



111 E. COMMERCIAL STREET
WILLITS, CALIFORNIA 95490
(707) 459-4601 TEL
(707) 459-1562 FAX

**WILLITS CITY COUNCIL
SPECIAL MEETING AGENDA
JANUARY 20, 2015 ♦ 7:00 P.M. ♦ COUNCIL CHAMBERS**

1. **OPENING MATTERS** – a) Call to Order; b) Roll Call

2. **CLOSED SESSION NOTICE**
 - a. Conference with Legal Counsel Pursuant to Government Code §54956.9 – Anticipated Litigation

3. **DISCUSSION AND POSSIBLE ACTION TO DIRECT CITY MANAGER TO SIGN A SUB-LEASE AGREEMENT BETWEEN DAVID BOWEN (DBA SIERRA PACIFIC AVIATION) AND REACH AIR MEDICAL SERVICES**

4. **DISCUSSION AND POSSIBLE ACTION TO DIRECT CITY MANAGER TO AMEND MASTER LEASE AGREEMENT BETWEEN THE CITY OF WILLITS AND DAVID BOWEN (DBA SIERRA PACIFIC AVIATION) FOR COMMERCIAL HANGAR LOCATED AT WILLITS MUNICIPAL AIRPORT (ELLS FIELD)**

5. **ADJOURNMENT**

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Willits City Hall, located at 111 East Commercial Street, Willits, California, not less than 24 hours prior to the meeting set forth on this agenda.

*Dated this 19th day of January, 2015.
Adrienne Moore, City Manager*

AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE

The meeting room is wheelchair accessible and disabled parking is available. If you are a person with a disability and need disability-related modifications or accommodations to participate in this meeting, please contact Adrienne Moore at (707) 459-7120 or Fax (707) 459-1562. Requests for such modifications or accommodations must be made at least two full business days prior to the meeting.

ADDITIONAL MEETING INFORMATION FOR INTERESTED PARTIES

Materials related to an item on this Agenda submitted to the Willits City Council, Planning Commission, or Community Development Agency after distribution of the agenda packet are available for public inspection at City Clerk's office at 111 E. Commercial Street, Willits, during normal business hours.

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this "Sublease") is executed as of the _____ day of _____, 2014, by and between **David Bowen** (the "Sublessor"), and **REACH Air Medical Services, LLC** (the "Sublessee").

RECITALS

WHEREAS, Sublessor and The City of Willits, a Municipal Corporation ("Lessor") are parties to that certain Airport Hangar Rental Agreement dated July, 2013 (as amended, the "Master Lease"), whereby Sublessor leases from Lessor that certain building known as HANGAR 12 ("Hangar"), and the grounds necessary and incidental of the use thereof, all of which is located at the Willits Municipal Airport, County of Mendocino, State of California (the "Airport"); and

WHEREAS, Sublessor desires to sublease to Sublessee, and Sublessee desires to sublease from Sublessor, approximately 400 square feet of office, 100 square feet of hangar space for equipment & tooling storage, as needed hangar space for aircraft storage, and aircraft parking on apron area, constituting a portion of the Master Lease Premises as described and/or depicted on Exhibit "A" hereto (the "Premises"), on the terms set forth herein and subject to the consent of the Lessor.

1. **Sublease of Premises.** Sublessor hereby subleases to Sublessee, and Sublessee hereby subleases from Sublessor, the Premises, for the Term defined in Section 3, at the rental rate described in Section 4, and otherwise upon all of the conditions set forth herein. Sublessee accepts the Premises in their current "AS IS", "WHERE IS" condition, with all faults, without representation or warranty of any kind or nature. Sublessee agrees to comply with all of the requirements of the Master Lease to the same extent as if such Sublessee were the lessee under the Master Lease to the extent arising on or subsequent to the Commencement Date. Sublessee shall abide by, comply in all respects with and fully and completely perform with respect to the Premises, all terms, covenants, restrictions and provisions of the Master Lease that are applicable to the tenant thereunder to the extent arising on or subsequent to the Commencement Date, except to the extent the terms and provisions of this Sublease conflict with the terms and provisions of the Master Lease in which event the terms and provisions of this Sublease shall control. Sublessee shall not take any action or suffer or permit anything to be done which would constitute a default under, or cause a termination of, the Master Lease. Sublessee agrees to promptly provide Sublessor with a copy of any notice received by it pursuant to which the Lessor claims that a breach or default under the Master Lease has occurred.

2. **Use of Premises.** The Premises shall be used and occupied only for the purposes set forth in the Master Lease. Any violation of the terms and provisions of this Section shall constitute an event of default under the terms of this Sublease.

3. **Term.** The term of this Sublease shall commence on _____, 2014 (the "Commencement Date"), and shall continue thereafter on a month-to-month basis (the "Term"). Either party may terminate this Sublease on thirty (30) days' written notice to the other party.

