



RESOLUTION No. 20-270

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING A LEASE OF AIRPORT REAL PROPERTY TO SIERRA MOUNTAIN AVIATION, INC. TO OPERATE AN AIRCRAFT MAINTENANCE FACILITY AS A FIXED BASED OPERATOR AND AUTHORIZING THE CHAIR OF THE BOARD TO EXECUTE THE LEASE AGREEMENT (4/5 AFFIRMATIVE VOTE REQUIRED)

WHEREAS, Section 25536 of the California Government Code permits the Board of Supervisors by a 4/5 majority vote to enter into negotiated leases for airport concessions; and

WHEREAS, County Senior Staff, Airport Manager, Risk Manager, and County Counsel have negotiated a lease agreement acceptable to the Lessee, that covers 4,736 square feet of hangar space in a 2-unit hangar, and four adjacent aircraft tie-down spots on Ramp 5 of the Nevada County Airport; and

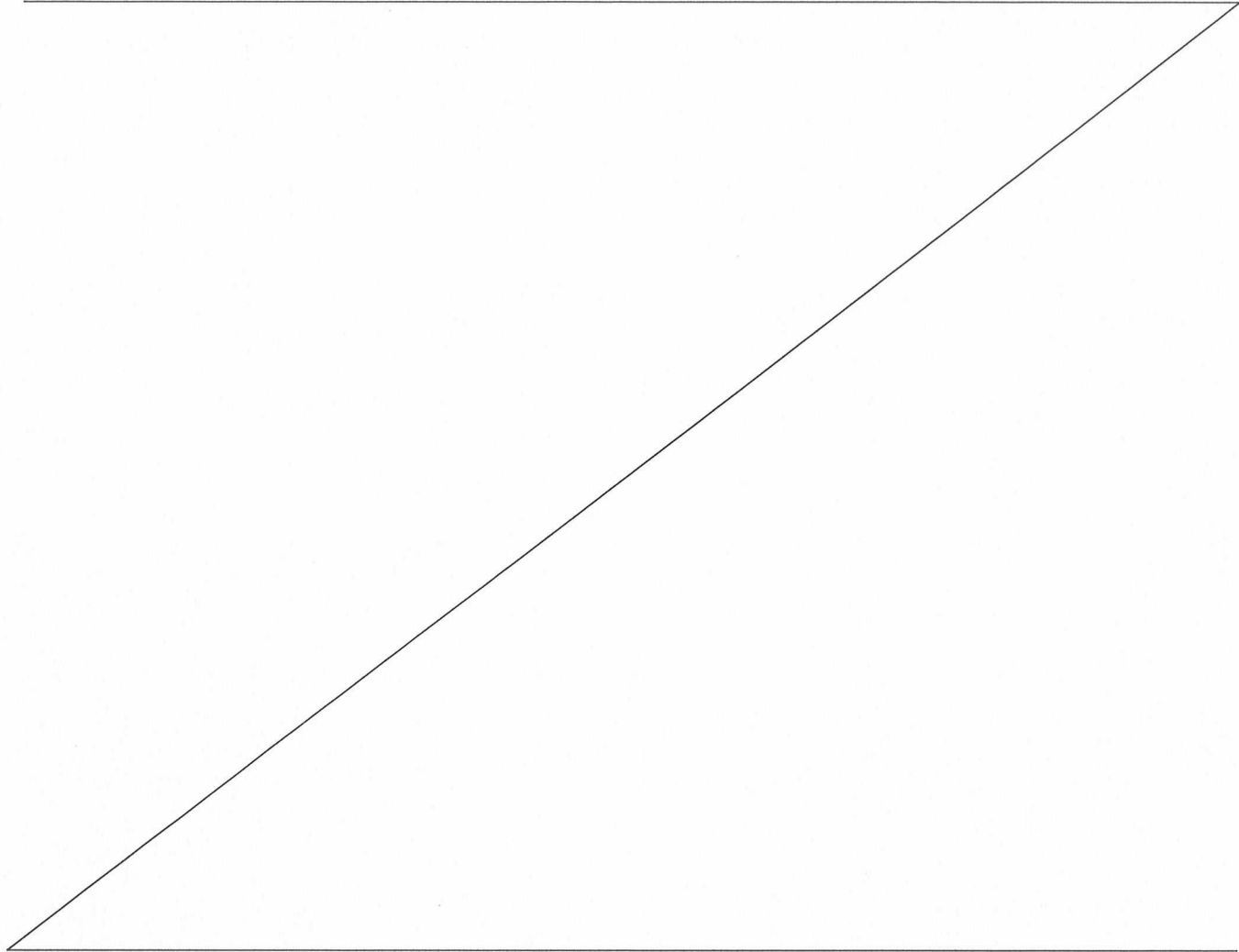
WHEREAS, in accordance with the lease, the rental rate will be \$0.299 per sq. ft. per month (\$1,416.06 per month) with an annual CPI adjustment on October 1st of each of the remaining four years, based on the California CPI related to the most current index available with a maximum increase of 3% every year; and

WHEREAS, the subject lease provides Lessee one option to renew for one (1) extended term of five (5) years; and

WHEREAS, the proposed rental rate has been reviewed and accepted by the Lessee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California, that the Board of Supervisors hereby approves in the form attached hereto, a Lease Agreement for an "Aircraft Maintenance Facility-Nevada County Airport" between the County of Nevada and Sierra Mountain Aviation, Inc., for a period of five years commencing July 1, 2020 and ending June 30, 2025; that rent shall be \$1,416.06 per month adjusted annually according to the lease, and that the Chair of the Board of Supervisors is hereby authorized to execute the Lease Agreement.

