



CITY COUNCIL STAFF REPORT

DATE: February 18, 2015

CONSENT AGENDA

SUBJECT: WEST AVIATION SERVICES, INC. NON-EXCLUSIVE OPERATING AND LEASE AGREEMENT FOR EXCLUSIVE USE SPACE

FROM: David H. Ready, City Manager

BY: Department of Aviation

SUMMARY

This action will consider a lease for West Aviation Services; DBA Sierra Aviation Group, which currently provides contract porter, wheelchair, and baggage delivery services for airlines, for space in the ticketing area curbside at Palm Springs International Airport.

RECOMMENDATION:

1. Approve Non-Exclusive Operating and Lease Agreement for Exclusive Use Space with West Aviation Services, Inc., DBA Sierra Aviation Group, for 351 SF effective March 1, 2015, through February 28, 2018, with (two) one-year options at \$877.50 per month.
2. Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

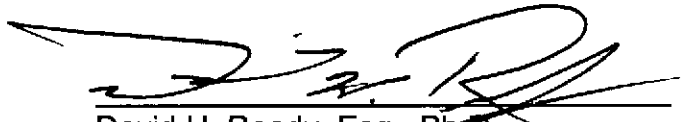
The majority of airlines operating at the Palm Springs International Airport contract with a specialized outside provider for wheelchair, porter, and baggage delivery services to accommodate passengers. For nearly a decade, West Aviation Services, DBA Sierra Aviation Group, has been under contract with the airlines and is leasing space at the Airport, for space adjacent to the ticketing area. Sierra uses this leased space for administrative and employee operations. Also, included in the contract renewal is the City's 30-day "termination for convenience" clause, should the airlines discontinue their contractual relationship with Sierra.

FISCAL IMPACT:

The current rental rate is \$27.48 per square foot; the new rate will be \$30.00 per square foot, which represents a 9.2% increase. This agreement is expected to generate approximately \$10,530 in annual rent for the Airport in the first year, with a Consumer Price Index (CPI) adjustment in each following year of the agreement.



Thomas Nolan, A.A.E.
Executive Director, Airport



David H. Ready, Esq., Ph.D.
City Manager

Attachments: Lease Agreement

WEST AVIATION SERVICES, INC.
NON-EXCLUSIVE OPERATING AND LEASE AGREEMENT
FOR TERMINAL USE SPACE AT
PALM SPRINGS INTERNATIONAL AIRPORT

THIS LEASE ("Lease") is made and entered into this 1st day of March, 2015, by and between the CITY OF PALM SPRINGS, a municipal corporation ("Lessor"), and West Aviation Services, Inc, DBA Sierra Aviation Group, a California Corporation ("Lessee"). City and Lessee may herein be referred to individually as a "Party" and collectively as "Parties."

RECITALS:

- A. Lessor desires to lease terminal use space at Palm Springs International Airport ("Airport") to operate a Commercial Aeronautical Activity, which includes porter, wheelchair services and baggage delivery services for airline passengers.
- B. City believes that the travelers using the City's airport terminal would benefit from these airline related services.

NOW THEREFORE, City and Lessee mutually agree as follows:

AGREEMENT

1.0 LEASE SUMMARY. Certain fundamental lease provisions are presented in this Section and represent the agreement of the parties hereto, subject to further definition and elaboration in the respective referenced Sections and elsewhere in this Lease. In the event of any conflict between any fundamental lease provision and the balance of this Lease, the latter shall control. References to specific Sections are for convenience only and designate some of the Sections where references to the particular fundamental lease provisions may appear.

1.1 Demised Premises. The "Demised Premises" shall refer to that certain property consisting of office space totaling approximately 351 square feet, located in the Palm Springs International Airport terminal building and more particularly described in Exhibit "A" attached hereto.