4. **Rental.** Sublessee shall pay to Sublessor as base rent ("Base Rent") under this Sublease per month an amount equal to \$850.00. Said Base Rent shall be paid by Sublessee, in lawful money of the United States of America, in advance, on or before the first (1st) day of each month of the Term hereof, without notice or demand and without deduction, diminution, abatement, counterclaim or set off of any amount for any reason whatsoever, to Sublessor at its address listed below or to such other person or address as Sublessor may notify Sublessee in writing from time to time. Rent for any period during the Term hereof which is for less than one month shall be a pro rata portion of the monthly installment. If Sublessee shall present Sublessor more than twice during the term hereof checks or drafts not honored by the institution upon which they are issued, then Sublessor may require that future payments of rent and other sums thereafter payable be made by certified or cashier's check. If Sublessee fails to pay any Rent on or before ten (10) days following the date such Rent is due, such unpaid rents shall bear interest at twelve percent (12%) per annum from the due date thereof to the date of actual payment.

5. **Utilities.** In exchange for payment of the Rent, including the Base Rent Adjustment, and provided that Sublessee is not in default under the terms of this Sublease, Sublessee shall receive the utilities and services to be furnished by Lessor pursuant to the Master Lease or otherwise obtained by Sublessor with respect to the Master Leased Premises. Sublessee acknowledges and agrees that the Base Rent as described above includes Sublessor's estimate for Sublessee's utility charges at the Premises. If actual utility charges exceed the amount so estimated by Sublessor, Sublessor may increase the Base Rent to cover actual utility charges upon thirty (30) days' prior written notice to Sublessee.

6. **Maintenance.** To the extent of the Tenant's maintenance and repair obligations under the Master Lease and subject to the Lessor's obligations thereunder, Sublessee shall be responsible for repairing any damage to the Premises caused by Sublessee or its employees, agents, representatives or consultants, normal wear and tear and damage resulting from casualty excepted. Sublessor shall reasonably assist Sublessee with protecting and enforcing its rights under the Master Lease. In the event Sublessee has not performed its repair and maintenance obligations within five (5) days after receipt of notice of such failure by Sublessor or Lessor, then each of Sublessor and Lessor shall be entitled to enter the Premises and to perform such repairs and maintenance, and any amounts so expended by Sublessor and Lessor shall be paid by Sublessee within ten (10) days after demand, with interest at a rate of twelve percent (12%) per annum.

7. **Assignment and Subletting.** Sublessee shall not sublet or assign any portion of the Premises or its obligations under this Agreement without the written consent of Sublessor, which consent may be withheld in the Sublessor's reasonable discretion. Sublessee shall remain responsible for its obligations hereunder as a guarantor following any sublease or assignment.

8. **Indemnity From Liens.** Sublessee agrees to indemnify and hold Sublessor harmless from and against any and all mechanic's or other liens or claims for work, labor or

services performed, or for materials furnished, and all costs, damages and expenses in connection therewith, by reason of any act or omission on the part of Sublessee. Sublessee has no right to authorize any work, labor, or material expenditure upon the Premises for which any lien of any nature shall attach to the fee title of the Lessor, and Sublessee agrees promptly to pay in full or bond off, any lien upon the Premises created by Sublessee.

9. **Indemnity.** Sublessee shall save and hold the Sublessor harmless from all liabilities, charges, expenses (including reasonable counsel fees), and costs on account of (i) all claims for damages by reason of any injury or injuries to any person or property of any kind whatsoever, to the extent occasioned by the negligence or willful actions of Sublessee and (ii) any breach by Sublessee of any of the terms of this Sublease or the Master Lease.

10. **Insurance Coverage.** During the entire Term, Sublessee hereby agrees it will, throughout the term of this Sublease, and any extension hereof, at its own cost and expense, maintain all insurance policies that it would be required to maintain as if it was the tenant under the Master Lease. Each such policy shall list Sublessor as an additional insured. At the request of Sublessor or Lessor, Sublessee shall supply certificates of insurance evidencing compliance with this Section.

11. **Personal Property Taxes.** Sublessee shall pay all taxes, public rates, dues and special assessments of every kind which shall become due and payable or which are assessed against or levied upon any personal property or other items placed upon the Premises by Sublessee and when possible shall cause all such personal property to be assessed and billed separately from the real and personal property of the Sublessor. In the event any of Sublessee's personal property shall be assessed or taxed with the Sublessor's real and/or personal property, Sublessee shall pay to Sublessor, Sublessee's share of such taxes within ten (10) days of delivery to Sublessee by Sublessor of a statement in writing setting forth the amount of such taxes applicable to the Sublessee's personal property.

12. **Real Estate Taxes.** Sublessor shall cause to be paid all ad valorem and other real property taxes, assessments, fees, dues and special assessments for the Premises.

13. **Events of Default.** It is agreed that Sublessee shall be in default if: (a) Sublessee shall fail to pay the rent or any other sums due hereunder within five (5) days after the same shall be due, and such failure shall not have been cured within another five (5) days thereafter; (b) Sublessee shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future federal, state, or other acquiesce in the appointment of any bankruptcy or insolvency trustee, receiver, or liquidator of tenant or of all or any substantial part of its properties or of the Premises; or (c) Sublessee shall violate or fail or neglect to keep and perform any of the covenants, conditions and agreements to be kept or performed on the part of Sublessee and such failure shall not have been cured within fifteen (15) days after Sublessee receives written notice to so do or perform. In the event a default occurs as set forth above, Sublessor may terminate this Sublease, take possession of the Premises and recover any other damages allowable by applicable law.