Revenue received to be deposited into fund 4116910042741000/430200.



PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 23rd day of June, 2020, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.
Noes: None.
Absent: None.
Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Heidi Hall, Chair

6/23/2020 cc: Airport*
AC*(hold)

7/7/2020 cc: Airport*
AC* (Release)
SMA, Inc.

**LEASE AGREEMENT BETWEEN SIERRA MOUNTAIN AVIATION
AND COUNTY OF NEVADA FOR MAINTENANCE FACILITY
NEVADA COUNTY AIRPORT**

THIS LEASE AGREEMENT is entered into this 23rd day of June, 2020, at Nevada City, California, by and between the COUNTY OF NEVADA, hereinafter "COUNTY", and SIERRA MOUNTAIN AVIATION a Fixed Base Operator hereinafter "FBO". This Lease Agreement ("Lease" or "Agreement") is for the express purpose of establishing a non-exclusive fixed-base operation at the Nevada County Airport, located within the unincorporated territory of Nevada County.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereby covenant, promise and agree as follows:

1. LEASED PREMISES: COUNTY leases to FBO and FBO does hereby lease from COUNTY, for the term and upon the conditions hereinafter provided, a portion of the parcel of improved real property described as 13308 Nevada City Avenue, Grass Valley, California 95945, consisting of approximately 4,736 square feet in a two-unit hangar consisting of approximately 9,600 total square feet ("Leased Premises"). In connection with the Leased Premises, the FBO is granted an exclusive use of the four tie-downs in front of the FBO's hangar.
2. USE OF LEASED PREMISES: County is leasing the Leased Premises to FBO for the following use and purposes:

To provide aeronautical services such as aircraft maintenance.

Any change in use or purposes of the Leased Premises, other than described above, shall be upon prior written consent of County only.

FBO shall comply with all rules, regulations and laws of any governmental authority with respect to use and occupancy. FBO shall not conduct or permit to be conducted upon the Leased Premises any business or permit any act which is contrary to or in violation of any law, rules or regulations and requirements that may be imposed by any authority or any insurance company with which the Leased Premises is insured, nor will FBO allow the Leased Premises to be used in any way which will invalidate or be in conflict with any insurance policies applicable to the building. FBO shall follow all federal, state and local regulations regarding the handling and storage of explosive devices used in aviation. Only qualified personnel shall handle explosive devices and shall be stored in approved explosive containers detailed within the regulations. Furthermore, FBO shall not install or use any equipment that will cause undue interference with the peaceable and quiet enjoyment of the Leased Premises by other tenants of the building.

3. TERM OF AGREEMENT: There shall be two (2) five (5) year terms representing a total term of ten (10) years, with the second term contingent on FBO's and County's agreement. The first term of this Agreement shall be for a term of five (5) years commencing at midnight on July 1, 2020 and terminating at midnight on June 30, 2025. A second contingent term of five (5) years shall run from midnight on July 1, 2025 to midnight on June 30, 2030, if the FBO elects, at its sole option, to accept the rental rate that results from the formula set forth in Paragraph 7, a rate which the COUNTY shall calculate in its sole discretion, but strictly in accordance with the formula in Paragraph 7.
4. MINIMUM SERVICE REQUIREMENTS: FBO shall provide the minimum level of services as set forth below:
 - a) Must have one (1) airframe and power plant technician with an inspection authorization licensed by the FAA.
 - b) Provide sufficient personnel, equipment, supplies and access to, or availability of, parts to provide complete maintenance and repair to FAA standard for all aircraft based at Nevada County Airport and operated under Federal Aviation Regulation Part 91 and Part 135 of Title 14 of the United States Code.
 - c) Have the capability to provide nitrogen and compressed air as required for aircraft servicing.
 - d) Capability to remove disabled aircraft from airport movement areas.
 - e) Conduct its business and operations such that it is open to serve the public eight (8) hours per day, five (5) days per week, during normal Airport hours appropriate to season, except that FBO may close for three weeks per year for vacations. Provide emergency mechanic service until 10:00 p.m. on normal working days and between 8:00 a.m. and 10:00 p.m. on weekends and holidays.
 - f) Pay all taxes, including possessory interest property taxes, permit fees, and utilities as part of this operation.
5. TAXES, ASSESSMENTS, PERMITS AND LICENSES:
 - a) Pursuant to the provisions of Revenue and Taxation Code section 107.6, FBO acknowledges that this Agreement may create a possessory interest subject to taxation and agrees to pay any and all property taxes resulting therefrom.

