



# WASHOE COUNTY

Integrity Communication Service  
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## STAFF REPORT

BOARD MEETING DATE: June 13, 2017

|             |            |
|-------------|------------|
| CM/ACM      |            |
| Finance     | <u>KE</u>  |
| DA          | <u>SH</u>  |
| Risk Mgt.   | <u>DE</u>  |
| HR          | <u>N/A</u> |
| Comptroller | <u>CH</u>  |

**DATE:** May 19, 2017  
**TO:** Board of County Commissioners  
**FROM:** Dave Solaro, Arch., P.E., Director  
Community Services Department, 328-2040, [dsolaro@washoecounty.us](mailto:dsolaro@washoecounty.us)  
**THROUGH:** Kevin Schiller, Assistant County Manager  
**SUBJECT:** Approve a Lease Agreement between MMK Properties and Washoe County for a thirty-six month term, commencing July 1, 2017 through June 30, 2020, for the continued of occupancy at 405 Western Road #18 & #26 for the Search and Rescue Division of the Washoe County Sheriff's Office [\$22,227.96 annually]. (Commission District 5.)

### SUMMARY

This item requests approval of a new Lease, to allow the continuation of occupancy 405 Western Road #18 & #26, which provides for Search and Rescue (SAR) Program staff and equipment.

The proposed renewal rental rate is an increase of 3% over the current lease fixed for the entire three year period, and contains a 3% percent increase for a potential additional three year term.

Washoe County Strategic Objective supported by this item: Safe, secure and healthy communities.

### PREVIOUS ACTION

On June 17, 2014 the Board of County Commissioners (Board) approved a first amendment extending the term to June 30, 2017.

On June 14, 2011, the Board approved a thirty-six month lease between MMK Properties and Washoe County for SAR Program and staff commencing July 1, 2011 and expiring on June 30, 2014.

On June 10, 2008, the Board approved a thirty-six month lease between MMK Properties and Washoe County for the use of space to accommodate the SAR program.

On May 24, 2005, the Board approved a thirty-six month lease between MMK Properties and Washoe County for the use space at 405 Western Road for the RAVEN program.

The Board has approved multiple lease agreements for space at 405 Western Road since February 1991.

AGENDA ITEM # 5.F.5

**BACKGROUND**

The Washoe County Sheriff's Office Search and Rescue Division has been a tenant at 405 Western Road since February 1991, occupying approximately 4,000 square feet of warehouse space for necessary equipment and supplies. The new lease has an option to renew which includes a 3% increase and then will remain fixed for the next thirty-six months. There is a ninety (90) day no cause termination available to the parties, as well as the standard funding out clause.

**FISCAL IMPACT**

The proposed Lease commences July 1, 2017 and terminates on June 30, 2020. The lease includes a 3% increase from the current lease at commencement, and then remains at a fixed rate for the full term. In addition, the Lessee pays a flat fee of \$20.00 each month for the water usage. Funding is allocated in cost center 150680:

| <u>Lease</u> | <u>Water</u> | <u>Monthly</u> |
|--------------|--------------|----------------|
| \$1,852.33   | \$20.00      | \$1,872.33     |

**RECOMMENDATION**

It is recommended the Board of County Commissioners approve a Lease Agreement between MMK Properties and Washoe County for a thirty-six month term, commencing July 1, 2017 through June 30, 2020, for the continued of occupancy at 405 Western Road #18 & #26 for the Search and Rescue Division of the Washoe County Sheriff's Office [\$22,227.96 annually].

**POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be: "Move to approve a Lease Agreement between MMK Properties and Washoe County for a thirty-six month term, commencing July 1, 2017 through June 30, 2020, for the continued of occupancy at 405 Western Road #18 & #26 for the Search and Rescue Division of the Washoe County Sheriff's Office [\$22,227.96 annually].

## **LEASE AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between MMK Properties, hereinafter referred to as ("Lessor") and WASHOE COUNTY, NEVADA, a political subdivision of the State of Nevada, hereinafter called ("Lessee").

### **W I T N E S S E T H:**

WHEREAS, Lessor is the sole owner of the property located at 405 Western Road, Reno, Washoe County, NV; and

WHEREAS, Lessee through previous contractual agreements with Lessor has been occupying warehouse space in Unit #18 and #26; and

WHEREAS, the parties desire by this Agreement to define their respective rights, duties and liabilities relating to the continued occupancy in the property; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

### **SECTION ONE**

#### **DESCRIPTION OF PREMISES**

Lessor hereby leases unto Lessee, and Lessee hereby leases from Lessor, approximately 4,000 square feet of warehouse space in Unit #18 and #26, ("Premises") known and designated as Reno Port Business Park, located at 405 Western Road, Washoe County, Nevada ("Building"), together with the nonexclusive use of all common areas, and exterior grounds. Lessee, its employees and invitees shall also have the right to use the parking area on an undesignated basis in common with other lessees and their employees and invitees. The use of all common areas, including parking areas shall be subject to reasonable rules and regulations as established by Lessor.