14. **Laws, Rules and Regulations.** Sublessee, at its sole expense, shall fully comply with and obey all laws, rules and regulations of regularly constituted authorities which govern the use of the Premises.

15. **Casualty.** If the Master Lease is terminated due to fire or other casualty, then this agreement shall terminate as of the date of termination of the Master Lease, except that any covenants and provisions herein that are intended to survive the termination of this Sublease shall so survive.

16. **Inspections.** Sublessee shall permit Sublessor and the agents of Sublessor to enter upon the Premises at all reasonable times, upon reasonable prior notice (except in case of an emergency) for the sole purpose of examining the condition thereof.

17. **Termination.** Sublessee shall surrender and deliver up the Premises at the end of the Term in as good order and condition as the same are now, reasonable use and wear and tear excepted, and otherwise in compliance with the Master Lease.

18. **Attorneys' Fees.** If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, trial or appeal thereon shall be entitled to its reasonable attorneys' fees to be paid by the losing party as fixed by the court in the same or separate suit, and whether or not such action is pursued to decision or judgment. If suit is brought to enforce any term or condition of this Sublease, the prevailing party shall be entitled to its costs and reasonable attorneys' fees.

19. **Holding Over.** Should Sublessee, with or without the express or implied consent of Sublessor, continue to hold and occupy the Premises after the expiration of the term of this Sublease, such holding over beyond the term, and the acceptance or collection of rent by Sublessor, shall operate and be construed as creating a tenancy from month-to-month at one hundred fifty percent (150%) of the amount of Base Rent payable from Sublessee to Sublessor during the final month of the term hereof and not for any other term whatsoever, but the same may be terminated by Sublessor by giving Sublessee thirty (30) days' written notice thereof, and at any time thereafter Sublessor may re-enter and take possession of the Premises, any rule in law or equity to the contrary notwithstanding. Sublessee shall also indemnify and hold harmless Sublessor for any and all costs, expenses, liabilities, obligations, fees, fines, penalties and damages for which Sublessor may incur or be liable for under the terms of the Master Lease due to the holding over by Sublessee beyond the term of the Sublease.

20. **Waivers.** No waiver of any default or breach of any covenant, agreement or condition of this Sublease shall be construed to be a waiver of the rights as to any future default or breach by Sublessee or Sublessor. No payment by Sublessee or receipt by Sublessor of a lesser amount than the monthly installments of rent due hereunder shall be deemed to be other than on account of the earliest stipulated rent nor shall any endorsement or statement on any check or letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Sublessor may accept such check for payment without prejudice to Sublessor's right to recover the balance of such rent or to pursue any other remedy provided herein.

21. **Remedies to be Cumulative.** The remedies available to the parties under the terms of this Agreement and in law or equity shall be cumulative and the exercise of any remedy shall not constitute an election of remedies.

22. **Notice.** Any notice, demand, request, consent, approval or communication under this Sublease shall be in writing and shall be deemed duly given or made: (i) five (5) days after such writing is sent via United States mail, postage prepaid, addressed to Sublessor or Sublessee (as the case may be) at the addresses provided below; or (ii) when such writing is delivered personally to Sublessor or Sublessee (as the case may be) at the addresses provided below; or (iii) one day after such writing is sent via reputable overnight express courier for next business day delivery, with all charges prepaid, to Sublessor or Sublessee (as the case may be) at the addresses provided below. All such notices shall be sent to the following addresses:

If to Sublessor: David Bowen
1300 Poppy Drive
Willits CA 95490

If to Sublessee: REACH Air Medical Services
451 Aviation Blvd. #101
Santa Rosa CA 95403
Attn: Facilities Manager

Either party may hereafter and from time to time designate in writing a different address for the mailing of notices.

23. **Captions.** The paragraph captions in this Sublease are for convenience only and shall have no effect upon the terms and provisions of this Sublease.

24. **No Joint Venture.** Nothing contained in this Sublease shall be deemed or construed to create the relationship of principal and agent or of partnership or joint venture or of any association whatsoever between Sublessor and Sublessee, except that of Sublessor and Sublessee.

25. **Quiet Enjoyment.** Sublessor represents that it has good right and authority to sublease the Premises (subject to the terms of the Master Lease) and that Sublessee shall quietly enjoy the Premises so long as it complies with the terms and conditions of this Sublease and the Master Lease.

26. **Severable Provisions.** The provisions of this Sublease shall be severable and if any provisions shall be invalid or void or unenforceable in whole or in part for any reason, the remaining provisions shall remain in full force and effect.

27. **Entire Agreement.** This Sublease and the other agreements executed and delivered contemporaneously herewith contain the entire agreement of the parties and supersede

any and all prior agreements between the parties, written or oral, with respect to the subject matter contemplated hereby. This Sublease may not be changed or terminated orally, but may only be changed by an agreement in writing signed by the party or parties against whom enforcement of any waiver, change, modification, extension, discharge or termination is sought.

