



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: July 6, 2017

Staff Contact: Steven E. Tackes, Esq

Agenda Title: For Possible Action: To approve the airport terminal lease for flight school use of the west portion of the terminal building by Carson Aviation Adventures, LLC.

Staff Summary: At a regular meeting of the Carson City Airport Authority on June 21, 2017, publicly noticed for that purpose, the Authority approved a 5 year airport lease between the Airport Authority and Carson Aviation Adventures LLC to utilize the west wing and common areas of the Terminal Building. Per NRS 844, all leases on the Airport are subject to Board of Supervisor approval.

Agenda Action: Formal Action/Motion

Time Requested: 10min

Proposed Motion

I move to approve the airport terminal lease for flight school use of the west portion of the terminal building by Carson Aviation Adventures, LLC.

Board's Strategic Goal

N/A

Previous Action

N/A

Background/Issues & Analysis

Under Nevada Chapter 844, which created the Carson City Airport Authority, lease agreements at the Airport must be approved by the Carson City Board of Supervisors.

The Airport Authority recently renovated the Terminal Building by replacing the roof and conducting mold and other remediation in the building. The west wing was not being used and had been sealed off previously for safety reasons due to leaks in the roof, damage to walls and the presence of mold. Now that the remediation and renovation are complete the area is available for use.

Carson Aviation Adventures, LLC. operates an FAA-certified flight school on the Carson City Airport and is in need of additional space for briefing areas, classroom and testing areas and offices. Under the terms of the lease Carson Aviation Adventures will install 100MB Internet access for Airport Manager and public/pilot wifi use at an estimated value of \$24,000 along with the cost of all tenant improvements. The tenant has also agreed to place a security camera on the venue at no charge to the Airport Authority. The rent paid was calculated to be in excess of the estimated lease rate for the 576 sq ft to be leased. The value being paid is in excess of what other FBO tenants charge for rent for office space on the Airport.

The provision of high speed Internet will also allow the Airport Authority to reduce its current expenses for phone and Internet services (approx \$8,000 per year; savings to be somewhat less because wireless phones are not being replaced).

The Airport Authority has approved the lease. Consistent with NRS 844, the Airport Authority requests approval from the Board of Supervisors. Lease document is attached.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 844, Section 9 subsection 2 (b). Airport Authority may, "with the approval of the Board of Supervisors, ... lease, sell or otherwise dispose of any property."

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: savings to phone and internet; Airport Expense Acct No 6302

Is it currently budgeted? Yes No

Explanation of Fiscal Impact:

Alternatives

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)

2600 EAST COLLEGE PARKWAY LEASE AGREEMENT

This Lease Agreement (this "Lease") is dated as of May 01, 2017, by and between Carson City Airport Authority ("Landlord"), whose address is 2600 East College Parkway #6, Carson City, NV 89706; and Carson Aviation Adventures LLC ("Tenant"), a Nevada limited liability corporation, whose address is 2500 East College Parkway, Suite 103, Carson City, NV 89706.

WHEREAS, the Landlord and Tenant desire to enter into a lease agreement as regards to space available within the airport terminal building for expansion of an existing flight school business operating at the Carson City Airport under the provisions of Title 19 of the Carson City Municipal Code; and

WHEREAS, the parties desire to establish such a lease in a manner consistent with the Airport Master Plan and Carson City Municipal Code, so as to lease to Tenant the premises consistent with allowable uses desired by Landlord; and

THEREFORE, the parties hereby agree as follows:

