



RESOLUTION No. 21-360

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 GABRIEL KULP FOR DEVELOPMENT, CONSTRUCTION OF AN AIRCRAFT STORAGE HANGAR ON RAMP 4 AT NEVADA COUNTY AIRPORT (4/5 AFFIRMATIVE VOTE REQUIRED)

WHEREAS, in July 2020, the County Purchasing Agent issued a Request for Proposals (RFP) for hangar development on ramp 4 at the Nevada County Airport; and

WHEREAS, several developers were notified of the solicitation and downloaded the RFP documents and one developer (Gabriel Kulp) submitted a timely proposal; and

WHEREAS, an evaluation team made up of Airport and Facilities Maintenance Staff and members of the Airport Commission reviewed the proposal using the criteria set forth in the RFP; and

WHEREAS, Resolution 20-460 the County entered into an Exclusive Negotiation Agreement with Gabriel Kulp to enter into a Long-Term Lease Agreement; and

WHEREAS, County Senior Staff and the Airport Manager have negotiated a lease agreement acceptable to the lessee, County Senior Staff, Airport Manager, Risk Manager and County Counsel for the development and construction of a privately owned aircraft storage hangar on ramp 4 at the Nevada County Airport; and

WHEREAS, the leased property is exempt surplus land under Government Code Sections 54221(f)(B)(i), (f)(G) because it is: (1) less than 5,000 square feet in area and is not contiguous to land owned by the County that is used for open-space or affordable housing purposes; and (2) subject to valid legal restrictions that are not imposed by the County and that would make housing prohibited; and

WHEREAS, California Government Code Section 25536 permits the Board of Supervisors by a four-fifths vote to lease County real property devoted to or held for ultimate use for airport purposes; and

WHEREAS, the leased property will be devoted to an airport purpose, specifically to the construction of and use as an aircraft storage hangar; and

WHEREAS, the Nevada County Airport Commission endorses entering a ground lease with Gabriel Kulp, for the hangar development for a period of forty-one (41) years and 5 months commencing August 10, 2021 and ending on December 31, 2062.

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 Gabriel Kulp, for approximately 3,500 square feet of property located on ramp 4 of the Nevada County Airport

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 10th day of August, 2021, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By:



Dan Miller, Chair

8/10/2021 cc: Airport*
AC* (Hold)

2/18/2022 cc: Airport*
AC* (release)

Nevada County Airport Ground Lease

This Ground Lease is executed this 10th day of August 2021, by Gabriel Kulp of Grass Valley, 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 on ramp four of the Nevada County Airport at 13083 John Bauer Avenue, Grass Valley, Nevada County, California, 95945 and being described as an approximate 50' by 70' parcel containing approximately 3,500 square feet (the "Premises") for LESSEE's aircraft storage hangar.

2. **Terms.**

a. **Term.** The term of this lease shall be for FORTY-ONE (41) years and FIVE (5) months, commencing on August 10th, 2021 and extending through December 31, 2062, unless terminated earlier in accordance with the terms of the Lease.

b. **Termination.** Provided that, after the Commencement Date, (a) if LESSEE shall not have caused construction of the Hangar as contemplated herein to be started within twelve months or (b) if LESSEE shall not have caused said Hangar to be made fully operational within twenty-four months, then in either of those events, LESSOR shall have the unilateral right, at its discretion, to terminate this Lease upon thirty (30) days written notice, unless prior to that date LESSEE, for good cause, has requested and received LESSOR approval of an extension that has not expired. Any delay by LESSOR in exercising such discretion to terminate shall not be deemed a waiver of that right. When LESSEE has properly and timely performed all the obligations set forth in this paragraph, upon demand therefore, LESSOR shall promptly execute a certification of compliance or an estoppel certificate evidencing such compliance by LESSEE.

Provided further, that LESSEE shall have the unilateral right to terminate this Lease at any time upon sixty (60) days prior notice. In the event of unilateral termination ownership of any improvements and any other payments including advance rent revert to or remain the property of LESSOR.