- b) FBO shall pay before delinquency any and all property tax assessments, fees or charges, including possessory interest taxes, which may be levied or assessed upon any real or personal property, improvements or fixtures installed, controlled, possessed or belonging to FBO and located within the Leased Premises. FBO shall also pay all license or permit fees required by law for the conduct of its operations.
 - c) A copy of any and all local, state or federal permits acquired by FBO which are required for the use of the Leased Premises shall be kept on site at all times and shall be readily accessible and produced to County and/or their agents or any local, state, or federal officials upon demand.
6. PERFORMANCE SECURITY: FBO and COUNTY hereby agree that the performance security from the expiring lease agreement between the parties shall be sufficient if carried forward into the two terms of this lease agreement. Otherwise, the COUNTY shall return the performance security for the expiring lease agreement and proceed to establish new security as follows. FBO shall deposit with COUNTY upon execution of this Agreement One Thousand (\$1,000.00) Dollars as security to FBO's faithful performance of FBO's obligations hereunder. If FBO fails to pay rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Agreement COUNTY may use, apply or retain all or any portion of said deposit for the payment of any rent or other charge in default or for the payment of any other sum to which FBO may become obligated by reason of FBO's default, or to compensate COUNTY for any loss or damage which COUNTY may suffer thereby. If COUNTY so uses or applies all or any portion of said deposit, FBO shall within ten (10) days after written demand therefor deposit cash with COUNTY in an amount sufficient to restore said deposit to the full amount hereinabove stated and FBO's failure to do so shall be a material breach of this Agreement. Said security deposit shall be placed in an interest bearing account at the Treasurer's pooled interest rate, title and control to which shall remain in COUNTY. Interest earned from this account will be paid to FBO so long as FBO is not in default under the terms of this Agreement. The balance of said security deposit and any earned interest shall be returned to FBO upon expiration of this Agreement minus whatever amount is necessary to satisfy any outstanding charges or to correct any damage done to the premises.
7. RENTAL: FBO shall pay to COUNTY, the following rent:
- FIRST TERM: Commencing July 1, 2020, the base rent will be \$0.299 per sq. ft. per month (or \$1,416.06 per month) with an annual CPI adjustment on October 1st of each of the remaining four years, based on the California Department of Finance "All Urban Users" CPI related to the most current index available with a maximum increase of 3% every year.

SECOND TERM: Commencing July 1, 2025, the new base rent will be established by a formula consisting of the numerical average of the rates for FBO hangar space at the following airports: Yuba County, Placerville, Columbia, Auburn and Jackson (Amador County). A determination as to what FBO hangar space is comparable at the surveyed airports shall be in the COUNTY'S sole judgment. Should one or more of the above-designated airports cease to have a comparable hangar facility, the COUNTY and FBO shall, by mutual agreement, select another comparable hangar facility. The same CPI per year adjustment to the base rent with a maximum increase of three percent (3%) shall apply to each of the remaining years in the Second Term in the same manner as was agreed to for the First Term.

PRO RATE RENT: Rent for any period during the term which is for less than one (1) month shall be a pro rata portion of the monthly rent.

FAILURE TO PAY: In the event that FBO shall fail to pay said rent, and expenses as set forth herein, or any part thereof, when the same are due and payable, or shall otherwise be in default of any other terms of said Lease for a period of more than thirty (30) days, after receiving notice of said default, then the parties hereto expressly agree and covenant that the COUNTY may declare the Lease terminated and may immediately re-enter said Leased Premises and take possession of the same together with any of FBO's personal property, equipment or fixtures left on the Premises which items may be held by the COUNTY as security for FBO's eventual payment and/or satisfaction of rental defaults or other defaults of FBO under the Lease. It is further agreed, that if FBO is in default, that COUNTY shall be entitled to take any and all action to protect its interest in the personal property and equipment, to prevent the unauthorized removal of said property or equipment which threatened action would be deemed to constitute irreparable harm and injury to COUNTY in violation of its security interest in said items of personal property. Furthermore, in the event of default, the COUNTY may expressly undertake all reasonable preparations and efforts to release the Leased Premises including, but not limited to, the removal of all inventory, equipment or leasehold improvements of FBOs, at the FBO's expense, without the need to first procure an order of any court to do so, although obligated in the interim to undertake reasonable steps and procedures to safeguard the value of FBO's property, including the storage of the same, under reasonable terms and conditions at FBO's expense, and, in addition, it is understood that the COUNTY may sue the FBO for any damages or past rents due and owing and may undertake all and additional legal remedies then available.

8. **NONEXCLUSIVITY:** This Lease is and shall be non-exclusive and COUNTY reserves the right to enter in a similar concession agreement with one or more operators to offer similar services at the Airport. The Agreement shall be subordinate to the provisions of any existing or future agreement between the

COUNTY and the United States relative to the development, operation or maintenance of the Airport.

In accordance with federal aviation laws, the FBO understands and agrees that this Lease shall not be construed to grant or authorize an exclusive right to the use of any landing area or air navigation facility upon which federal funds have been expended.

COUNTY and FBO agree to meet and discuss the implications of any future FAA provisions impacting the services of the FBO. In the event that the FBO is unable to meet all of the requirements of federal aviation laws, the FBO or COUNTY may terminate this lease.