- 1. PREMISES.** Landlord, in consideration of the lease payments, and for other such valuable consideration provided in this Lease, agrees to lease to Tenant the west wing of the airport terminal building, including approximately 576 square feet of rentable space, together with the reasonable use of the common areas and restrooms of the airport terminal building (the "Premises") located at 2600 East College Parkway, Carson City, NV 89706.
- 2. TERM.** The lease term will be 3 years with a 2 year extension (ie. total 5 years) and will begin on August 1, 2017 and will terminate on July 31, 2022, or if approvals have not been received by August 1, then the term shall begin upon receiving Carson City approval of the lease, and terminate 5 years thereafter. Upon termination, Landlord and Tenant may negotiate a new lease.
- 3. LEASE PAYMENTS.** Tenant shall pay to Landlord a lease payment of \$1.00, payable in advance, on the first day of the lease period, for a total lease payment of \$1.00. Lease payments shall be made to the Landlord at 2600 East College Parkway #6, Carson City, Nevada 89706. The payment address may be changed from time to time by the Landlord upon 15 days written notice to Tenant.
- 4. OTHER CONSIDERATION.** Tenant shall provision and provide, within 30 days of the beginning of the lease term, high-speed Internet service, of a speed no less than 100Mbps, capable of supporting data, voice, and video services for the duration of the term of this Agreement. Tenant shall be solely responsible for installation, wiring, configuring, and providing continuous Internet service to the Premises. Tenant may select any provider of its choosing, and may replace or upgrade providers at any time during this Agreement at Tenant's sole discretion. Landlord agrees to execute any Right of Entry Agreement(s) with any service provider selected by Tenant without undue delay. Tenant shall

provide Internet service to the common areas of the airport terminal building for public usage, as well as the private offices of the airport staff. Tenant agrees not to censor or otherwise filter any content transiting in or out of the airport terminal building network. Landlord and Landlord's employees agree to follow standard Acceptable Use Policies and Landlord and Landlord's employees, agents, and contractors jointly and severally agree not to resell or otherwise share Internet service(s) provided by Tenant to any person or entity. Tenant shall provide, at its own expense, all the necessary communications equipment, including, but not limited to: routers, switches, power supplies, antennas, cables, conduit, power backup, cabinets, patch panels, outlets, jacks, locks, grounding bars, patch cords, and enterprise-grade wireless access points necessary to effectively provide Internet services throughout the airport terminal building. The total value of the infrastructure and labor required under this section is estimated to be approximately \$10,000.00. High-speed Internet services provided under this section are estimated to be worth \$14,000 at current market rates.

5. **CPI ADJUSTMENT.** There will be no CPI adjustments to the lease rates for the duration of this Agreement.
6. **POSSESSION.** Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, or upon any termination of this lease, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord.
7. **PARKING.** Tenant shall be entitled to use parking spaces for the parking of Tenant's customers' and guests' motor vehicle(s) in the common parking lot adjacent to the Premises. Nothing in this Agreement permits Tenant or Tenant's customers or Tenant's guests to park vehicles overnight or for extended periods. Storage of vehicles is not allowed at any time.
8. **PROPERTY INSURANCE.** Tenant shall maintain casualty insurance on the Premises in an amount not less than 100% of the full replacement value of Tenant's leasehold. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.
9. **LIABILITY INSURANCE.** Tenant shall maintain liability insurance on the Premises in a total aggregate sum of at least \$1,000,000.00. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord

shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall name Landlord (Carson City Airport Authority and Carson City) as additional insureds.

- 10. MAINTENANCE.** Landlord's obligations for maintenance shall include: the roof, outside walls, and other structural parts of the building; the parking lot, driveways, and sidewalks, including snow and ice removal; the sewer, water pipes, and other matters related to plumbing; the electrical wiring; and the heating and air conditioning system. Tenant's obligations for maintenance shall include all other items of maintenance within Tenant's leasehold that are not specifically delegated to Landlord under this Lease.
- 11. PERSONAL TAXES.** Tenant shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and/or use taxes (if any) that may be due in connection with lease payments.
- 12. DESTRUCTION OR CONDEMNATION OF PREMISES.** If the Premises are partially destroyed by fire or other casualty to an extent that prevents the conducting of Tenant's use of the Premises in a normal manner, and if the damage is reasonably repairable within sixty days after the occurrence of the destruction, and if the cost of repair is less than \$25,000.00, Landlord shall repair the Premises and a just proportion of the lease payments shall abate during the period of the repair according to the extent to which the Premises have been rendered untenable. However, if the damage is not repairable within sixty days, or if the cost of repair is \$25,000.00 or more, or if Landlord is prevented from repairing the damage by forces beyond Landlord's control, or if the property is condemned, this Lease shall terminate upon thirty days' written notice of such event or condition by either party and any unearned rent paid in advance by Tenant shall be apportioned and refunded to it. Tenant shall give Landlord immediate notice of any damage to the Premises.
- 13. DEFAULTS.** Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 7 days (or any other obligation within 14 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other

rights afforded by law. Violations of Tenant or its contractors, and/or subcontractors of the terms and conditions of this Agreement may also subject Tenant to default under this provision.

