



RESOLUTION No. 19-229

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION AUTHORIZING AND APPROVING EXECUTION OF A GROUND LEASE BETWEEN THE COUNTY OF NEVADA AND RACE TELECOMMUNICATIONS, INC., FOR APPROXIMATELY 4,000 SQUARE FEET OF AIRPORT PROPERTY LOCATED AT 13083 JOHN BAUER AVENUE, GRASS VALLEY, CA FOR AN INITIAL TERM OF FIVE YEARS (4/5 AFFIRMATIVE VOTE REQUIRED)

WHEREAS, the Nevada County Airport and Race Telecommunications, Inc., desire to enter into a new ground lease for approximately 4,000 square feet for use including building, equipment, including computer servers and related equipment located at 13083 John Bauer Avenue, Grass Valley, CA; and

WHEREAS, pursuant to Government Code 25536(a), the Board of Supervisors may lease county property, by a 4/5 vote, when it involves the airport and it is incidental and not inconsistent with the use of the airport; and

WHEREAS, Race Telecommunications, Inc., provides Internet, TV, and phone services at fast, high-quality Internet connectivity which is incidental and consistent to airport use, including a new fiber-based line for the airport; and

WHEREAS, the negotiated rate is \$12,000 per year paid in monthly installments with an increase of 2% each year for an initial term of 5 years with an automatic extension of four additional five-year terms unless terminated.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Nevada County Board of Supervisors authorizes the Chair of the Board of Supervisors to execute the Ground Lease between the County of Nevada and Race Telecommunications, Inc., for approximately 4,000 square feet of property located at 13083 John Bauer Avenue, Grass Valley, CA.

Funding:
4116-91004-271-1000-430200

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 28th day of May, 2019, 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:  _____



Richard Anderson, Chair

5/28/2019 cc: Airport*
AC* (Hold)

8/9/2019 cc: Airport*
AC* (Release)
RT, Inc.

Commercial Lease

This Lease is executed this 30th day of May, 2019, by Race Telecommunications, Inc., with its principal office located at 601 Gateway Boulevard, Suite 280, South San Francisco CA (hereinafter "LESSEE"), and County of Nevada, a political subdivision of the State of California, 950 Maidu Avenue, Nevada City, CA 95959, (hereinafter "LESSOR"). LESSEE and LESSOR are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. **Leased Premises.** LESSOR hereby leases to LESSEE, upon the terms and conditions herein set forth, a portion of that certain parcel of property more particularly described on Exhibit A, attached hereto, located at 13083 John Bauer Avenue, Grass Valley, Nevada County, California, 95945 and being described as an approximate 50' by 80' parcel containing approximately 4,000 square feet (the "Premises") for LESSEE's building, equipment, including computer servers and related equipment; as identified in Exhibit B.

2. **Terms.**

a. **Term.** The initial term of this lease shall be for five years, commencing on June 1, 2019 and extending through May 30, 2024. Lease is terminable at will by either party by giving a ninety (90) day written notice of intent to the other party.

b. **Extensions.** This Agreement shall automatically be extended for four additional five-year terms ("Extension Term") unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

3. **Rent.**

a. **Monthly Rent.** As rent for the Premises, the initial annual rent is Twelve Thousand Dollars (\$12,000.00), so that the LESSEE shall pay to LESSOR the sum of One Thousand Dollars (\$1000.00) per month payable on the first day of each month.

b. In the event LESSEE shall fail to pay said rent 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 LESSOR may declare the Lease Agreement terminated and may immediately re-enter said leased Premises and take possession of the same together with any of LESSEE's personal property, equipment or

fixtures left on the Premises which items may be held by the LESSOR as security for LESSEE's eventual payment and/or satisfaction of rental defaults. It is further agreed, that if LESSEE is in default, that LESSOR 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 LESSOR in violation of its security interest in said items of personal property.

Furthermore, in the event of default, the LESSOR 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 LESSEE, at the LESSEE'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 LESSEE's property, including the storage of the same, under reasonable terms and conditions at LESSEE's expense, and, in addition, it is understood that the LESSOR may sue the LESSEE for any damages or past rents due and owing and may undertake all and additional legal remedies then available.

c. Annual Rental Increases. Commencing on the first day of the second year of the Term and on each annual anniversary of the Commencement Date thereafter throughout the remainder of the Term, the annual rent shall increase annually by an amount equal to two percent (2%) of the annual rent paid in the immediately preceding year.

d. Utility Services. LESSEE shall pay on LESSEE's own account for all utilities used or consumed on the Premises, including but not limited to gas, water, electricity, garbage disposal, sewer disposal and telephone service. LESSEE shall also be solely responsible for all utility connections without charge to the LESSOR.

e. Should LESSEE 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 LESSOR 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.

4. Late Charge. If any installment of rent due from LESSEE is not received by LESSOR by the tenth day of the month, a late fee of \$25.00 will be assessed.

5. Security Deposit. LESSOR requires no security deposit under the terms of this Lease.

6. **Use of the Leased Premises.** LESSEE shall have the right to use the leased Premises pursuant to Section 12 below. Said Premises shall not be used for any other purpose without the prior written consent of LESSOR.

LESSEE shall comply with all laws, regulations, and ordinances concerning the Premises or LESSEE's use of the Premises, including, without limitation, the obligation at LESSEE's cost to alter, maintain, or restore the Premises in compliance and conformity with all laws relating to the condition, use, or occupancy of the Premises during the term of this Lease and any option to extend the term of this Lease.

LESSEE shall not use the Premises in any manner that will constitute waste, nuisance, or unreasonable annoyance to occupants of the Premises or the adjacent properties.

LESSEE shall not do anything on the Premises that will cause damage to the Premises.