3. **Rent.**

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a. Monthly Rent. As rent for the Premises, the initial annual rent is Two Thousand One Hundred Dollars (\$2,100.00), so that the LESSEE shall pay to LESSOR the sum of 175 Dollars (\$175.00) per month payable on the first day of each month. Rent payments shall commence on Aug 1st, 2022, or upon final inspection of new hangar, whichever occurs first. This "grace period" acknowledges delays and additional costs due to the COVID 19 pandemic.

b. In the event, after receiving notice of default, LESSEE shall fail to pay said rent for a period of more than thirty (30) days, 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.

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 RENT ADJUSTMENTS: The rent will be \$0.60 per sq. ft. per year effective July 27, 2022 with a fixed 3.0% per year escalation of that rate beginning January 1st, 2027 and remaining in effect for the duration of the lease. The adjustments will be rounded to one tenth of one cent. For example. January 1st, 2027 will be $\$.60 \times 1.03 = \$.618$ for 2027. Jan 1, 2028 will be $\$.618 \times 1.03 = \$.63654$ rounded up to \$.637 for 2028.

d. Utility Services. LESSEE shall pay on LESSEE's own account for all utilities and connections used or consumed on the Premises, including but not limited to gas, electricity, garbage disposal, water, sewer disposal and telephone service.

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.

f. Taxes: LESSEE shall pay during the Term, without abatement, deduction, or offset, any and all real and personal property taxes, general and special assessments and other charges (including any increase caused by a change in the tax rate or by a change in assessed valuation) of any description levied or assessed during the Term by any governmental agency or entity on or against the Leasehold Estate and Premises, the Improvements located on the Leasehold, personal property located on or in the Leasehold or Improvements, and the Leasehold. LESSEE shall have the duty of attending to, preparing, making and filing any statement, return, report or other instrument required or permitted by law in connection with the determination, equalization, reduction or payment of any taxes, assessments or other charges that are or may be levied on or assessed against the Leasehold, the Improvements located on the Leasehold, personal property located on or in the Leasehold or Improvements, and the Leasehold.

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 only use the Leasehold and the Premises for the construction and operation of an aircraft storage hangar. LESSEE shall not use or permit the Leasehold or any portion of the Leasehold to be improved, developed, used, or occupied in any manner or for any purpose that is in any way in violation of any valid law, ordinance, or regulation of any federal, state, county, or local governmental agency, body or entity. Furthermore, LESSEE shall not maintain, commit or permit the maintenance or commission of any nuisance as now defined by any statutory or decisional law applicable to the Leasehold or any part of the Leasehold.

LESSEE shall not be permitted to sell, transfer, assign or sub-lease, in whole or in part greater than twenty five percent (25%) to any one individual, any interest in this Lease or in LESSEE's rights hereunder, or to enter into separate Hangar Sub-Leases, without first having received the written consent of the LESSOR through the Airport Manager, which consent shall not be unreasonably withheld. The LESSEE and/or proposed transferee shall disclose promptly to the County the creditworthiness and financial strength of the proposed transferee, including but not limited to its relevant background and experience in leasing.

As a reasonable condition of such consent, LESSOR may require substantial proof of the ability of the purchaser, transferee, assignee or sub-lessee to assume the financial, regulatory, administrative, and enforcement requirements of this Lease, and to respond to all liabilities of LESSEE hereunder contemplated.