- 14. HOLDOVER.** If Tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord lease payment(s) during the Holdover Period at a rate equal to the most recent rate preceding the Holdover Period. Such holdover shall constitute a month-to-month extension of this Lease.
- 15. CUMULATIVE RIGHTS.** The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.
- 16. REMODELING OR STRUCTURAL IMPROVEMENTS.** Tenant shall have the obligation to conduct any construction or remodeling (at Tenant's expense) that may be required to use the Premises as specified above. Tenant may also construct such fixtures on the Premises that appropriately facilitate its use for such purposes. Such construction shall be undertaken and such fixtures may be erected only with the prior written consent of the Landlord, or by Landlord's agent, the Airport Manager, which shall not be unreasonably withheld. Tenant shall have the right to erect exterior signage of a size and design appropriate for the premises. Such awnings, signage, or advertisements must be approved by Landlord, or Landlord's agent, the Airport Manager, in writing prior to installation. At the end of the lease term, Tenant shall be entitled to remove such fixtures, and shall deliver the Premises broom-clean and in a leasable condition, excepting for normal wear and tear.
- 17. ACCESS BY LANDLORD TO PREMISES.** Subject to Tenant's consent, which shall not be unreasonably withheld, Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or during any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.
- 18. PERMITTED USES.** Tenant may use the Premises for office, classroom, and other approved Fixed Base Operator activities under Tenant's FBO permit and which do not interfere with Landlord's other uses of the airport terminal building. Tenant may conduct such non-aviation business upon the Premises as are otherwise permitted by law and do not interfere with Landlord's other uses of the airport terminal building. Landlord shall have sole discretion as to claims of conflict over interfering uses. No person may live in, or otherwise inhabit the leasehold space.

19. INGRESS AND EGRESS. Tenant shall have full and unimpaired access to the Premises at all times, and shall be responsible for its employees', customers', and guests' access and use of the Premises.

20. INDEMNITY REGARDING USE OF PREMISES. To the extent permitted by law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

21. FEDERAL GOVERNMENT GRANT RESTRICTIONS AND REQUIREMENTS. Tenant, for itself, its heirs, personal representatives, successors-in-interest, and assigns, as a part of the consideration, does covenant and agree as a covenant that shall run with the land that Tenant shall comply with all Federal Aviation Regulations (FARs) applicable to Tenant's operations on the Premises. Tenant acknowledges that the Carson City Airport is the recipient of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) funds and other federal funds and grants. Tenant shall take no action which violates or causes others to violate the assurances grant to the FAA in conjunction with such federal funding. Such assurances include, but are not limited to compliance with:

- (a) Title 49, USC, subtitle VII, as amended.
- (b) Davis-Bacon Act – 40 USC 276(a), et seq.
- (c) Federal Fair Labor Standards Act – 29 USC 201, et seq.
- (d) Hatch Act – 5 USC 1501, et seq.
- (e) Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 – 42 USC 4601, et seq.
- (f) National Historic Preservation Act of 1966 – 106-16 USC 470(f).
- (g) Archeological and Historic Preservation Act of 1974 – 16 USC 469 through 469(c).
- (h) Native Americans Grave Repatriation Act – 25 USC 3001, et seq.
- (i) Clean Air Act – Public Law 90-148, as amended.
- (j) Coastal Zone Management Act – Public Law 93-205, as amended.
- (k) Flood Disaster Protection Act of 1973 – Section 102(a), 42 USC 4012(a)(1)
- (l) Title 49 USC 303.
- (m) Rehabilitation Act of 1973 – 29 USC 794.
- (n) Civil Rights Act of 1964 – Title VI, 42 USC 2000(d) through (d)(4).
- (o) Age Discrimination Act of 1975 – 42 USC 6101, et seq.
- (p) American Indian Religious Freedom Act – Public Law 95-341, as amended.
- (q) Architectural Barriers Act of 1968 – 42 USC 4151, et seq.
- (r) Power Plant and Industrial Fuel Use Act of 1978 – Section 403, 2 USC 8373.
- (s) Contract Work Hours and Safety Standards Act – 40 USC 327, et seq.
- (t) Copeland Anti-Kickback Act – 18 USC 874(1).