9. USE OF AIRPORT FACILITIES: FBO shall have the non-exclusive right to the use of the runways and taxiways of the Airport, the public waiting rooms, restrooms and other public spaces in the terminal building, the roadways and landing aids and other public facilities provided by the COUNTY for the convenience of Airport customers.-
10. LEASEHOLD IMPROVEMENTS: FBO agrees that no leasehold improvements, alterations or changes of any nature, (except for those listed on any attached addenda) shall be made to the Leased Premises or the exterior of the building without first obtaining the consent of COUNTY in writing, which consent shall not be unreasonably withheld, and thereafter, any and all leasehold improvements made to the Leased Premises which become affixed or attached to the Leased Premises shall remain the property of COUNTY at the expiration or termination of this Lease. Furthermore, any leasehold improvements shall be made only in accordance with applicable federal, state or local codes, ordinances or regulations, having due regard for the type of construction of the building housing the subject Leased Premises. If FBO makes any improvements to the Leased Premises FBO shall be responsible for payment.

Nothing in the Lease shall be construed to authorize FBO or any other person acting for FBO to encumber the rents of the Leased Premises or the interest of FBO in the Leased Premises or any person under and through whom FBO has acquired its interest in the Leased Premises with a mechanic's lien or any other type of encumbrance. Under no circumstance shall FBO be construed to be the agent, employee or representative of COUNTY. In the event a lien is placed against the Leased Premises, through actions of FBO, FBO will promptly pay the same or bond against the same and take steps immediately to have such lien removed. If FBO fails to have the lien removed, COUNTY shall take steps to remove the lien and FBO shall pay COUNTY for all expenses related to the lien and removal thereof and shall be in default of this Lease.

11. INSURANCE: For purposes of Paragraphs 11 through 14, "COUNTY" shall include its elected officials, officers, volunteers, agents, contractors, and employees. FBO, at its own cost and expense, shall procure and maintain during

this Agreement, the following insurance coverages, in the amounts designated below, which coverages shall be issued by an insurance company licensed to do business in the State of California, with a Best's Insurance Guide Rating of A or better, or as approved by the COUNTY Risk Manager.

At the time of execution of this Agreement, FBO shall provide an original certificate of insurance evidencing that coverage as required by this Agreement with COUNTY has been obtained and remains in force for the period required. The endorsements required hereunder shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by FBO on request.

AIRPORT LIABILITY INSURANCE WITH A COMBINED SINGLE LIMIT OF \$2,000,000, including Blanket Contractual Liability (including liability assumed under this agreement, Broad Form Property Damage, Personal Injury Liability, Premises Operations, Completed Operations, Products Liability Fire Damage, Owned and Non-owned Automobile Coverage, and Independent Contractors' Liability. It is acceptable if any of these coverages beyond CGL are included in the Hangarkeeper's Liability Insurance.

HANGARKEEPERS LIABILITY: When service is provided where a bailee relationship is established, the following insurance coverage and limits are required:

Hangarkeepers' Insurance	Combined Single Limit \$1,000,000.00
In-Flight Hangarkeepers' Insurance (If there is testing of aircraft)	Combined Single Limit \$1,000,000.00

Coverage shall include the following endorsements, copies of which shall be provided to County:

- a) Additional Insured Endorsement:
Insurance afforded by this policy shall also apply to the County of Nevada and members of the Board of Supervisors of the County of Nevada and the officers, agents, and employees of the County of Nevada, individually and collectively, as additional insureds, but only insofar as the operations under this contract are concerned.
- b) Primary Insurance Endorsement:
Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Nevada, its officers, agents and employees shall be excess only and not contributing with insurance provided under this policy.

- c) Notice of Cancellation or Change of Coverage Endorsement:
Insurance afforded by this policy shall not be canceled or changed so as to no longer meet the specified County insurance requirements without thirty (30) days' prior written notice of such cancellation or change being delivered to the County of Nevada.
- d) Contractual Liability Endorsement:
Insurance afforded by this policy shall apply to liability assumed by the insured under written contract with the County of Nevada.
- e) Personal Injury Endorsement:
It is agreed that this policy provides personal injury coverage.
- f) Severability of Interest Endorsement:
It is agreed that this policy provides coverage separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the Company's limit of liability.

FIRE INSURANCE: FBO shall maintain not less than \$250,000 Fire Legal Liability on all real property being leased, including improvements and betterments owned by COUNTY, and shall name COUNTY as a loss payee. Said coverage shall cover expenses incurred in the removal of Contractor's debris which may be destroyed or damaged by a peril insured against.

FBO shall also provide fire insurance on all personal property and on all of FBO's improvements, fixtures, equipment and merchandise and on the trade fixtures and equipment of others contained within or on the leased premises. The policy shall be written on a standard "all risk" contract, excluding earthquake and flood.

The insurance coverage amounts may be subject to modification after every five (5) years in conjunction with the review of the rental rate, as provided in Paragraph 7. These changes will be negotiated with FBO. In the event that the negotiations are not mutually acceptable, the amount of the coverage will be set by the COUNTY Risk Manager. If the limits established by COUNTY are unacceptable for any reason to FBO, FBO shall have the right to terminate this Agreement. The policies of insurance shall include the same coverage and shall be accompanied by the same endorsements as required above.

12. WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:
FBO, at its own cost and expense, shall procure and maintain during its performance of this Lease a policy of worker's compensation and employer's liability insurance issued by an insurance company licensed in California acceptable to COUNTY for the protection of its employees, engaged in any work required by this Agreement. The policy shall provide County with an express waiver of subrogation.