28. **Counterparts.** This Sublease may be executed in multiple counterparts, and by facsimile or other electronic means, and each of which, when so executed, shall be deemed to be an original, and such counterparts shall, together, constitute and be one and the same instrument.

29. **Binding Effect.** This Sublease shall be binding and shall inure to the benefit of the parties hereto, and their respective heirs, legatees, executors, administrators, successors and assigns. This provision shall not be deemed to grant any right to assign this Sublease or sublet the Premises or any portion thereof other than as specifically set forth herein.

30. **No Rule of Construction.** The parties acknowledge that this Sublease was initially prepared by Sublessor solely as a convenience and that all parties hereto, and their counsel, have read and fully negotiated all the language used in this Sublease. The parties acknowledge that, because all parties and their counsel participated in negotiating and drafting this Sublease, no rule of construction shall apply to this Sublease which construes ambiguous or unclear language in favor or against any party because such party drafted this Sublease.

31. **Exhibits.** All Exhibits and documents referred to in or attached to this Sublease are integral parts of this Sublease as if fully set forth herein, and all statements appearing therein shall be deemed disclosed and relied upon for all purposes and not just in connection with the specific representation to which they are explicitly referenced.

32. **Waiver of Subrogation.** Anything in this Sublease to the contrary notwithstanding, Sublessor and Sublessee each hereby waive any and all rights of recovery, claims, actions, or causes of action against the other, its agents, officers, or employees, for any loss or damage that may occur to the Premises, or any improvements thereto, or to the Building, or any improvements thereto, or any personal property of such party therein, by reason of fire, the elements, or any other cause to the extent that such rights of recovery, claim, action, or causes of action are or would be covered by insurance required under this Sublease (regardless of whether or not the party required to carry such insurance in fact carries such insurance), regardless of cause or origin, including negligence of the other party hereto, its agents, officers, or employees, and covenants that no insurer shall have any right of subrogation against such other party.

33. **Condemnation.** Sublessee shall have no claim to any condemnation award, except any award specifically for the moving and relocation expenses of Sublessee.

34. **Subordination of Sublease.** Sublessee agrees that this Sublease is and shall be subordinate to any ground lease, mortgage, deed of trust, of any other hypothecation for security which has been placed or hereafter is placed upon the property upon which the Premises are located, and such subordination is and shall be effective without any further act by Sublessor. Sublessee agrees to execute, within ten (10) days after request is made by Sublessor, such

documents to evidence this subordination and such estoppel letters as Sublessor may reasonably request.

35. **Fixtures and Equipment.** Upon the termination of this Sublease, Sublessee may remove from the Premises any and all movable trade fixtures, furniture and similar items of personal property which it may have placed in or on the Premises at its own cost and expense, provided that after such removal Sublessee restores the Premises to the same condition it was in prior to such removal. All equipment and items affixed to the Premises shall become the property of the Sublessor or Lessor, as applicable.

36. **Transfer of Sublessor's Interest.** In the event of any transfer or transfers of Sublessor's interest in the Premises or in the real property of which the Premises are a part, the transferor shall be automatically relieved of any and all obligations and liabilities on the part of Sublessor accruing from and after the date of such transfer.

37. **Compliance With Laws.**

A. Sublessee will cause all activities in the building in which the Premises are located, and all storage, treatment and disposal of any waste connected with any activity of Sublessee in the Premises to be conducted in compliance with all environmental laws and requirements. Sublessee will cause all permits, licenses and approvals to be obtained that are necessary for its tenancy and operation of its business activities and will cause all notifications to be made as required by environmental laws and requirements in connection with the Premises and the activities conducted thereon.

B. During the term of this Sublease, Sublessee will not utilize any hazardous substances on the Premises or within the Building and will not permit any contamination which may require remediation under any applicable law. In particular, but not in limitation of the foregoing, Sublessee agrees not to dispose of any hazardous wastes or substances within the sewerage system of the Sublessor. For purposes of this Sublease, the term "hazardous substances" or "hazardous wastes" means "hazardous substances" as defined in or pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as may be amended from time to time, and regulations promulgated thereunder; together with all "regulated substances" or "hazardous waste" within the meaning of the federal Resource Conservation and Recovery Act of 1976, as may be amended from time to time, and regulations promulgated thereunder; together with any oil, petroleum products, and their byproducts; together with any substance which is or becomes regulated by any federal, state, or local governmental authority.

C. Sublessee hereby agrees to defend, indemnify and hold Sublessor harmless of and from any and all losses, damages, claims, costs, fees, penalties, charges, taxes, fines or expenses including reasonable attorneys' fees and legal assistants' fees, arising out of any claim asserted by any person, entity, agency, organization or body against Sublessor, as a result of breach of Sublessee's covenants, warranties and representations contained in this Sublease with regard to hazardous substances or hazardous wastes. This indemnity includes, but is not limited to, any losses, damages, claims, costs, fees, penalties, charges, assessments, taxes, fines or

expenses, under any applicable law, rule, code or regulation. This indemnity is in addition to and is not to be constructed as a limitation of any other indemnity under this Sublease.