1.2 Lease Term. The term of this lease shall commence on March 1, 2015 and shall terminate on February 28, 2018.

1.3 Extension Option. Two (2), one (1) year options available at the City & Lessee's discretion.

1.4 Lease Rental Payments. Rental payment due on the first of each month of the agreement in the amount of \$877.50. Current exclusive Use Space Rate

of \$30.00 per square foot per annum. The monthly rent shall be adjusted February 1st of each year in an amount equal to the increase in the consumer price index for All-Urban Consumers (CPI-U) in the Los Angeles-Riverside-Orange County, CA for the month of November preceding the adjustment date as compared to the preceding base index. City shall send written notice of the applicable rent increase of each successive year along with documentation evidencing the calculation used to arrive at the figure.

1.5 Extension Options. Extension options in this lease as noted in Section 1.2.

1.6 Security Deposit. N/A

1.7 Use of Premises. Lessee shall use and occupy the Premises for the purpose of administrative services/office/employee workspace related to the Commercial Aeronautical Activities

Lessor: City of Palm Springs
Attn: City Manager
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Cc: Palm Springs International Airport
3400 E. Tahquitz Canyon Way, Suite OFC
Palm Springs, CA 92262

2.0 TERM

2.1 Term. The term of this Lease shall commence on the date specified in Section 1.3 ("Commencement Date") and shall continue for the period specified therein unless earlier terminated as provided herein.

2.2 Reserved.

2.3 Time. Time is of the essence of this Lease.

2.4 Force Majeure. If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided such party provides the other party written notice of such event within ten (10) days of the commencement of the prompt payment of any rental or other charge required of Lessee hereunder except as may be expressly provided elsewhere in this Lease.

2.5 Termination by Lessor. Lessor shall have the right to terminate this Lease by providing Lessee with at least thirty (30) days advance written notice. If Lessor terminates this Lease as provided in this Section, Lessee hereby waives any

right to receive any other compensation from Lessor, including, but not limited to, the value of Lessee's leasehold interest, loss of goodwill and relocation benefits, inverse condemnation or the taking of property and Lessor shall have no obligation to pay Lessee therefor.

2.6 Holding Over. Any holding over with the consent of Lessor, express or implied, shall be construed to be a tenancy from month-to-month, cancelable upon thirty (30) days' written notice, and at a monthly rental equal to one hundred and fifty percent (150%) of the monthly rental in effect at the expiration of the contract services agreement.

2.7 Termination by Lessee. Lessee shall have the right to terminate this Lease by providing Lessor with at least thirty (30) days advance written notice. If Lessee terminates this Lease as provided in this Section, Lessee hereby waives any right to receive any other compensation from Lessor, including, but not limited to, the unamortized value of Lessee's leasehold improvements, Lessee's leasehold interest, loss of goodwill and relocation benefits, inverse condemnation or the taking of property and Lessor shall have no obligation to pay Lessee therefor.

3.0 RENTAL

3.1 Monthly Rental. Lessee shall pay to Lessor, during the term of this Lease from and after the Commencement Date, as monthly rental ("Monthly Rental") for the Premises the sum specified in Section 1.4 hereof, which sum shall be paid in advance on the first day of each calendar month. In the event the Commencement Date does not occur on the first day of a calendar month, the Lessee shall pay the rental for the fractional month on the Commencement Date on a per diem basis calculated on a thirty (30) day month. All rental to be paid by Lessee to Lessor shall be in lawful money of the United States of America and shall be paid without deduction or offset, prior notice or demand, at the address designated in Section 1.7 hereof.

3.2 Cost of Living Adjustment. Cost of living adjustment during the agreement as specified in Section 1.4.

3.3 Additional Rental. For the purposes of this Lease, all monetary obligations of Lessee under this Lease, including but not limited to, insurance premiums, property taxes, maintenance expenses, late charges and utility costs shall be deemed to be additional rental.