- (u) National Environmental Policy Act of 1969 – 42 USC 4321, et seq.
- (v) Wild and Scenic Rivers Act – Public Law 90-542, as amended.
- (w) Single Audit Act of 1984 – 31 USC 7501, et seq.
- (x) Drug-Free Workplace Act of 1988 – 41 USC 702 through 706.
- (y) Applicable Presidential Executive Orders regarding FAA AIP funding.
- (z) Any other such federal regulations as may be applicable to FAA AIP funding, and other such Office of Management and Budget (OMB) circulars that may apply and are listed at http://www.faa.gov/airports_airtraffic/airports/aip/grant_assurances/media/airport_spons_or_assurances.pdf or such updated listing on the official FAA website.

22. HAZARDOUS MATERIALS. Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

23. COMPLIANCE WITH REGULATIONS. Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

24. NON-DISCRIMINATION. Tenant, for itself, its personal representatives, successors-in-interest, and assigns, as a part of the consideration, does covenant and agrees as a covenant that shall run with the land that: (1) no person on the grounds of race, color, religion (creed), gender, gender identity and expression, age, national or ethnic origin (ancestry), disability, marital status, sexual orientation, veteran or military status, or any other characteristic protected under applicable federal, state, or local law shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of the Premises; and (2) that in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no member of a protected class defined in this section shall be excluded from participation in, denied the benefits of, or otherwise subject to discrimination.

25. SUBORDINATE RIGHTS. This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the Landlord and the United States, relative to the development, operation, or maintenance of the Carson City Airport.

- 26. RIGHT OF FLIGHT AND RESERVED AIRSPACE.** The Landlord, its successors and assigns, for the use and benefit of the public, does reserve a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the right to cause in the airspace any noise inherent in the operation of any aircraft used for flight through the airspace, or landing at, taking off from, or operation of the Carson City Airport. This right shall not be preserved in cases of operators of aircraft that are being operated recklessly or dangerously without regard to proper and reasonable safety standards. In these cases, the aircraft operators will be directly liable for any incidental or consequential damages that may be sustained by Tenant.
- 27. RIGHT OF FIRST REFUSAL.** During the term of this Agreement, before Landlord may rent the remaining section(s) of the Carson City Airport terminal building to other potential lessees, Landlord shall first offer to lease those section(s) to Tenant at the same terms as offered to other potential tenants. Tenant shall have thirty calendar days in which to accept or decline Landlord's offer. If Tenant does not accept or attempt to negotiate with Landlord to lease the remaining section(s) of the building, then Landlord will be free to accept offers from other potential tenants. If Landlord does not accept an offer to let the remaining section(s) of the building within ninety days to another tenant, then Landlord's right to let the other section(s) to other tenants shall expire, and this section of this Agreement shall again be applicable.
- 28. ASSIGNMENT AND SUBLETTING.** Tenant shall have the right to assign or sublet its interest in this Agreement upon consent of the Landlord, which consent shall not be unreasonably withheld. Any such assignment or sublease will be binding to assignees/sub-lessees on all terms and conditions set forth in this Agreement. Landlord reserves the right to assign, pledge, or hypothecate this Agreement upon written notice to Tenant.
- 29. MECHANICS LIENS.** Neither the Tenant nor anyone claiming through the Tenant shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Tenant agrees to (1) give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid, and (2) take whatever additional steps that are necessary in order to keep the premises free of all liens resulting from construction done by or for the Tenant.
- 30. DISPUTE RESOLUTION.** The parties will first attempt to resolve any dispute arising out of or relating to this Agreement through friendly negotiations amongst the parties. If the matter is not resolved by negotiation, the parties will resolve the dispute using the procedure and forum required by law.