D. Sublessee agrees that it shall be fully liable for all costs and expenses related to the use, storage and disposal of hazardous substances and hazardous materials kept on the Premises by Sublessee, and Sublessee shall give immediate notice to Sublessor of any violation or potential violation of the provisions of this Section.

38. **Alterations.** Sublessee may not make any changes, additions, alterations, improvements or additions to the Premises or attach or affix any articles thereto without Sublessor's prior written consent (and, to the extent required under the Master Lease, the consent of Lessor), which shall not be unreasonably withheld, conditioned, or delayed as to Sublessor. All alterations, additions, or improvements which may be made by Sublessee upon the Premises (except unattached trade fixtures and office furniture and equipment owned by Sublessee) shall not be removed by Sublessee, but shall become and remain the property of the Sublessor or Lessor, as the case may be, unless otherwise agreed at the time of installation. If Sublessee shall make any alterations, improvements or additions to the Premises after the Commencement Date, Sublessor may require Sublessee, at the expiration of this Sublease, to restore the Premises to substantially the same condition as existed at the Commencement Date. Any mechanics' or materialmen's lien filed against the Premises or any other property of Sublessor arising out of work done for, or materials furnished to Sublessee shall be discharged, bonded over, or otherwise satisfied by Sublessee within the lesser of ten (10) days or the time period permitted under the Master Lease, at Sublessee's expense. If Sublessee fails to discharge, bond over, or otherwise satisfy any such lien, Sublessor may do so at Sublessee's expense and the amount expended, including reasonable attorneys' fees, by Sublessor in so doing shall be collectible as additional rent and shall be paid by Sublessee within fifteen days after Sublessor submits a bill to Sublessee therefor.

39. **Signage.** Sublessee shall not place, affix or install any signs or other graphics on or to the Premises or the Building without the prior written consent of Lessor pursuant to the Master Lease. Subject to receipt of such consent, any such signs and graphics shall be installed at the sole cost and expense of Sublessee.

40. **Sublessor's Liability.** Sublessor hereby expressly disclaims liability for any consequential, special, indirect or incidental damages involving, relating to or arising under or out of the Sublease or any addendum or amendment thereto. Sublessee, as a material part of the consideration to Sublessor, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises from any cause other than Sublessor's gross negligence, and Sublessee hereby waives all claims in respect thereof against Sublessor.

41. **No Option.** The submission of this Sublease to Sublessee for examination shall not be construed as an offer or a reservation of the Premises and vests no rights in the Sublessee. This Sublease shall become effective only upon proper execution and delivery thereof by both parties.

42. **Governing Law.** This Sublease shall be governed by and construed under the laws of the State of California, without reference to its principles of conflicts of law that would cause the application of a different state to govern.

IN WITNESS WHEREOF, Sublessor and Sublessee have hereunto executed this agreement on the day and year first above written.

SUBLESSOR:

David Bowen

By: _____
Name: _____
Title: _____

SUBLESSEE:

REACH Air Medical Services

By: _____
Name: _____
Title: _____

Acknowledged and consented to:

CITY OF WILLITS

By: _____
Name: _____
Title: _____

EXHIBIT A

Description or Depiction of Premises



**LEASE FOR HANGAR AND RELATED FACILITIES AT
THE WILLITS MUNICIPAL AIRPORT
WILLITS, CALIFORNIA**

This lease is entered into between the City of Willits (City) and David R. Bowen (dba Sierra Pacific Aviation (Lessee), for the Box Hangar at 1300 Poppy Drive, Willits Municipal Airport, Willits, California.

In consideration of the performance of the covenants and conditions contained herein, it is mutually agreed as follows:

1. Leased premises. Lessor hereby leases to Lessee that certain commercial property and the building located thereon, herein referred to as 1300 Poppy Drive, situated in the City of Willits, County of Mendocino, State of California, the area and location of which are more particularly indicated and described in Exhibit A attached hereto.
2. Compensation. Lessee shall make lease payments of \$470.00 per month payable on the first day of each month following the execution of this agreement and continuing thereafter payable on the first day of each succeeding month throughout the term of this lease. Each year following the execution of this agreement the lease payment will automatically increase under this lease pursuant to the following formula: The amount of the increase shall be determined by multiplying the lease payment for June 1 of that year by the percentage which the Consumer's Price Index (CPI), U. S. Bureau of Labor Statistics, U. S. City Average, All Items Indexes, "Urban Wage Earners and Clerical Workers" (CPI-W) for the preceding March increased over the Index for the month of March one (1) year previous. In the event the above mentioned Index is discontinued, the Lessor shall immediately request the Bureau of Labor Statistics of the U.S. Department of Labor to supply a formula for the conversion of the above mentioned Index to a similar Index then available. Thereafter, the lease payment increase shall be computed using that formula and alternate index.

Any monthly payment which is not received by the City of Willits ten (10) days from the due date shall incur interest at the rate of five percent (5%) compounded monthly or a minimum of ten dollars (\$10.00) per month, whichever is greater.