3.4 Real Property Taxes. Unless Lessee qualifies for an exemption, in addition to all rentals herein reserved, Lessee shall pay, at the election of Lessor, either directly to the taxing authority or to Lessor, annual real estate taxes and assessments levied upon the Premises (including any possessory interest taxes), as well as taxes of every kind and nature levied and assessed in lieu of, in substitution for, or in addition to, existing real property taxes. Such amount shall be paid on the date that is twenty (20) days prior to the delinquent date or, if Lessor receives the tax bill, ten (10) days after receipt of a copy of the tax bill from Lessor, whichever is later. Even though the term of this Lease has expired and Lessee has vacated the Premises, when the final

determination is made of Lessee's share of such taxes and assessments, Lessee shall immediately pay to Lessor the amount of any additional sum owed.

3.5 Personal Property Taxes. Unless Lessee qualifies for an exemption from property taxes or possessory interest taxes due to its non-profit status, during the term hereof, Lessee shall pay, prior to delinquency all taxes assessed against and levied upon fixtures, furnishings, equipment and all other personal property of Lessee contained in the Premises, and when possible Lessee shall cause said fixtures, furnishings, equipment and other personal property to be assessed and billed separately from the real property of Lessor.

3.6 Utilities. All cost of water, gas, heat, electricity, and sewer, and all other services used in, upon, or about the Premises shall be paid by the City. Lessee shall pay all telephone, internet, cable television, satellite, broadband and other telecommunications services.

3.7 Late Payment. Lessee hereby acknowledges that late payment by Lessee to Lessor of rental or other sums due hereunder will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which is extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, any payment of any sum to be paid by Lessee not paid within ten (10) days of its due date, shall be subject to a five percent (5%) late charge. Lessor and Lessee agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Lessor for its loss suffered by such late payment by Lessee. Sixty (60) days before the anniversary date each year the City shall notify the Lessee of any outstanding delinquency, which must be cured prior to the anniversary date or the City may exercise its right of termination under section 2.5 and terminate the lease.

3.8 Interest. Any sum to be paid pursuant to the terms of this Lease not paid when due shall bear interest from and after the due date until paid at a rate equal to three percent (3%) over the reference rate being charged by Bank of America, N.A. from time to time during such period, so long as the rate does not exceed the maximum non-usurious rate permitted by law in which case interest shall be at the maximum non-usurious rate allowed by law at the time the sum became due.

4.0 USE OF THE PREMISES

4.1 Permitted Use. The Lessor hereby leases to Lessee and Lessee leases from Lessor the Premises with appurtenances as defined herein, for the purpose of conducting thereon only the use specified in Section 1.7 of this Lease and for no other use. No signs posters or similar devices shall be erected, displayed or maintained by the Lessee in view of the general public without advance written notice of the Airport Executive Director.

4.2 Prohibited Use. The operations of the Lessee shall be conducted in an orderly and proper manner and so as not to annoy, disturb, or be offensive to others at the Airport. No solicitation of the public is allowed. Tenant shall provide uniforms and its employees shall wear badges or other means of identification.

4.3 Compliance with Laws. Lessee shall, at his own cost and expense, comply with all of the requirements of all municipal, state and federal authorities now in force or which may hereafter be in force pertaining to the use of the Premises, and shall faithfully observe in said use all municipal ordinances, including, but not limited to, the General Plan and zoning ordinances, state and federal statutes, or other governmental regulations now in force or which shall hereinafter be in force. Lessee's violation of law shall constitute an incurable default under this Lease. The judgment of any court of competent jurisdiction, or the admission of Lessee in any action or proceeding against Lessee, whether Lessor is a party thereto or not, that Lessee has violated any such order or statute in said use, shall be conclusive of that fact as between the Lessor and Lessee.

