

EMPLOYMENT AGREEMENT

THIS AGREEMENT is between the Tahoe Truckee Airport District, a California airport district ("TTAD") and Kevin Smith ("Employee"). It is effective December 4, 2019 ("the Effective Date").

This Agreement is entered into on the basis of the following facts, among others:

- A. The Board of Directors of the TTAD previously appointed Employee as the General Manager of the TTAD, and Employee wishes to continue in this position.
- B. The TTAD and Employee desire to amend and restate the specific terms and conditions relating to compensation and benefits, performance evaluations, and related matters.

BASED UPON THE FOREGOING, TTAD AND EMPLOYEE AGREE AS FOLLOWS:

1. Employee Appointed. TTAD has previously appointed and employed Employee as General Manager, and Employee continues to accept the appointment and employment. Employee shall be entitled to the compensation and other benefits set forth in this Agreement upon the Effective Date and through the term of this Agreement.

2. Duties of Employee. Employee shall perform the duties established for the General Manager by State law, the General Manager job description, the directions of the Board of Directors, or as otherwise provided by law, ordinance, or regulation. Employee shall further act as TTAD's Auditor and Board Secretary.

(a) Full Energy and Skill. Employee shall faithfully, diligently, and to the best of Employee's abilities, perform all duties that may be required under this Agreement. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to the TTAD. Employee shall devote the whole of Employee's working time, skill, experience, knowledge, ability, labor, energy, attention, and best effort exclusively to the TTAD's business and affairs.

(b) No Conflict. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Employee's duties. Further, Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the legal limits of the TTAD, except as may be pre-approved by the Board on a case by case basis. This prohibition shall not apply to any business venture where Employee's sole interest in the venture is a community property interest provided that Employee does not actively participate in the venture.

(c) Outside Activities. The General Manager shall not spend more than 8 hours per month in teaching, consulting, expert witness testimony, speaking, or other non-TTAD connected business for which compensation is paid without express prior consent of the Board of Directors. The General Manager will take personal leave (i.e. vacation time) for all outside activities of this nature.

(d) Hours of Work. Employee is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the General Manager's position. The General Manager does not have set hours of work as the General Manager is expected to be available at all times. It is recognized that the General Manager must devote a great deal of time to the business of the TTAD outside of the district's customary office hours, and to that end the General Manager's schedule of work each day and week shall vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Board of Directors.

3. Term. The term of this Agreement shall be from the Effective Date through December 31, 2022, unless terminated earlier by either party in accordance with the provisions set forth in Section 8 or by the event of the death or permanent disability of Employee. In addition, the term of this Agreement shall automatically renew and extend for an additional one (1) month term beginning on January 1, 2023, and for additional one (1) month terms on each successive first of the month, unless written notice not to renew and extend is given by TTAD to Employee at least thirty (30) days before the expiration of the then existing term. If a renewal occurs under the provisions of the preceding sentence, the additional one (1) month term(s) shall immediately be deemed part of the term of this Agreement for purposes of Section 8(d). Any written notice of non-renewal under this Section 3 shall be considered a termination under the provisions of Section 8(d).

4. Evaluations. At least annually and as often requested by the Board of Directors, the Board of Directors shall conduct an evaluation of Employee's performance and provide guidance and direction regarding the Board of Directors' goals and objectives which Employee shall be tasked with implementing. The Board of Directors may elect not to provide an evaluation of Employee in its discretion, in which case no evaluation may be held.

5. Compensation.

(a) Salary. Employee shall receive the base annual salary of One Hundred Seventy Three Thousand One Hundred Sixty Five Dollars and Twenty cents (\$173,165.20), payable in this Agreement on a pro-rata basis in the same manner as all full time TTAD employees, and subject to all applicable payroll taxes and withholdings.

(b) Annual Salary Adjustments. The Board of Directors may, at its sole discretion, grant Employee such increases in salary as the Board of Directors deems appropriate at any time. The General Manager does not receive cost of living adjustments ("COLAs") per approved annual budget on the same schedule as other District employees. COLAs are at the discretion of the Board of Directors and will be considered at the time of the GM annual evaluation.

6. Regular Benefits. TTAD agrees to provide and pay a portion of the premium for vision, dental and medical insurance for Employee and his eligible dependents, if any, or apply for medical reimbursement at the rates provided by TTAD and subject to all applicable requirements and restrictions as those applying to all full-time employees. TTAD agrees to enroll Employee into the California Public Employees Retirement System ("CalPERS") and shall pay the CalPERS Employer share. TTAD shall also make any employer

paid member contribution provided by TTAD for other full-time employees, where allowed and consistent with CalPERS rules.

7. Additional Benefits and Allowances. In addition to the benefits specified in section 6, Employee shall receive the following additional benefits and allowances.

(a) Vacation, Sick, and Holiday Leave. Employee shall accrue vacation, administrative and sick leave at the same rate applicable to other TTAD management employees with similar years of service to TTAD as well as any other benefits provided to other District management employees unless otherwise specified in this Agreement. Employee shall receive those holidays provided to other TTAD full-time employees.

(b) Automobile. Employee shall receive a vehicle and fuel allowance equal to Six Hundred Dollars (\$600) per month. No additional mileage reimbursement for use of his private vehicle for TTAD business within the district will be provided. Employee may receive mileage for out of district travel as provided by applicable TTAD policy.