3. Term of lease. The initial term of this lease shall be for three (3) years commencing on the execution of this agreement. Lessor grants Lessee an option to renew this Lease for a period of five (5) years after expiration of its initial term, on the same terms as this Lease but subject to the provisions of paragraph two (2) above. Lessee shall give Lessor written notice of its intention to renew the Lease at least six (6) months prior to expiration of the initial term of this Lease. Lessee's right to renew this Lease is conditioned on Lessee providing Lessor with the written notice set forth herein.
4. Permitted uses. Lessee may use the leased premises for the following purposes:
 - a) Aircraft ground and flight school;
 - b) Certified aircraft charter;
 - c) Certified aircraft rental;

- d) Sale of new and used aircraft;
- e) Maintenance and repair of aircraft;
- f) Sale of aircraft parts and accessories.

Lessee shall provide the following services at the leased premises:

- 1. Maintenance and repair of aircraft;
- 2. Sale of parts and accessories related to aviation.

The failure of Lessee to provide these minimum services shall constitute a material willful breach of this Lease agreement.

Lessee shall not improve or use the leased premises, or any portion thereof, for any other purpose unless such improvement or use is approved in advance in writing by the City.

Nothing contained herein shall be deemed to give Lessee the right to sublease the leased premises without the prior written consent and approval of the City. Such consent and approval shall not be unreasonably withheld, except to the extent that any proposed sublease may be in conflict with other airport operations and for the best public interests of the City.

Nothing contained herein shall be deemed to give Lessee exclusive rights within the meaning of Section 308 of the Federal Aviation Act in connection with any of the uses permitted herein.

- 5. Use of Airport Facilities. In addition to the leased premises designated in Exhibit A hereto, Lessee shall have the Non-exclusive right to the use of the runways and taxiways of the airport, the roadways and landing aids, and any other public facilities provided by City for the convenience of airport customers.
- 6. Utility Service. Lessee shall pay on Lessee's own account for all utilities used or consumed within the leased premises, including, but not limited to, gas, water, electricity, garbage disposal, sewage disposal, and telephone services.
- 7. Taxes, Assessments and Licenses. Lessee 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 personal property, improvements or fixtures installed or belonging to Lessee and located within the leased premises from the time of execution of this Agreement. Lessee shall also pay all licenses or permit fees necessary or required by law for the conduct of his operations.
- 8. Liability Insurance. Lessee, at his/her own cost and expense, shall procure and maintain during his performance under this lease, a policy of Comprehensive General Liability Insurance issued by an insurance company acceptable to City and insuring City, its officers, agents and employees, as additional insured, against loss or liability caused by or connected with the performance of this contract by Lessee, his/her officers, agents, subcontractors and employees in amounts not less than:

- a) One Million Dollars (\$1,000,000) for injury to or death of one person and, subject to such limitation for the injury to or death of one person, not less than Two Million Dollars (\$2,000,000) for injury to or death of two or more persons as a result of any one accident or incident.
- b) One Million Dollars (\$1,000,000) for damage to or destruction of any property of others.
- c) Aircraft Liability

Bodily Injury:	Each Person	<u>\$1,000,000</u>
	Each Occurrence	<u>\$1,000,000</u>
Property Damage:	Each Accident	<u>\$1,000,000</u>
Passenger Liability:	Each Passenger	<u>\$1,000,000</u>
- d) Hangar keeper's Liability: Each Occurrence \$1,000,000

The policies of insurance shall include a provision that the policy shall not be reduced or cancelled without thirty (30) days prior written notice to City and a provision that the insurance provided by the policy shall be primary as to any other insurance available to the additional insured.

- 9. Worker's compensation insurance. Lessee, at his/her own cost and expense, shall procure and maintain during his/her performance of this lease a policy of Worker's Compensation and employer's liability insurance issued by an insurance company acceptable to City for the protection of his/her employees engaged in any work required by this lease.
- 10. Indemnity Agreement. Lessee shall indemnify, defend and hold harmless the City, its officers, agents and employees from any and all claims, losses, damages, injuries and liabilities arising from the death or injury of any person or persons and from the damage or destruction of any property or properties, caused by or connected with the performance of this lease by Lessee, his/her agents, subcontractors or employees.
- 11. Evidence of insurance. Before Lessee shall take possession under this lease Lessee shall deposit a certificate evidencing each of the policies of insurance required by this lease with the City. Each policy of insurance required by this lease shall contain a provision requiring that written notice be given to City at least thirty (30) days prior to cancellation or reduction of coverage. Should any such notice be given, City may terminate this lease if Lessee does not renew the policy or procure a new policy within fifteen (15) days of City's receipt of the thirty day notice.
- 12. Airport regulations. Lessee 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 City, the Federal Aviation Administration, or any other governmental agency having jurisdiction over the subject matter. Lessee 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 airport other than within the leased premises designated in Exhibit A.

13. Fire regulations. Lessee shall at all times comply with all applicable laws, ordinances and regulations pertaining to fire prevention, and shall furnish and keep adequate fire extinguishers in sufficient numbers and in convenient and accessible locations 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.

If Lessee received an inspection notice or a deficiency notice following an inspection by the Little Lake Fire Protection District, Lessee agrees to make any and all corrections in the manner required by said authorities within ten (10) days after receipt of the notice.