Lessee shall not engage in any activity on or about the Premises that violates any Environmental Law, and shall promptly, at Lessee's sole cost and expense, take all investigatory and/or remedial action required or ordered by any governmental agency or Environmental Law for clean-up and removal of any contamination involving any Hazardous Material created or caused directly or indirectly by Lessee. The term "Environmental Law" shall mean any federal, state or local law, statute, ordinance or regulation pertaining to health, industrial hygiene or the environmental conditions on, under or about the Demised Premises, including, without limitation, (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Sections 9601 et seq.; (ii) the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Sections 6901 et seq.; (iii) California Health and Safety Code Sections 25100 et seq.; (iv) the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 et seq.; (v) California Health and Safety Code Section 25359.7; (vi) California Health and Safety Code Section 25915; (vii) the Federal Water Pollution Control Act, 33 U.S.C. Sections 1317 et seq.; (viii) California Water Code Section 1300 et seq.; and (ix) California Civil Code Section 3479 et seq., as such laws are amended and the regulations and administrative codes applicable thereto. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined or listed as a "hazardous waste", "extremely hazardous waste", "restrictive hazardous waste" or "hazardous substance" or considered a waste, condition of pollution or nuisance under the Environmental Laws; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos; and/or (iv) substances known by the State of California to cause cancer and/or reproductive toxicity. It is the intent of the parties hereto to construe the terms "Hazardous Materials" and "Environmental Laws" in their broadest sense. Lessee shall provide all notices required pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code Section 25249.5 et seq. Lessee shall provide prompt written notice to Lessor of the existence of Hazardous Substances on the premises and all notices of violation of the Environmental Laws received by Lessee.

4.4 Operations for the benefit of Public. Lessee agrees to operate the Demised Premises for the use and benefit of the Public, to make available all Lessee facilities to the public, without discrimination on the grounds of sex, race, color, or national origin. Nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation

Act of 1958, as amended.

4.5 Public Facilities, Ingress, Egress and Quiet Enjoyment. City agrees that Lessee, upon payment of the rental hereunder and performing the covenants of the Lease, may quietly have, hold and enjoy the Demised Premises during the term of the Lease, and that Tenant shall have the non-exclusive right to use, in common with others, the public at the Airport and Tenant shall have a reasonable right of ingress and egress from the Demised Premises and the public facilities for its employees, visitors and customers.

4.7 Hours of Business. Subject to the provisions of Section 7.0 hereof, Lessee shall continuously during the entire term hereof conduct and carry on Lessee's business in the Premises and shall keep the Premises open for business and cause Lessee's business to be conducted therein during the Lessee's usual business hours of each and every business day.

4.8 Rules and Regulations. Lessee shall faithfully observe and comply with the rules and regulations that Lessor shall from time to time promulgate and/or modify. The rules and regulations, if any, are attached hereto as Exhibit "B" ("Rules and Regulations") and Exhibit "C" (Lease Provisions of the Federal Aviation Administration and Transportation Security Administration). Any amendment or modification of the Rules and Regulations shall be binding upon the Lessee upon delivery of a copy of such amendment or modification to Lessee. Lessor shall not be responsible to Lessee for the nonperformance of any said rules and regulations by any other Lessees or occupants. The Rules and Regulations shall apply and be enforced as to all Lessees in the Premises on a uniform basis.

5.0 ALTERATIONS AND REPAIRS

5.1 Alterations and Fixtures. Lessee shall not make, or suffer to be made, any alterations to the Premises, or any part thereof, without the prior written consent of Lessor. Any alterations to the Premises, except movable furniture and trade fixtures, shall become at once a part of the realty and shall at the expiration or earlier termination of this Lease belong to Lessor. Lessee shall not in any event make any changes to the exterior of the Premises. Any such alterations shall be in conformance with the requirements of all municipal, state, federal, and other governmental authorities, including requirements pertaining to the health, welfare or safety of employees or the public and in conformance with reasonable rules and regulations of Lessor. Any damage occasioned by such removal shall be repaired at Lessee's expense so that the Premises can be surrendered in a good, clean and sanitary condition as required by Section 5.2 hereof. Any and all fixtures and appurtenances installed by Lessee shall conform with the requirements of all municipal, state, federal, and governmental authorities, including requirements pertaining to the health, welfare, or safety of employees or the public. Upon completion of construction of the alterations, Lessee shall submit to Lessor evidence satisfactory to Lessor of the cost of said alterations ("Improvement Costs").