8. Termination of Employment.

(a) No Property Interest. Employee understands and agrees that Employee has no constitutionally-protected property or other interest in Employee's employment as General Manager. Employee understands and agrees that Employee works at the will and pleasure of the Board of Directors, and that Employee may be terminated, or asked to resign, at any time, with or without cause, by a majority vote of its members. Notice of termination shall be provided to the General Manager in writing. "Termination," as used in this Agreement, shall also include 1) TTAD's notice of non-renewal of the Agreement under Section 3; 2) a request that the Employee resign as General Manager; 3) a reduction in salary or other financial benefits of the Employee; 4) a material reduction in the powers and authority of the Employee (excluding placement on paid administrative leave); or 5) the elimination of the General Manager's position. Any such notice of termination or act constituting termination shall be given at or effectuated at a duly noticed regular or special meeting of the Board of Directors.

(b) Termination Immediately Before or Following Board of Directors Election. No action by the Board of Directors to terminate Employee, other than for gross mismanagement or an act of moral turpitude (as described in Section 8(e)), will be made within ninety (90) days either before a Board of Directors election or immediately following a Board of Directors election. Nothing in this paragraph alters the "at will" status of Employee's employment with TTAD.

(c) Notice Required Of Employee. Employee may voluntarily terminate employment at any time by giving not less than thirty (30) days' notice.

(d) Severance Pay. If Employee is asked to resign or is terminated as General Manager, then Employee shall be eligible to receive a cash payment equivalent to the lesser sum of Employee's (1) then-current monthly salary multiplied by six or (2) then-current monthly salary multiplied by the remaining number of months on the term of this Agreement. Also, in addition to the lump sum payment, Board of Directors shall provide for continuance of the General Manager's health insurance benefits for the same number of months used to determine the

lump sum payment or until General Manager finds other employment, whichever occurs first. Employee shall also be paid for any accrued, but unused, leave consistent with applicable TTAD policy and law. Eligibility for such severance payment is expressly conditioned upon Employee's execution of (i) a waiver and release of any and all of Employee's claims against TTAD, and (ii) a covenant not to sue. All normal payroll taxes and withholdings as required by law shall be made with respect to any amounts paid under this section. Employee expressly agrees to provide notice to the TTAD within two (2) business days of accepting employment elsewhere, and TTAD's obligation to pay any severance benefit to Employee shall terminate upon Employee's acceptance of such alternative employment.

(e) Ineligibility for Severance Under Certain Conditions. If the termination of Employee is the result of gross mismanagement and/or an act or acts of moral turpitude, Employee shall not be paid any severance pay except as provided in the remainder of this subsection. In such an instance, Employee's sole remedy shall be a judicial action in declaratory relief to determine whether there was substantial evidence of gross mismanagement and/or an act or acts of moral turpitude. If the court determines there was not substantial evidence, Employee shall receive the severance pay provided in this subsection, but no other damages.

9. Statutory Requirements. This Agreement shall be deemed to incorporate by reference the provisions of Sections 53243 *et seq.* of the Government Code, as it may be amended or renumbered.

10. Payment of Expenses of Employment. The TTAD shall pay the following usual and customary employment expenses.

(a) The cost of any fidelity or other bonds required by law for the General Manager.

(b) Subject to Section 9 of this agreement, the cost to defend and indemnify Employee to the full extent of the law as provided by the California Government Claims Act (Government Code §810 *et seq.*), or otherwise. Notwithstanding the foregoing, TTAD's obligation to defend and indemnify Employee shall extend only to the entry of a final judgment by the trial court, and shall not extend to providing defense or indemnity in connection with an appeal of the judgment, unless otherwise specifically provided by law. TTAD will determine, in its sole discretion, whether to compromise and settle any such claim or suit against Employee and the amount of any settlement or judgment rendered thereon.

(c) Subject to budget approval, reasonable dues for Employee's membership in professional organizations associated with the office of General Manager. The TTAD will allow Employee reasonable time away from the TTAD to participate in the annual conferences of these organizations.

(d) Subject to budget approval, the cost of attending conferences or other events (i.e., training, out-of-town meetings, professional seminars, etc.) necessary for the proper discharge of Employee's duties.

(e) Employee shall receive an annual stipend of Three Thousand Dollars (\$3,000) per fiscal year to be applied towards aviation currency and/or expansion of flying knowledge and experience.

11. Miscellaneous.

(a) Notices. Notices given under this Agreement shall be in writing and shall be:

- (i) served personally; or
- (ii) sent by facsimile (provided a hard copy is mailed within one (1) business day); or
- (iii) delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or
- (iv) Sent by Federal Express, or some equivalent private overnight delivery service.

Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

TTAD:

Tahoe Truckee Airport District
Attn: Board President
10356 Truckee Airport Road
Truckee, CA 96161

EMPLOYEE:

Kevin Smith
P.O. Box 910
Truckee, CA 96160

(b) Compliance with Government Code §§53243, 53243.1, & 53243.2.
If Employee is convicted of a crime involving an abuse of his office or position, all of the following shall apply:

(i) if Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse the TTAD for such amounts paid;

(ii) if the TTAD pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is not generally required to pay for a criminal defense), Employee shall be required to fully reimburse TTAD such amounts paid; and

(iii) if this Agreement is terminated, any cash settlement related to the termination that Employee may receive from the TTAD shall be fully reimbursed to the TTAD or void if not yet paid to Employee.

For this subsection, “abuse of office or position” means either (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority, or (2) a crime against public justice, including but not limited to a crime described in Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

(c) Entire Agreement/Amendment. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated, and signed by the parties and attached hereto.

(d) Severability. In the event any portion of this Agreement is declared void, such portion shall be severed from this Agreement and the remaining provisions shall remain in effect, unless the result of such severance would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.

(e) Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

(f) Representation by Counsel. The parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.

(g) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Employee and TTAD agree that venue for any dispute shall be in Nevada County, California.

(h) Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

(i) No Assignment. Employee may not assign this Agreement in whole or in part.

Dated: _____

TAHOE TRUCKEE AIRPORT DISTRICT

By _____
Rick Stephens, President

Dated: _____

EMPLOYEE

Kevin Smith, Employee