31. NOTICE. Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by certified mail, postage prepaid, addressed as follows:

FOR LANDLORD:

Carson City Airport Authority
2600 East College Parkway #6
Carson City, Nevada 89706

FOR TENANT:

Carson Aviation Adventures LLC
2500 East College Parkway, Suite 103
Carson City, Nevada 89706

Such addresses may be changed from time to time by any party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

32. GOVERNING LAW. This Agreement shall be construed in accordance with the laws of the State of Nevada.

33. ENTIRE AGREEMENT/AMENDMENT. This Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by both parties obligated under the amendment.

34. SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

35. WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

36. BINDING EFFECT. The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

37. GENERAL PROVISIONS.

- (i) Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or joint venture or of any association between Landlord and Tenant other than the relationship of landlord and tenant.
- (ii) Whenever a day is appointed herein on which, or a period of time is appointed in which, either party is required to do or complete any act, matter, or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such party is prevented from, or is reasonably interfered with, the doing or completion of such act, matter, or thing because of labor disputes, civil commotion, war, warlike operation, sabotage, governmental regulations or control, fire or other casualty, inability to obtain any materials, or to obtain fuel or energy, weather, or other acts of God, or other causes beyond such party's reasonable control, excepting financial inability.
- (iii) In the event Tenant now or hereafter shall consist of more than one person, firm, or corporation, then and in such event, all such persons, firms, or corporations shall be jointly and severally liable as Tenant herein.
- (iv) This Agreement shall not be construed either for or against Landlord or Tenant, but shall be interpreted in accordance with the general tenor of the language.
- (v) The prevailing party in any action against this Agreement is entitled to reasonable attorney fees and court costs.
- (vi) Tenant represents and warrants to Landlord that it is a valid and existing limited liability corporation duly formed under the laws of the State of Nevada and will remain in good standing throughout the term of this Agreement.
- (vii) The obligations of Landlord under this Agreement do not constitute personal obligations or actions of the individual partners, directors, officers, elected or appointed officials of Landlord, and that Tenant shall take no action or recourse against any individual partner, director, officer, elected or appointed officials for their actions in an official capacity. All such partners, directors, officers, elected or appointed officials shall enjoy qualified immunity for their official actions.
- (viii) Time is of the essence of this Agreement, and all the terms, covenants, and conditions hereof.

LANDLORD:

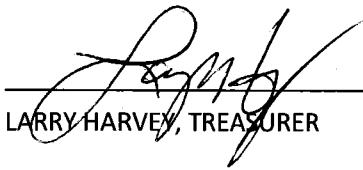
Carson City Airport Authority

SIGNED:


LINDA CHANDER-LAW, CHAIRPERSON

6/21/17
DATE

ATTEST:

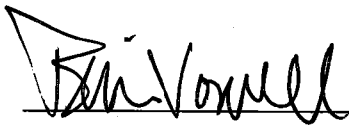

LARRY HARVEY, TREASURER

6/21/17
DATE

TENANT:

Carson Aviation Adventures LLC

SIGNED:


BRIAN VOWELL, MANAGING MEMBER

6/21/2017
DATE

CARSON CITY:

The Board of Supervisors of Carson City, Nevada, as underlying owner of the Carson City Airport, and thus the subject lease Premises, hereby approves and acknowledges this Lease Agreement, and the right and authority of the Carson City Airport Authority to lease the Premises to Tenant.

Approved by the Carson City Board of Supervisors this ____ day of _____, 2017.

SIGNED:

ROBERT L. CROWELL, MAYOR

DATE

ATTEST:

SUSAN MERIWETHER, CLERK/RECORDER

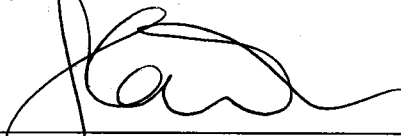
DATE

Approved as to form:

CARSON CITY DISTRICT ATTORNEY

DATE

Approved as to form:



STEVEN E. TACKES, ESQ,
CARSON CITY AIRPORT AUTHORITY COUNSEL

6-21-2017

DATE