5.2 Maintenance and Repair. Lessee shall, subject to Lessor's obligations hereinafter provided, at all times during the term hereof, and at Lessee's expense, keep, maintain and repair the Premises, and other improvements within the Premises in good and sanitary order, condition, and repair (except as hereinafter provided). Lessor should be notified immediately of any necessary maintenance and repair of any store front, doors, window casements, walls, glazing, heating and air conditioning system, plumbing, pipes, electrical wiring and conduits. Lessee hereby waives all right to make repairs at the expense of Lessor, and Lessee hereby waives all rights provided for by the Civil Code of the State of California to make said repairs. By entering into the Premises, Lessee shall be deemed to have accepted the Premises as being in good and sanitary order, condition and repair. Lessee agrees on the last day of said term, or sooner termination of this Lease, to surrender the Premises with appurtenances, in the same condition as when received and in a good, clean and sanitary condition, reasonable use and wear thereof and damage by fire, act of God or by the elements excepted. Lessee shall periodically sweep and clean the sidewalks adjacent to the Premises, as needed. Upon Lessee's possession of the Premises, Lessee shall be deemed to have accepted the Premises as being in good condition and repair.

Lessee agrees that it will not, nor will it authorize any person to, go onto the roof of the building of which the Premises are a part without the prior written consent of Lessor. Said consent will be given only upon Lessor's satisfaction that any repairs necessitated as a result of Lessee's action will be made by Lessee at Lessee's expense and will be made in such a manner so as not to invalidate any guarantee relating to said roof.

5.3 Free from Liens. Lessee shall keep the Premises free from any liens arising out of any work performed, material furnished, or obligation incurred by Lessee or alleged to have been incurred by Lessee.

6.0 INSURANCE AND INDEMNIFICATION

6.1 Insurance. Prior to its ability to access the Demised Premises, Lessee will provide City with proof of insurance, at Tenant's sole cost and expense, to remain in full force and effect during the entire term of this lease. The following policies of insurance shall be maintained:

6.2 Insurance Provided by Lessee.

Comprehensive or Commercial Form General Liability Insurance shall include the following minimal limits:

- a. General Liability including operations, products and completed operations \$1,000,000 each occurrence for bodily injury, personal injury and property damage/\$2,000,000 aggregate
- b. Automobile \$1,000,000 each accident; \$1,000,000 uninsured motorist

- c. Workers Compensation \$1,000,000 each accident/\$1,000,000 each employee for disease.
- d. Excess Liability/Umbrella Form \$2,000,000.

6.3 An Additional Insured Endorsement is required for the General Liability Insurance policy naming the City, its officers, employees, and agents as additional insured on the policy.

6.4 The policies shall provide for a 30 day notice to the City prior to termination, cancellation, or change.

6.5 The general liability and excess liability/umbrella policies must be endorsed to provide that each policy shall apply on a primary and noncontributing basis in relation to any insurance or self-insurance, primary or excess, maintained by or available to the City or its officials, employees, and agents.

6.6 The Workers Compensation policy shall contain the insurer's waiver of subrogation (or waiver of right of recovery) in favor of City, its elected officials, officers, employees, and agents.

6.7 If, in the City's opinion, the minimum limits of the insurance herein required have become inadequate during the period of this Agreement, the Concessionaire shall increase such minimum limits by reasonable amounts on request of the City provided that said coverage is available at standard commercial rates.

7.0 ABANDONMENT AND SURRENDER

7.1 Abandonment. Lessee shall not vacate or abandon the Premises at any time during the term of this Lease. If Lessee shall abandon, vacate or surrender the Premises or be dispossessed by process of law, or otherwise, any personal property belonging to Lessee and left on the Premises shall be deemed to be abandoned, at the option of Lessor, except such property as may be mortgaged to Lessor.

7.2 Surrender of Lease. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Lessor, terminate all or any existing subleases or sub-tenancies, or may, at the option of Lessor, operate as an assignment to it of any or all of such subleases or sub-tenancies.

