD PARTY BENEFICIARIES. Neither party intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

13. GOVERNING LAW; VENUE; TRIAL BY JUDGE. This Agreement shall be governed by the laws of the State of Florida. Should the parties be involved in legal action arising under, or connected to, this Agreement, except as stated in Section 4, each party will be responsible for their own attorney's fees and costs.

The venue for any litigation will be Broward County, Florida. Both Parties hereby waive a jury trial and will proceed to a trial by judge, if necessary.

14. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties relating to the subject matter superseding all prior communications between the parties whether oral or written. This Agreement may not be altered, amended, modified or otherwise changed nor may any of its terms be waived, except by a written instrument executed by both parties. The failure of a party to seek redress for violation of or to insist on strict performance of any of the covenants of this Agreement shall not be construed as a waiver or relinquishment for the future of any covenant, term, condition or election but the same shall continue and remain in full force and effect.

15. CUMULATIVE REMEDIES. The remedies expressly provided in this Agreement to CITY shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of CITY now or in the future existing at law or in equity.

16. SEVERABILITY. Should any part, term of provision of this Agreement be by the courts decided to be invalid, illegal or in conflict with any law of this state, the validity of the remaining portions or provisions shall not be affected.

17. PARAGRAPH HEADINGS. All paragraph headings in this Agreement are included for convenience only and are not to be construed as a part hereof or in any way as limited or expanding the terms set out in this Agreement.

18. NOTICE. All notices or other communications required by this Agreement shall be in writing and deemed delivered upon mailing by certified mail, return receipt requested, to the following persons and addresses:

CITY: Director
Leisure Services Department
10610 West Oakland Park Blvd.
Sunrise, Florida 33351

OPERATOR: Cavanaugh Charters, Inc.
16885 Dallas Parkway
Addison, TX 75001

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature:

CITY

BY: _____

Ann Potter
Purchasing Director

_____ Day of _____, 2016

BY: _____
Rosemarie Marco
Leisure Services Director

_____ Day of _____ 2016

WITNESS:

CAVANAUGH CHARTERS, INC.

By: _____
Print name: _____
Print title: _____

_____ Day of _____ 2016

EXHIBIT "A" – DEPICTION OF CITY PREMISES