7. **Acceptance of Leased Premises; Surrender at End of Term.** By taking possession of said leased Premises, LESSEE accepts the same as being in good condition and repair, and they agree on the last day of said term or any extension thereof, to surrender possession of said Premises to LESSOR in the same condition as when received, except for reasonable use, or wear and tear thereof.

8. **Indemnification and Insurance.**

8.1 **LESSEE's Indemnification of LESSOR.** To the fullest extent permitted by law, LESSEE shall, at LESSEE's sole expense, indemnify, defend, and hold harmless LESSOR Parties from and against all claims, from any cause, arising out of or relating (directly or indirectly) to this Lease, the tenancy created under this Lease, or the Premises.

8.2 **LESSEE's Liability Coverage.** LESSEE shall, at LESSEE's sole expense, maintain the coverages set forth in this section.

8.4 **Commercial General Liability Insurance.** LESSEE shall obtain commercial general liability insurance written on an "occurrence" basis, covering products and completed operations, bodily injury, property damage, personal injury, and advertising injury with limits no less than \$2,000,000 per occurrence arising out of or relating (directly or indirectly) to LESSEE's business operations, conduct, assumed liabilities, or use or occupancy of the Premises.

8.3 **LESSEE's Workers' Compensation and Employer Liability Coverage.** LESSEE shall procure and maintain workers' compensation insurance as required by law and employer's liability insurance with limits of no less than \$1,000,000. LESSOR shall be named as additional insured.

8.4 **Property Insurance.** LESSEE shall obtain property insurance against all risk of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

8.5 **Other Insurance Provisions.** LESSOR shall be named as “additional insured.” LESSEE’s insurance coverage shall be primary insurance coverage. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the LESSOR. Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best’s rating of no less than A: VII, unless otherwise acceptable to the LESSOR.

9. **Assignment or Subletting.** LESSEE shall not assign or transfer this Lease or any interest therein, nor shall LESSEE sublet the leased Premises, without the written consent of LESSOR. Said consent shall not be unreasonably withheld.

10. **Notices.** All notices required or which may be given under this Lease shall be in writing, and shall be given by mail addressed to the parties at their respective addresses, or by email.

11. **Notice & Identification:**

LESSEE:
Race Telecommunications, Inc.
1325 Howard Ave., Suite 604
Burlingame, CA 94010

(877) 722-3833

LESSOR:
County of Nevada:
Nevada County Airport
950 Maidu Ave
Nevada City, CA 95959
(530) 273-3374

12. **Governmental Approvals.**

a. LESSEE shall use the Premises for the purpose of constructing, maintaining, repairing, and operating a network service provider facility and uses incidental thereto. A security fence consisting of chain link construction or similar but comparable construction may be placed around the perimeter of the Premises at the discretion of LESSEE. All improvement, equipment, and conduits shall be at LESSEE’s expense and their installation shall be at the discretion and option of LESSEE.

b. LESSEE shall be solely responsible for obtaining all necessary plan approvals, including zoning compliance, building and land use permits for LESSEE’s permitted use. LESSEE shall be in compliance with the latest standards set forth by local, state, and federal requirements regulating LESSEE’s use. All applicable site improvement by LESSEE shall be subject to the permit process of LESSOR and the permit processes of any other regulatory

agencies with jurisdiction over the construction or provision of services to the Premises. LESSOR shall cooperate in LESSEE's applications for such permits, however, LESSOR shall not warrant or guarantee that any or all such permits shall be issued.

13. **Leasehold Improvements.** Any and all leasehold improvements made to the Premises which become affixed or attached to the leasehold Premises shall remain the property of the LESSOR at the expiration of termination of this Agreement. Furthermore, any leasehold improvements shall be made only in accordance with applicable federal, state or local codes, ordinances or regulations.

14. **Removal at End of Term.** LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its equipment and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term. If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at the then existing monthly rate until such time as the removal of the equipment and all personal property are completed.

15. **LESSEE Obligations.**

a. LESSEE shall provide internet and basic TV services to the airport at no charge within 12 months of the effective date of this Agreement.

b. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with existing industry standards to any equipment or Airport operation of LESSOR or other lessees of the Premises which existed on the Premises prior to the date this Agreement is executed by the Parties. In the event of any interference, both parties shall negotiate in good faith a reasonable solution; however, the LESSOR retains final control over what action is taken, including but not limited to suspension of operations until the interference is resolved.

c. The LESSEE shall also be responsible for all minor repairs and maintenance of the leasehold Premises, and shall properly maintain the Premises in a good, safe, and clean condition. The LESSEE 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.

16. **Governing Law.** This Agreement shall be governed by the Laws of the State of California, and venue for any litigation shall be located in Nevada County, California.

17. **Successors.** This Agreement shall extend to and bind the heirs, personal representative, successors and assign of the Parties hereto.

18. **Severability**. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall no invalidate the remaining provisions of this Agreement.

19. **Authority**. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

20. **LESSOR's non-liability; Force Majeure**. LESSOR shall not be liable for any injury or damage which may be sustained by the person, goods, equipment, wares, merchandise or property of LESSEE 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 LESSOR.

21. **Signs**. LESSEE 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 LESSOR's Airport Manager, which approval shall not be unreasonably withheld.

22. **Easements**. The Leased Premises are accepted by LESSEE subject to any and all existing easements or other encumbrances. LESSOR 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 LESSOR agrees to exercise said rights in such a manner as will not unreasonably interfere with LESSEE's use of the premises.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

LESSOR:
Race Telecommunications, Inc.

RDG
Signature

CEO
Title

5/30/19
Date

[Signature]
Signature

CFO
Title

5/30/2019
Date

LESSEE:
County of Nevada

RAM
Chairman, Board of Supervisors

Richard Anderson
Print Name

6/18/2019
Date