8.0 DAMAGE AND DESTRUCTION OF PREMISES. In the event of (a) partial or total destruction of the Premises during the term of this Lease which requires repairs to the Premises, or (b) the Premises being declared unsafe or unfit for occupancy by any authorized public authority for any reason other than Lessee's act, use or occupation, which declaration requires repairs to the Premises, Lessor shall forthwith make said repairs provided Lessee gives to Lessor thirty (30) days written notice of the necessity therefor. No such partial destruction (including any destruction necessary in order to

make repairs required by any declaration made by any public authority) shall in any way annul or void this Lease except that Lessee shall be entitled to a proportionate reduction of Monthly Rental while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs shall interfere with the business carried on by Lessee in the Premises. However, if during the last two (2) years of the term of this Lease the Premises are damaged as a result of fire or any other insured casualty to an extent in excess of twenty five percent (25%) of the then replacement cost (excluding foundations), Lessor may within thirty (30) days following the date such damage occurs, terminate this Lease by written notice to Lessee. If Lessor, however, elects to make said repairs, and provided Lessor uses due diligence in making said repairs, this Lease shall continue in full force and effect, and the Monthly Rental shall be proportionately reduced while such repairs are being made as hereinabove provided. Nothing in the foregoing to the contrary withstanding, if the Premises or said building is damaged or destroyed at any time during the term hereof to an extent of more than twenty-five percent (25%) of the then replacement cost (excluding foundations) as a result of a casualty not insured against, Lessor may within thirty (30) days following the date of such destruction terminate this Lease upon written notice to Lessee. If Lessor does not elect to terminate because of said uninsured casualty, Lessor shall promptly rebuild and repair the Premises and/or the building and the Monthly Rental shall be proportionately reduced while such repairs are being made as hereinabove provided. If Lessor elects to terminate this Lease, all rentals shall be prorated between Lessor and Lessee as of the date of such destruction. In respect to any partial or total destruction (including any destruction necessary in order to make repairs required by any such declaration of any authorized public authority) which Lessor is obligated to repair or may elect to repair under the terms of this Section, Lessee waives any statutory right it may have to cancel this Lease as a result of such destruction.

9.0 SUBLETTING. For the purposes of this lease, subletting shall not be allowed.

10.0 DEFAULT

10.1 Default by Lessee. The occurrence of any one (1) or more of the following events shall constitute a default and breach of this Lease by Lessee: (a) the failure to pay any rental or other payment required hereunder to or on behalf of Lessor more than three (3) days after written notice from Lessor to Lessee that Lessee has failed to pay rent when due; (b) the failure to perform any of Lessee's agreements or obligations hereunder (exclusive of a default in the payment of money) where such default shall continue for a period of thirty (30) days after written notice thereof from Lessor to Lessee which notice shall be deemed to be the statutory notice so long as such notice complies with statutory requirements; (c) the vacation or abandonment of the Premises by Lessee; (d) the making by Lessee of a general assignment for the benefit of creditors; (e) the filing by Lessee of a voluntary petition in bankruptcy or the adjudication of Lessee bankruptcy; (f) the appointment of a receiver to take possession of all or substantially all the assets of Lessee located at the Premises or of Lessee's leasehold interest in the Premises; (g) the filing by any creditor of Lessee of an involuntary petition in bankruptcy which is not dismissed within sixty (60) days after

filing; or (h) the attachment, execution or other judicial seizure of all or substantially all of the assets of Lessee or Lessee's leasehold where such an attachment, execution or seizure is not discharged within sixty (60) days. Any repetitive failure by Lessee to perform its agreements and obligations hereunder, though intermittently cured, shall be deemed an incurable default. Two (2) breaches of the same covenant within a sixty (60) day period, a notice having been given pursuant to (a) or (b) above for the first breach, or three (3) of the same or different breaches at any time during the term of this Lease for which notices pursuant to (a) or (b) above were given for the first two (2) breaches shall conclusively be deemed to be an incurable repetitive failure by Lessee to perform its obligations hereunder.