13. INDEMNIFICATION: To the fullest extent permitted by law, FBO shall indemnify, hold harmless and defend the COUNTY against all claims, losses, costs, damages, expenses or liabilities including reasonable attorney's fees and the cost of defense, resulting from the death of or any injury or damage to any person or property whatsoever, when such death, injury or damage arises out of the operations of FBO or has been caused in whole or in part by the act, neglect, fault, or omission of FBO, its agents, employees, or invitees.
14. COUNTY'S NON-LIABILITY; *FORCE MAJEURE*: COUNTY shall not be liable for any injury or damage which may be sustained by the person, goods, equipment, wares, merchandise or property of FBO resulting from an Act of God, fire, explosion, flood, strike, labor dispute, riot, wind, ice hail, or any other cause or peril beyond the control of COUNTY.
15. AIRPORT REGULATIONS: FBO agrees to observe, obey and abide by all applicable laws, ordinances, field rules and other regulations for the common and joint use of Airport facilities and for the maintenance and conduct of all its operations which will now or may hereafter be imposed or promulgated by the COUNTY, the Federal Aviation Administration (FAA) or any other governmental agency having jurisdiction over subject matter. FBO shall not permit any aircraft under its control, whether owned by it or by any of its customers, to be parked upon any portion of the airfield other than within the Leased Premises, unless COUNTY is compensated at the current rate for that location.
16. FIRE REGULATIONS: FBO shall at all times comply with all applicable laws, ordinances and regulations pertaining to fire prevention and shall furnish and keep adequate A-B-C rated fire extinguishers in sufficient numbers and in convenient and accessible places upon the premises; said fire extinguishers shall be charged and ready for immediate use as required by said fire regulations and applicable laws or ordinances. The use of any fire extinguisher under any circumstance shall be reported to the Airport Manager immediately after use.

The COUNTY will conduct, or have conducted, an annual fire inspection of the leased space. If FBO receives an inspection notice or a deficiency notice relating to FBO's operations or property following an inspection by the fire protection authorities, FBO agrees to make any and all corrections in the manner required by said authorities within ten (10) days after receipt of the notice, or such other time as may be specified by the inspecting authority.

FBO shall not perform or allow to be performed welding of any type within the leased premises or structure thereon, except that welding may be permitted upon the installation of required ventilation equipment and issuance of a permit by Nevada County Consolidated Fire District.

FBO may, with Operations Permit issued by the Fire District, have for use or storage, not more than 30 gallons of a Class 1-A liquid, 60 gallons of a Class 1-B

liquid, 90 gallons of a Class 1-C liquid, or any combination of these liquids not exceeding 120 total gallons or the limits of the individual classes inside the building at any time, or as specified by permit. All flammable materials must be stored in an approved metal container with sealable lid.

The COUNTY expressly reserves the right to restrict FBO from conducting any activity or storing flammable materials substances, which would increase COUNTY's insurance rate or cause an insurance agreement of the COUNTY to be canceled, except that it is understood and agreed that FBO may store and use all substances, flammable or otherwise, necessary for the conduct of operations and FBO will use commercially accepted storage and handling practices as required by the fire permit.

17. MAINTENANCE OF PREMISES: FBO shall provide all janitorial services and supplies for all structures, buildings and areas and shall provide proper containers for, and regular collection of, all trash and rubbish materials. FBO shall maintain the premises at all times in a neat, orderly and safe condition and shall return the premises to COUNTY at the termination of this Agreement in as good condition as when rented, ordinary wear and tear excepted. COUNTY shall be the sole judge of the quality of maintenance. If, in the opinion of the COUNTY, adequate maintenance is not performed, COUNTY may send FBO written notice informing FBO of the unsatisfactory conditions and demanding FBO to perform such maintenance within ten (10) days; if FBO fails to provide said maintenance after ten (10) days notice, COUNTY may perform such maintenance on behalf of FBO at FBO's expense plus ten percent (10%) for administration. FBO shall have full liability for failure to properly dispose of hazardous wastes resulting from its operation.

COUNTY shall maintain the foundation, structural integrity, exterior walls, roof, doors, electrical and water services, including drainage in and around the premises and ramp surface. FBO shall immediately, upon observation, notify the COUNTY of any such maintenance that is needed by COUNTY. If it is found that structural damage or pests are due to the negligence of the FBO, then the FBO will be responsible for the repairs and/or treatment.

Each FBO located in the hangar has a separate floor drain and associated piping to a common oil separator. FBO shall maintain the floor drain, associated piping and oil separator storage tank in an operable condition at all times. FBO is specifically advised that the oil separator tank has a 1,000 gallon capacity and is empty at the commencement of this lease. FBO agrees that at sole expense of FBO the common separator tank shall be pumped out to the Airport Manager's satisfaction upon termination or transfer of this lease. This obligation shall accrue at any time that the lease transfers or terminates by any tenant or subtenant.