14. Maintenance of premises. Lessee shall maintain the leased premises at all times in as neat, orderly and safe condition and Lessee shall provide all janitorial services and supplies and shall provide proper containers for and regular collection of all trash and rubbish materials. Lessee shall return the premises to City at the termination of this lease in as good condition as when leased, ordinary wear and tear excepted. The City shall be the sole judge of the quality of maintenance. If, in the sole opinion of the City, adequate maintenance is not performed, City may send Lessee written notice informing Lessee of the unsatisfactory conditions and demanding Lessee to perform maintenance. If Lessee does not perform such maintenance within ten (10) days, City may perform such maintenance on behalf of Lessee at the Lessee's sole expense, plus ten percent (10%) for administration.
15. Improvements and alterations. Lessee shall not make any improvements or alterations in, on or to the leased premises except upon prior written approval of the Willits Airport Manager after receiving a recommendation from the Willits Airport Commission.
16. 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 lease may thereupon be terminated at the option of the City, but should City elect to repair or reconstruct said premises, it shall do so as quickly as possible and Lessee shall in no case be entitled to compensation or damages on account of any annoyance or inconvenience in making said repairs or on account of such destruction.
17. Signs. Lessee shall not erect or 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 Willits Airport Manager after receiving a recommendation from the Willits Airport Commission.
18. Access by City. Lessee agrees to permit the City or its authorized agents free access to the leased premises at all reasonable times for the purpose of inspection or for making necessary improvements or repairs.
19. Assignments. Lessee shall not either directly or indirectly give, assign, hypothecate, encumber, transfer or grant control of this lease or any interest, right or privilege herein, or sublet the whole or any portion of the leased premises or license the use of the same in whole or in part without the prior written consent of the City. Except as provided herein, such consent and approval shall not be unreasonably withheld, except to the extent that any proposed sublease may be in conflict with other airport operations and/or the best

public interests of the City. As a condition on any assignment, Lessee expressly agrees that the City shall have the right to renegotiate paragraphs 2, 4, 8 and 21 of this Agreement with the prospective assignee. If the City and the prospective assignee cannot reach agreement, the City reserves the right not to approve the assignment. Any breach of the provisions of this paragraph shall give the City the right to terminate this lease immediately.

20. Easement. The leased premises are accepted by Lessee subject to any and all existing easements or other encumbrances. City reserves the right to establish, grant or utilize easements or right-of-ways over, under, along and across said leased premises for utilities, pipelines, drains or access as it may deem advisable for the public good; provided, however, that the City agrees to exercise said rights in such a manner as will not to the greatest extent practicable, unreasonably interfere with Lessee's use of the premises.

21. Default and right to terminate.

a) If Lessee shall fail to perform, keep or observe any of the terms, conditions, or covenants as set for the in this lease, other than payments of lease and percentages or the providing of minimum services as provided herein above, City 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, City may give notice of its election to terminate this lease. Such election to terminate shall not be construed as a waiver of any claim City may have against Lessee consistent with such termination.

If, however, any default is of such a nature that it cannot be physically remedied within thirty (30) days, and if Lessee 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, than the period for correction may be extended for such length of time as is determined to be reasonably necessary by the Airport Manager to complete such correction.

b) City shall have the right to terminate this lease upon or within fourteen (14) days of receipt of notice of the occurrence of any one of the following events: The failure to pay lease payments on time or in the amount required by paragraph 2 above; the failure to provide those minimum services set forth in paragraph 4 above, the filing of a voluntary petition in bankruptcy by Lessee; the adjudication of Lessee as bankrupt; the making of a general assignment for the benefit of creditors; a petition or answer seeking an arrangement for the reorganization of Lessee 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 Lessee permanently of the rights, powers and privileges necessary for the proper conduct and operation of the Airport; or the levy of any attachments or execution which substantially interferes with Lessee's operations under this lease and which attachment or execution is not vacated, dismissed, stayed, or set aside within a period of Sixty (60) days.

- c) City shall also have the right to terminate this lease, and Lessee's rights hereunder, upon the voluntary abandonment, vacation, or discontinuance of his/her operations of the Airport for more than fourteen (14) days.
 - d) Upon any termination of this lease, Lessee covenants and agrees to surrender and deliver up the said premises and property peaceably to City immediately upon any such termination, and if said Lessee shall remain on said premises three (3) days after any termination of this lease, said Lessee shall be deemed guilty of an unlawful detention of the premises and shall be subject to eviction and removal, forcibly or otherwise, at any time thereafter, with or without process of law. In the event of the failure of Lessee to remove personal property belonging to him/her on the
 - e) Airport premises within ten (10) days after any termination of this lease, City may remove such personal property and place the same in storage at the expense of Lessee.
22. Expense of enforcement. Lessee agrees to pay all reasonable costs, attorney's fees and expenses, including compensation for the reasonable value of services rendered by the City Attorney in connection with the enforcement of the covenants and agreements of this lease.
23. Non-Discrimination.
- a) Lessee, in the operations to be conducted pursuant to the provisions of this lease and otherwise in its use of the Airport, shall not discriminate against any person or class of persons by reason of race, color, creed, national origin, or sex and shall be bound by provisions of Part 15 or the Federal Aviation Regulations and any amendments thereto which are incorporated by reference as if set forth in full herein. All services and accommodations furnished by Lessee shall be available to the public on fair and reasonable terms without discrimination on the basis of race, creed, color, national origin, or sex. Lessee agrees that the provisions of this paragraph may be enforced by the United States as well as by the City.
 - b) The Lessee for himself/herself, his/her heirs, 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 leased facilities that in the event facilities are constructed, maintained, or otherwise operated on the Airport property for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.
 - c) The Lessee for Himself/herself, his/her personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the lease that:

- (1) No person on the grounds of race, creed color, national origin, or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of leased facilities.
 - (2) In the construction of any improvements on, over, or under such Airport and the furnishing of services thereon, no person on the grounds of race, creed, color, national origin, or sex shall be excluded from participation in, denied the benefits of, or otherwise subject to discrimination.
 - (3) The Lessee Shall use the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- d) That in the event of breach of any of the above nondiscrimination provisions, City shall have the right to terminate this lease and re-enter and repossess said land and the facilities thereon and hold the same as if said lease had never been made or issued. This provision does not become effective until the procedures of C.F.R. 49, Part 21 are followed and completed including expiration of appeal rights.
 - e) Lessee shall furnish his/her accommodations and/or related facilities at fair, reasonable and not unjustly discriminatory prices for each unit or service; provided, that the lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions at Lessee's discretion.
 - f) Noncompliance with the foregoing provision shall constitute a material breach thereof and in the event of such noncompliance the City shall have the right to terminate this lease and the estate hereby created without liability therefore or at the election of the City or the United States, either or both said Governments shall have the right to judicially enforce these provisions.
 - g) Lessee agrees that he/she shall insert the above five (5) provisions in any lease by which said Lessee grants a right of privilege to any person, firm or corporation to render accommodations and/or services to the public on the premises herein leased.
 - h) Lessee assures that he/she will undertake an affirmative action program as required by C.F.R. 14, Part 152, Subpart3, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities on these grounds from participating in or receiving the services or benefits of any program or activity covered by this lease subpart. The Lessee assures that he/she will require that any covered sub-organizations provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by C.F.R. 14, Part 1512, Subpart E, to the same effect.

24. Miscellaneous.

- a) The City reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or view of the Lessee and without interference or hindrance.

- b) This lease shall be subordinate to the provisions and requirements of any existing or future agreements between the City and the United States, relative to the development, operations or maintenance of the Airport.
- c) There is hereby reserved to the City its successors and assigns, 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 Airport. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace of landing at, taking off from or operation at the Willits Airport.
- d) Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the leased premises, or in the event of any planned modification or alteration of the property including, but not limited to, any present or future building or structure situated on the leased premises.
- e) The Lessee, by accepting this lease, expressly agrees for itself, its successors and assigns that he/she will not erect nor permit the erection of any structure or object, not permit the growth of any tree on the land leased hereunder above the mean sea level elevation as required by State and Federal law. In the event the aforesaid covenants are breached, the City reserves the right to enter upon the premises leased hereunder and to remove the offending structure or object and/or cut the offending tree, all of which shall be at the expense of the Lessee.
- f) Lessee, by accepting this lease, agrees for himself/herself and his/her successors and assigns that he/she will not make use of the leased premises in any manner which might interfere with the landing and taking off of aircraft from the Willits Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the premises hereby leased and cause the abatement of such interference at the expense of the Lessee.
- g) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349a).
- h) This lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.
- i) 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 by or through Lessee in violation of the provision of this lease shall vest any rights in any purported assignee or sub lessee.

- j) No waiver of any breach of a provision of this lease shall be deemed for any purpose to be a waiver of any preceding or succeeding breach of the same or any provision hereof.
- k) 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 lease.
- l) Notices desired or required to be given hereunder or under any law not or hereafter in effect may, at the option of the party giving the same, be given by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope, with postage prepaid, in the United States Post Office, or any substation thereof; or any public letter box; and any such notice and the envelope containing the same shall be addressed to the Lessee at 1300 Poppy Drive, Willits, California 95490, or such other place as may hereinafter be designated in writing by Lessee, and the notices and the envelopes containing the same to the City shall be addressed to the Airport Manager, City of Willits, 111 E. Commercial Street, Willits, California 95490.
- m) This contract may create a possessory interest subject to property taxation and Lessee may be subject to the payment of property taxes levied

25. Laws governing disputes. The parties agree that the law of the State of California will govern all disputes under this lease and determine all rights hereunder.

26. Lessee’s holding over. The parties agree that any holding over by Lessee under this lease, without Lessor’s written consent, shall be a tenancy at will, which may be terminated by Lessor on thirty (30) days written notice.

27. Waste and nuisance. Lessee agrees that he/she will not commit waste on the premises, or maintain or permit to be maintained, a nuisance thereon, or use or permit the premises to be used in an unlawful manner.

CITY OF WILLITS

LESSEE

Adrienne Moore, City Manager

David R. Bowen
dba Sierra Pacific Aviation

Dated: _____

Dated: _____

Approved As To Form:

H. James Lance, City Attorney