In the event of any such default or breach by Lessee, Lessor may at any time thereafter, without further notice or demand, rectify or cure such default, and any sums expended by Lessor for such purposes shall be paid by Lessee to Lessor upon demand and as additional rental hereunder. In the event of any such default or breach by Lessee, Lessor shall have the right (i) to continue the lease in full force and effect and enforce all of its rights and remedies under this Lease, including the right to recover the rental as it becomes due under this Lease, or (ii) Lessor shall have the right at any time thereafter to elect to terminate the Lease and Lessee's right to possession thereunder.

10.2 No Waiver. Acceptance of rental hereunder shall not be deemed a waiver of any default or a waiver of any of Lessor's remedies.

10.3 Lessor's Default. Lessor shall not be in default unless Lessor fails to perform obligations required of Lessor within a reasonable time, but in no event later than thirty (30) days after written notice by Lessee to Lessor and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have theretofore been furnished to Lessee in writing, specifying wherein Lessor has failed to perform such obligation; provided, however, that if the nature of Lessor's obligation is such that more than thirty (30) days are required for performance then Lessor shall not be deemed in default if Lessor commences performance within a thirty (30) day period and thereafter diligently prosecutes the same to completion. In no event shall Lessee have the right to terminate this Lease as a result of Lessor's default and Lessee's remedies shall be limited to damages and/or an injunction.

11.0 CONDEMNATION. In the event a condemnation or a transfer in lieu thereof results in a taking of any portion of the Premises, Lessor may, or in the event a condemnation or a transfer in lieu thereof results in a taking of twenty-five percent (25%) or more of the Premises, Lessee may, upon written notice given within thirty (30) days after such taking or transfer in lieu thereof, terminate this Lease. Lessee shall not be entitled to share in any portion of the award and Lessee hereby expressly waives any right or claim to any part thereof. Lessee shall, however, have the right to claim and recover, only from the condemning authority (but not from Lessor), any amounts necessary to reimburse Lessee for the cost of removing stock and fixtures. If this Lease is not terminated as above provided, Lessor shall use a portion of the condemnation award to restore the Premises.

12.1 Reservation of Right to Modify Property. Lessor hereby reserves the right (but not the obligation) to renovate, modernize, rehabilitate, expand, reduce, reconfigure, enclose and/or otherwise alter all or any portion of the Premises (collectively "Modifications"), in such manner and at such time or times, throughout the term of this Lease, as Lessor may, in its sole and absolute discretion, deem to be in the best interests of the Property. Such Modifications may include, without limitation, the right to construct new buildings on the Property for additional uses, to remove, renovate, repair, add to, modernize or otherwise alter the building in which the Premises are situated as well as other buildings, facilities, structures, malls, walkways, landscaping, parking and common areas or other areas within the Property. In connection with any and all such Modifications, Lessor may enter the Premises to the extent reasonably required by Lessor to pursue and complete such Modifications. In addition, Lessor may temporarily close portions of the parking and common areas and cause temporary obstructions in connection with any Modifications. Lessee agrees that under no circumstances shall the Modifications as to any portion of the Property or the construction activity that takes place in the course of making the Modifications, or any aspect thereof, including Lessor's entry into the Premises, constitute an eviction or partial eviction of Lessee or a breach of Lessee's right to quiet enjoyment or of any other provision of this Lease, nor entitle Lessee to damages, injunctive relief or other equitable relief, nor entitle Lessee to any abatement or reduction in the Monthly Rental, additional rental or other charges or sums due under this Lease; provided Lessor uses reasonable efforts to mitigate any adverse effects on Lessee caused by the Modifications.

12.2 Entry and Inspection. Lessee shall permit Lessor and his agents to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same or for the purpose of maintaining the Premises as required by the terms of this Lease or for the purpose of posting notices of non-liability for alterations, additions or repairs.

12.3 Estoppel Certificate. If, as a result of a proposed sale, assignment, or hypothecation of the Premises or the land thereunder by Lessor, or at any other time, an estoppel certificate shall be requested of Lessee, Lessee agrees, within ten (10) days thereafter, to deliver such estoppel certificate in the form attached hereto as Exhibit "C" addressed to any existing or proposed mortgagee or proposed purchaser, and to the Lessor. Lessee shall be liable for any loss or liability resulting from any incorrect information certified, and such mortgagee and purchaser shall have the right to rely on such estoppel certificate and financial statement.