FBO shall be primarily responsible whenever needed for the maintenance and general pickup of the entranceway leading into the Leased Premises, so that this is kept in a neat, safe and presentable condition. FBO shall also be responsible for all minor repairs and maintenance of the Leased Premises, particularly those items which need immediate attention and which the FBO, or their employees, can do and perform on their own, including but not limited to, the replacement of light bulbs, as well as the normal repair and cleaning of windows, cleaning and clearing of toilets, etc., and FBO shall properly maintain the Leased Premises in a good, safe, and clean condition. FBO shall properly and promptly remove all rubbish and hazardous wastes and see that the same are properly disposed of according to all local, state or federal laws, rules regulations or ordinances.

In the event the structure of the Leased Premises is damaged as a result of any neglect or negligence of FBO, their employees, agents, business invitees, or any independent contractors serving FBO or in any way as a result of FBO's use and occupancy of the Leased Premises, then FBO shall be primarily responsible for seeing that the proper claims are placed with the FBO's insurance company, or the damaging party's insurance company, and shall furthermore be responsible for seeing that the building is safeguarded with respect to said damage and that all proper notices with respect to said damage, are made in a timely fashion, including notice to COUNTY, and the party or parties causing said damage. Any damage that is not covered by an insurance company will be the liability of FBO.

FBO shall, during the term of this Lease, and in the renewal thereof, at its sole expense, keep the interior of the Leased Premises in as good a condition and repair as it is at the date of this Lease, reasonable wear and use excepted. This obligation would include the obligation to replace any plate glass damaged as a result of the neglect or acts of Lessee or her guests or invitees. Furthermore, FBO shall not knowingly commit nor permit to be committed any act or thing contrary to the rules and regulations prescribed from time to time by any federal, state or local authorities and shall expressly not be allowed to keep or maintain any hazardous waste materials or contaminates on the Leased Premises. FBO shall also be responsible for the cost, if any, which would be incurred to bring their contemplated operation and business activity into compliance with any law or regulation of a federal, state or local authority.

18. UTILITY SERVICES: FBO shall pay on FBO's own account for all utilities used or consumed within all buildings, including, but not limited to, gas, water, electricity, garbage disposal, sewer disposal and telephone service. FBO shall also be solely responsible for all utility connections without charge to the COUNTY.

FBO acknowledges that it shares the sewage disposal system with the adjoining FBO operator. Prior to occupying the premises or upon any transfer of occupancy to a new tenant, the FBO operators shall reach an agreement, which shall be in writing, providing to COUNTY a maintenance schedule. No tenant

shall dispose of any hazardous, toxic or regulated substances into the sewage disposal system. The only substances which may be disposed of in the sewage disposal system are normal human waste and waste water. The COUNTY warrants that every lease agreement entered into for this site shall have this same provision.

19. **DAMAGE OR DESTRUCTION TO IMPROVEMENTS:** If the said premises shall be damaged or destroyed by fire or by the elements or by other causes so as to render them unfit for occupancy, this Agreement may thereupon be terminated at the option of the COUNTY, but should COUNTY elect to repair or reconstruct said premises, it shall do so as speedily as possible and FBO shall in no case be entitled to compensation or damages on account of any annoyance or inconvenience in making said repairs on account of such destruction. However, the rent or pro rata share thereof, according to the nature and extent of the damage, shall cease until the premises can be repaired by COUNTY, provided that the loss of use was in no way caused by the acts or omissions of FBO.

In the event the building housing the Leased Premises shall be destroyed or damaged as a result of any fire or other casualty which is not the result of the intentional acts or neglect of FBO and which precludes or adversely affects the FBO's occupancy of the Leased Premises, then in every such cause, the rent herein set forth shall be abated or adjusted according to the extent to which the Leased Premises have been rendered unfit for use and occupation by FBO and until the demised Premises have been put in a condition at the expense of the COUNTY, at least to the extent of the value and as nearly as possible to the condition of the Leased Premises existing immediately prior to such damage. It is understood, however, in the event of total or substantial destruction to the Leased Premises that in no event shall COUNTY's obligation to restore, replace or rebuild exceed an amount equal to the sum of the insurance proceeds available for reconstruction with respect to said damage.

20. **SIGNS:** FBO shall not erect, display or permit to be erected or displayed on the Airport any sign or advertising matter of any kind without first obtaining the written consent of the COUNTY's Airport Manager, which approval shall not be unreasonably withheld. COUNTY shall install a street sign identifying Nevada City Avenue. FBO agrees to maintain such sign or advertising matter as first approved by COUNTY in good condition and repair. Furthermore, FBO shall conform to any uniform reasonable sign plan or policy that the COUNTY may introduce with respect to the building. Upon vacating the Leased Premises, FBO agrees to remove all signs and to repair all damages caused or resulting from such removal.
21. **ACCESS BY COUNTY:** FBO agrees to permit COUNTY or its authorized agents free access for inspection and/or emergency repairs to the premises at all times and upon 72-hours notice for the purpose of making necessary improvements, repairs or maintenance. County will minimize interruption to FBO's normal

business operations. It is agreed and understood that the COUNTY and its agents shall have the complete and unencumbered right of entry to the Leased Premises at any time or times for purposes of inspecting or showing the Leased Premises and for the purpose of making any necessary repairs to the building or equipment as may be required of COUNTY under the terms of this Lease or as may be deemed necessary with respect to the inspection, maintenance or repair of the building.