Where a separate or individual Hangar Sub-Lease or rental is proposed LESSOR shall require substantial and continued compliance with, and proof of, the following:

- a. The identity of the Hangar Sub-lessee, including, but not limited to, the name, address and telephone number of the Hangar Sub-lessee, as well as such other information related to the ownership, maintenance, and operation of the aircraft as may reasonably be required by LESSOR or by the FAA.
- b. The identity of the resident aircraft(s) to be stored in the sub-leased hangar, including, but not limited to, the registration number, make, model and year of the aircraft.
- c. Proof of all Property and resident aircraft insurance as required by the Nevada County Airport and by the FAA.
- d. The express written agreement between the LESSEE and the hangar Sub-lessee that the Hangar Sub-lessee will comply with all of the requirements sought to be imposed upon the Hangar Sub-lessee by this Lease, and will cooperate with LESSEE in LESSEE's compliance with all of the requirements imposed upon the LESSEE by this Lease; and

Unless released in writing by LESSOR, LESSEE shall continue to remain obligated under all covenants and conditions of this Lease. In furtherance of the foregoing, LESSOR shall not unreasonably withhold his consent to a release of LESSEE of its remaining obligations under this Lease provided LESSEE's proposed assignee has sufficient creditworthiness, financial strength and experience to properly carry out the obligations of LESSEE under this Lease and such proposed assignee agrees to assume all of the obligations of LESSEE under this Lease. Any such sale, transfer, assignment, or sub-lease shall not be valid unless the purchaser, transferee, assignee or sub-lessee shall first assume in writing, all obligations of LESSEE under this Lease.

Any sale, transfer, assignment or sub-lease in violation of this Section shall be for all purposes a default hereunder and a material breach hereof, and shall be cause for termination of this lease and forfeiture of all right, title and interest hereunder or otherwise, if not cured within thirty (30) days of written notice thereof to LESSEE.

7. Indemnification and Insurance.

7.1 Indemnification

a. **LESSEE's Indemnification of LESSOR.** To the fullest extent permitted by law, LESSEE shall, at LESSEE's sole expense, indemnify, defend, and hold harmless the LESSOR, its officers, agents, and employees for any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Lease Agreement by LESSEE and/or its agents, employees, or subcontractors, excepting only loss, injury or damage caused by the

sole negligence or willful misconduct of personnel employed by the LESSOR. It is the intent of the parties to this Lease Agreement to provide the broadest possible coverage for the LESSOR. The LESSEE shall reimburse the LESSOR for all costs, attorney fees, expenses and liabilities incurred with respect to any litigation in which the LESSEE is obligated to indemnify, defend and hold harmless the LESSOR under this Lease Agreement.

b. **LESSOR's Indemnification of LESSEE.** To the fullest extent permitted by law, LESSOR shall, at LESSOR's sole expense, indemnify, defend, and hold harmless the LESSEE, its officers, agents, and employees for any claim, liability, loss, injury or damage caused solely by LESSOR's negligent or willful misconduct in LESSOR's use of the Leased Premises. LESSEE shall utilize the Government Claims Act for any indemnification claim against LESSOR.

7.2 **LESSEE's Liability Coverage Requirements.** LESSEE shall, at LESSEE's sole expense, procure and maintain for the duration of the Lease Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with Lessee's operation and use of the leased premises. Coverages shall be at least as broad as:

a. **Aviation Liability Insurance:** On an "occurrence" basis, including products and completed operations, property damage, bodily injury with limits no less than \$1,000,000 per occurrence.

b. **Property Insurance** against all risk of loss to any LESSEE improvements or betterments at full replacement costs with no coinsurance penalty provision. LESSEE, as loss payee, shall be responsible for restoring or rebuilding the hangar and other improvements or betterments that may be damaged or destroyed.

If the LESSEE maintains broader coverage and/or higher limits than the minimums shown above, the LESSOR requires and shall be entitled to the broader coverage and/or the higher limits maintained by the LESSEE. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the LESSOR.