12.4 Jurisdiction and Venue. The parties hereto agree that the State of California is the proper jurisdiction for litigation of any matters relating to this Lease, and service mailed to the address of Lessees set forth herein shall be adequate service for such litigation. The parties further agree that Riverside County, California is the proper place for venue as to any such litigation and Lessee agrees to submit to the personal jurisdiction of such court in the event of such litigation.

12.5 Partial Invalidity. If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereof.

12.6 Successors in Interest. The covenants herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

12.7 No Oral Agreements. This (i) Lease covers in full each and every agreement of every kind or nature whatsoever between the parties hereto concerning this Lease, (ii) supersedes any and all previous obligations, agreements and understandings, if any, between the parties, oral or written, and (iii) merges all preliminary negotiations and agreements of whatsoever kind or nature herein. Lessee acknowledges that no representations or warranties of any kind or nature not specifically set forth herein have been made by Lessor or its agents or representatives.

12.8 Authority. In the event that Lessee is a corporation or a partnership, each individual executing this Lease on behalf of said corporation or said partnership, as the case may be, represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation or partnership, in accordance with a duly adopted resolution of the Board of Directors, if a corporation, or in accordance with the Partnership Agreement, if a partnership, and that this Lease is binding upon said corporation or partnership in accordance with its terms. Lessee represents and warrants to Lessor that the entering into this Lease does not violate any provisions of any other agreement to which Lessee is bound.

12.9 Relationship of Parties. The relationship of the parties hereto is that of Lessor and Lessee, and it is expressly understood and agreed that Lessor does not in any way or for any purpose become a partner of Lessee in the conduct of Lessee's business or otherwise, or a joint venture with Lessee, and that the provisions of this Lease and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method whereby rental payments are to be measured and ascertained.

12.10 Nondiscrimination. Lessee herein covenants by and for itself, its heirs, executors, administrators and assigns and all persons claiming under or through it, and this Lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons on account of race, sex, marital status, color, creed, national origin or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises herein leased, nor shall the Lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of Lessees, or vendors in the Premises.

12.11 Notices. Wherever in this Lease it shall be required or permitted that notice and demand be given or served by either party to this Lease to or on the other, such notice or demand shall be given or served in writing and shall not be deemed to have been duly given or served unless in writing, and personally served or forwarded by certified mail, postage prepaid, addressed, if to Lessor, as specified in Section 1.9. Either party may change the address set forth herein by written notice by certified mail to the other. Any notice or demand given by certified mail shall be effective one (1) day subsequent to mailing.

To City: Palm Springs International Airport
3400 E. Tahquitz Canyon Way, Suite OFC
Palm Springs, CA 92262

To Tenant: West Aviation Services, Inc. dba
Sierra Aviation Group
9247 Archibald Ave.
Rancho Cucamonga, CA 91730

12.12 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Lease.

12.13 Exhibits and Addenda. The Exhibits and Addenda attached to this Lease are made a part hereof as if fully set forth herein. In the event of a conflict between the terms and provisions of Addenda and the terms and provisions of this Lease, the terms and provisions of the Addenda shall prevail.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates stated below.

**“CITY”
City of Palm Springs**

Date: _____

By: _____
David H. Ready
City Manager

APPROVED AS TO FORM:

ATTEST

By: _____
Douglas C. Holland,
City Attorney

By: _____
James Thompson,
City Clerk

APPROVED BY CITY COUNCIL:

Date: _____ Agreement No. _____

Corporations require two notarized signatures. One signature must be from Chairman of Board, President, or any Vice President. The second signature must be from the Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, or Chief Financial Officer.

CONSULTANT NAME:

Check one Individual Partnership Corporation

Address _____

By _____
Signature (Notarized)

By _____
Signature (Notarized)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1180

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

EXHIBIT "A"
EXCLUSIVE USE SPACE
351 SQ. FT.