22. ASSIGNMENTS AND SUBLEASES: FBO shall not either directly or indirectly give, hypothecate, encumber, transfer, sublease, assign or grant control of this Agreement or any interest, right or privilege herein or subject the whole or any portion of the premises or license the use of the same in whole or in part without the prior written consent of COUNTY. COUNTY shall not unreasonably withhold consent. Any breach of the provisions of this paragraph shall give COUNTY the right to terminate this Agreement immediately.
23. EASEMENTS: The Leased Premises are accepted by FBO subject to any and all existing easements or other encumbrances. COUNTY reserves the right to establish, grant or utilize easements or rights-of-way over, under, along and across said premises for utilities, pipelines, drains or access as it may deem advisable for the public good; provided, however, that COUNTY agrees to exercise said rights in such a manner as will not unreasonably interfere with FBO's use of the premises and provided further that any permanent reduction of surface land area available to FBO under this Agreement by reason of such easement or rights-of-way shall be compensated for by a reduction in rent.
24. DEFAULT AND RIGHT TO TERMINATE:
 - a) If there should be any default in payment by FBO of the rental provided herein, COUNTY may give FBO written notice to pay within ten (10) days all sums due, owing and unpaid and if such payment is then not made by FBO within said ten (10) day period, this Agreement and FBO's rights hereunder shall at the option of the COUNTY forthwith terminate.
 - b) If FBO shall fail to perform, keep or observe any of the terms, conditions or covenants as set forth in this Agreement, other than payments of rental as provided hereinabove, COUNTY may give written notice to correct such condition or cure such default; if such condition or default shall continue for thirty (30) days after written notice of default, COUNTY may give notice of its selection to terminate this Agreement. Such election to terminate shall not be construed as a waiver of any claim COUNTY may have against FBO, consistent with such termination.

If, however, any default is of such nature that it cannot be physically remedied within thirty (30) days and if FBO shall have commenced the elimination of such default promptly after the receipt of such notice and

shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.

- c) COUNTY shall have the right to terminate this Agreement upon or within a reasonable time after receiving notice of the occurrence of any one of the following events: The filing of a voluntary petition in bankruptcy by FBO; the adjudication of FBO as bankrupt; the making of a general assignment for the benefit of creditors; a petition or answer seeking an arrangement for the reorganization of FBO under any Federal Reorganization Act, including petitions and answers under Chapters X and XI of the Federal Bankruptcy Act; the occurrence of any act which operates to deprive FBO permanently of the rights, powers and privileges necessary for the proper conduct and operation of the premises granted herein; or the levy of any attachment or execution which substantially interferes with FBO's operations under this Agreement and which attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty (60) days.

FBO agrees that in the event all or a substantial portion of the FBO's assets are placed in the hands of a receiver or a Trustee, and such status continues for a period of thirty (30) days, or should FBO make an assignment for the benefit of creditors or be adjudicated bankrupt; or should FBO institute any proceedings under the bankruptcy act or any amendment thereto, then such Lease or interest in and to the Leased Premises shall not become an asset in any such proceedings and, in such event, and in addition to any and all other remedies of the COUNTY hereunder or by law provided, it shall be lawful for the COUNTY to declare the term hereof ended and to re-enter the leased land and take possession thereof and all improvements thereon and to remove all persons therefrom and FBO shall have no further claim thereon.

- d) COUNTY shall also have the right to terminate this Agreement and FBO's right to possession of the premises shall terminate upon the voluntary abandonment or discontinuance of its operations on the demised premises for more than seventy-two (72) consecutive hours except as otherwise provided herein.
- e) Upon any termination of this Agreement, FBO covenants and agrees to surrender and deliver up the premises and property peaceably to COUNTY immediately upon any such termination. In the event of the failure of FBO to remove personal property belonging to it on the demised premises upon completion of eviction proceedings, COUNTY may remove such personal property and place the same in storage at the expense of FBO.

- f) FBO shall be excused for failure to perform services herein if such services are prevented by acts of God, strike, labor disputes, acts of the County resulting in permits or approvals being unavailable to FBO, or other forces over which FBO has no control.
 - g) In the event that COUNTY receives notice of cancellation of any insurance coverage required hereunder, COUNTY may terminate this Agreement if FBO does not renew the policy or procure a new policy within twenty (20) days of COUNTY's receipt of ten (10) days' notice.
25. SUBORDINATION AND ATTORNMENT: Upon request of COUNTY, FBO will subordinate its rights hereunder to the lien of any mortgage now or hereafter in force against the property or any portion thereof, and to all advances made or hereafter to be made upon the security thereof, and to any ground or underlying lease of the property provided, however, that in such case the holder of such mortgage, or COUNTY under such Lease shall agree that this Lease shall not be divested or in any way affected by foreclosure, or other default proceedings under said mortgage, obligation secured thereby, or Lease, so long as the FBO shall not be in default under the terms of this Lease. FBO agrees that this Lease shall remain in full force and effect notwithstanding any such default proceedings under said mortgage or obligation secured thereby.
- FBO shall, in the event of the sale or assignment of COUNTY's interest in the building of which the Leased Premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by COUNTY covering the Premises, attorn to the purchaser and recognize such purchaser as under this Lease.
26. FURTHER DEVELOPMENT OF AIRPORT: COUNTY reserves the right to further develop or improve the Airport including, but not limited to, apron areas, landing area, etc., as it sees fit, regardless of the desires of FBO and without any liability to FBO. FBO shall not interfere or hinder such developments. However, the rent or pro rata share thereof, according to the nature and extent of any impact to the business of the FBO, shall cease until the FBO is able to resume full operations.
27. ESTOPPEL CERTIFICATE: FBO at any time and from time to time, upon at least ten (10) days prior notice by COUNTY, shall execute, acknowledge and deliver to COUNTY, and/or to any other person, firm or corporation specified by COUNTY, a statement certifying that the Lease is unmodified and in full force and effect, or if the Lease has been modified, then that the same is in full force and effect except as modified and stating the modifications, stating the dates to which the fixed rent and additional rent have been paid, and stating whether or not there exists any default by COUNTY under this Lease and, if so, specifying each such default.