7.3 **Construction of LESSEE improvements** shall be performed by a contractor and/or subcontractors licensed by the State of California. At all times during the construction and/or repair of LESSEE improvements, LESSEE and LESSEE's contractors shall comply with the licensing and permit requirements of any and all federal, state, municipal or local authorities. At all times during the construction and/or repair of LESSEE improvements LESSEE's contractors and subcontractors shall be the LESSEE's agent. Contractors and subcontractors performing construction operations associated with the LESSEE's improvements shall procure and maintain for the duration of the project insurance against claims for injuries to persons or damages to property

which may arise from or in connection with the performance of the work hereunder by the LESSEE's contractor, his agents, representatives, employees, or subcontractors:

a. **Workers' Compensation and Employer Liability Coverage:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.

b. **Commercial General Liability Insurance (CGL):** Insurance Services Office Form 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, personal injury, and advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

c. **Automobile Liability:** Insurance Services Office (ISO) Form CA 0001 covering Code 1 (any auto), with limits no less than \$2,000,000 per accident for bodily injury and property damage.

d. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the LESSOR requires and shall be entitled to the broader coverage and/or the higher limits maintained by the LESSEE. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the LESSOR.

e. LESSEE shall require and verify that all contractors and subcontractors maintain insurance meeting all requirements stated herein, and Contractors and subcontractors shall ensure that County is an additional insured on insurance required from contractors and subcontractors. For CGL coverage, contractors and subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

7.4 **Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions:

a. **Additional Insured Status:** The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of the work or operations performed by or on behalf of the LESSEE including materials, parts, or equipment furnished in connection with such work or operations. General Liability coverage can be provided in the form of an endorsement to the LESSEE's or contractor's or contractor's subcontractors insurance at least as broad as ISO Form CG 20 10).

b. For any claims related to this Lease Agreement, the LESSEE's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 03 as respects the LESSOR, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the LESSOR, its officers, officials, employees, or volunteers shall be excess of the LESSEE's insurance and shall not contribute with it.

c. **Notice of Cancellation:** each insurance policy required above shall state that coverage shall not be canceled, except with thirty (30) days written notice to LESSOR of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days' notice shall be required for non-payment of premium).

d. LESSEE hereby grants to LESSOR a waiver of any right to subrogation which any insurer of said LESSEE may acquire against the LESSOR by virtue of the payment of any loss under such insurance. LESSEE agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the LESSOR has received a waiver of subrogation endorsement from the insurer.

e. 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.

f. LESSEE shall furnish the LESSOR with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the policies listing all policy endorsement to LESSOR before occupying the premises. However, failure to obtain the required documents prior to the work beginning shall not waive the LESSEE's obligation to provide them. The LESSOR reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

g. LESSOR reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

8. **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.

9. **Notice & Identification:**

LESSEE:
Gabriel Kulp
c/o Ace Welding
12819 Loma Rica Dr.
Grass Valley, CA 95945
(530) 274-8965

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

10. **Governmental Approvals.**

a. LESSEE shall use the Premises for the purpose of constructing an aircraft storage hangar. A temporary security fence consisting of chain link construction be placed around the perimeter of the Premises during the construction phase.

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 follow 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.

11. **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.

12. **Removal at End of Term.** Upon termination of the Lease by expiration of its term or by any earlier termination provided for herein, ownership of all Improvements constructed by or for Lessee, whether permanent or temporary in character, shall automatically become the property of Lessor and shall be surrendered in good condition, reasonable wear and tear excepted, without compensation or any instrument of transfer.

13. **LESSEE Obligations.**

a. 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.

- b. LESSEE shall, at LESSEE's own cost and expense, comply with all applicable statutes, ordinances, regulations, and requirements of all governmental entities, both federal and state and county or municipal, relating to any use and occupancy of the Leasehold (and specifically not limited to any particular use or occupancy by LESSEE), whether those statutes, ordinances, regulations, and requirements are now in force or are subsequently enacted. If any license, permit, or other governmental authorization is required for the lawful use or occupancy of the Premises or Leasehold or any portion of the Premises or Leasehold, LESSEE shall procure and maintain such license, permit, or other governmental authorization as long as the same is required for the lawful use or occupancy of the Leasehold or any portion of the Leasehold according to the terms and conditions required herein

14. **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.

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

16. **Severability.** If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement.

17. **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.

18. **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.

19. **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.

20. **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.

LESSEE:

Gabriel Kulp



Signature




Print Name



Date

LESSOR:

County of Nevada



Signature



Print Name



Date