28. NOTICES: Payments and notices shall be addressed to the following:

COUNTY: Nevada County Airport
13083 John Bauer Ave.
Grass Valley, CA 95945

FBO : Sierra Mountain Aviation
13308 Nevada City Ave
Grass Valley, CA 95945

29. NONDISCRIMINATION AND AFFIRMATIVE ACTION: FBO, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, national origin, religion, gender or age 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, national origin, religion, gender or age shall be excluded from participation in, denied the benefits of or otherwise be subject to discrimination.

30. NONDISCRIMINATORY SERVICE: FBO shall furnish service on a fair, equal and nondiscriminatory basis to all users thereof, and shall charge fair, reasonable and nondiscriminatory prices for each unit of service; provided FBO may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

31. RIGHT OF FLIGHT: There is hereby reserved to the COUNTY, 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 premises herein. This public right of flight shall include the right to cause any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operation of the COUNTY Airport.

32. MISCELLANEOUS:

a) This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the COUNTY, the State of California and the United States relative to the development, operation or maintenance of the Airport. The County and FBO agree to meet and discuss the implications of any future State of California or United States provisions impacting the services of the FBO. Should FBO be unable to meet any requirements of the State of California or United States, the FBO may terminate this lease.

b) In the event FBO makes any improvements, alterations or additions to the leased premises, FBO shall comply with the notification and review

requirements contained in Part 77 of Title 14 of the Federal Code of Regulations .

- c) FBO shall provide and keep current in the office of the Airport Manager a list of all employees, their rating and current license numbers and emergency telephone numbers.
- d) Each and all the provisions, agreements, terms, covenants and conditions herein contained to be performed, fulfilled, observed and kept shall be binding upon the successors and assigns of the parties hereto, provided that no assignment or subletting by or through FBO in violation of the provisions of this Agreement shall vest any rights in any purported assignee or sublessee.
- e) In the event any legal action has to be instituted to enforce any terms or provisions under this Lease, then the prevailing party in said action shall be entitled to recover a reasonable attorney's fee in addition to all costs of said action.
- f) No waiver of any breach of any provision of this Agreement shall be deemed for any purpose to be a waiver of any preceding or succeeding breach of the same or any other provision thereof.
- g) The section headings appearing herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Agreement.
- h) Each section, term and/or provisions of this Agreement shall be considered severable and if, for any reason, any section, part, term and/or provision herein is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation, such shall not impair the operation or affect the remaining portions, sections, parts and/or provisions of this Agreement; and the latter will continue to be given full force and effect and bind the parties hereto; and said invalid section, parts, terms and/or provisions shall be deemed not to be a part of this Agreement.
- i) FBO has had the opportunity to inspect the Leased Premises and acknowledges with its signature on this Agreement that the Leased Premises are in good condition and comply in all respects with the requirements of this Lease. Furthermore, COUNTY makes no representation or warranty with respect to the condition of the Leased Premises or its fitness or availability for any particular use, and COUNTY shall not be liable for any latent or patent defect therein. Furthermore, FBO represents that FBO has inspected the Leased Premises and is

leasing and will take possession of the Leased Premises with all current fixtures present in their "as is" condition as of the date hereof.

- j) Should FBO remain in possession of the Leased Premises after the cancellation, expiration or sooner termination of the Lease, or any renewal thereof, without the execution of a new Lease or addendum, such holding over in the absence of a written agreement to the contrary shall be deemed, if COUNTY so elects, to have created and be construed to be a tenancy from month to month, terminable upon thirty (30) days' notice by either party.
- k) Waiver by COUNTY of a default under this Lease shall not constitute a waiver of a subsequent default of any nature. This Lease shall be governed by the laws of the State of California. Venue shall be in the County of Nevada.
- l) No amendment of this Lease shall be effective unless reduced to writing and subscribed by the parties with all the formality of the original.
- m) This Lease and any amendments thereto shall be binding upon COUNTY and FBO and/or their respective successors, heirs, assigns, executors and administrators.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first above written.

COUNTY:

By

Heidi Hall

Chair, Board of Supervisors

FIXED BASE OPERATOR:

Sierra Mountain Aviation

By:

Dan Grass

6-24-2020

APPROVED AS TO FORM:

County Counsel

ATTEST:

Julie Patterson Hunter
Clerk of the Board