Unless otherwise specified, "Premises" shall only include that portion used exclusively by Lessee.

## **SECTION TWO**

### **TERM OF LEASE**

The term of this Agreement shall be for thirty-six (36) months, commencing July 1, 2017 through June 30, 2020; unless terminated or extended as otherwise provided herein.

## **SECTION THREE**

### **TENANT IMPROVEMENTS**

It is understood that Lessor or its authorized agent has completed tenant improvements and remodeling to the interior of the space in the demised Premises. Said improvements have been completed in accordance with applicable building plans and specification approved by and in accordance with all applicable state, county and municipal laws and regulations.

## **SECTION FOUR**

### **RENTAL AND COMMON AREA EXPENSE**

Effective upon the commencement date as defined in Section Two, above, Lessee agrees to pay Lessor, at such place as Lessor shall designate from time to time in writing, minimum monthly rent for the Premises described in Section One above, as follows:

A. Lessee shall pay to Lessor as monthly rent for Unit #18 and #26, the sum of One Thousand Eight Hundred Fifty Two dollars and Thirty Three cents (\$1852.33) per month from July 1, 2017 through June 30, 2020.

B. All rental payments shall be made payable to MMK Properties c/o Meiser Enterprises Inc., 315 Freeport Blvd., Sparks, NV 89431. Rent payable hereunder is due the first (1st) day of each month and if not received by the Lessor or properly deposited into the U.S. Mail system by the tenth (10th) day, Lessee agrees to pay a surcharge equivalent to ten (10%) percent of the monthly rental. Notwithstanding the foregoing, no late charge shall be assessed with respect to the first late payment of rent in a twelve (12) month period.

C. Common Area expenses shall be paid at the sole cost and expense of Lessor without obligation or cost to Lessee. Common Area expenses mean the total of all items of cost and expenses related to owning, maintaining, operating and managing the Common Area as specifically described in Section Five, below.

## **SECTION FIVE**

### **COMMON AREA MAINTENANCE**

A. Lessor shall maintain the Common Areas in good condition and repair. The term “Common Areas” means all areas and facilities outside the Premises and within the exterior boundaries of the property that are provided and designated by the Lessor from time to time for the general use and convenience of the Lessee and other tenants or owners of portion of the property pursuant to reciprocal easement agreements and their respective authorized representatives and invitees, and of public invitees.

B. Common area maintenance shall include, but is not limited to, all such maintenance, repair and construction work as shall be required to preserve and maintain the utility of the Common Area; maintenance, repair, resurfacing and painting of pedestrian walkways, throughways, roadways, service corridors, parking areas and patios; maintenance and servicing of common area elevators, common area heating, ventilating and air conditioning systems; sweeping, snow removal, trash disposal and other janitorial services of the common areas; maintenance and servicing of sprinkler systems, gardening and landscaping areas; lighting and all utilities utilized in connection therewith; maintenance and repairs of exterior roofs, exterior roof coverings, exterior supporting structures, walls and overhead roll-up doors; and reasonable management fees (not to exceed six percent (6%) of the rents) and other maintenance in the Lessor’s judgment necessary for the operation of the Common Areas.

## **SECTION SIX**

### **RENEWAL**

Lessee shall have the option of one (1) additional renewal term, provided Lessee is not in default at the time of the exercise of such option. Said renewal shall commence upon expiration of this term or any extension thereof and shall be for a period of thirty-six (36) months. The lease rate for the renewal term shall be fixed at the then current rent and include a 3% increase. Written notice to renew shall be given at least ninety (90) days prior to the expiration of this Agreement.

## **SECTION SEVEN**

### **HOLDING OVER**

Lessee shall provide Lessor with ninety (90) day notice, prior to the expiration of the initial term or any extensions thereof, of their intent to holdover. Any holding over of the Premises by Lessee after the expiration of the term hereof (or any renewal period, as applicable) shall be construed to be a tenancy from month-to-month with no change in the monthly rental amount due, up to a maximum period of four (4) months after which time Lessee will either quit and vacate the Premises or enter into a new lease agreement. All other terms and conditions stated herein shall remain in full force and effect to the extent they are not inconsistent with this Section. If Lessee fails to surrender the Premises upon the expiration of the holdover period, Lessee shall hold the Lessor harmless from all damages resulting from Lessee's failure to surrender, including without limitation, claims from a succeeding tenant resulting from Lessee's failure to surrender the Premises.

## **SECTION EIGHT**

### **USE OF PREMISES**

A. Lessee shall use the Premises for conducting business activities of Washoe County or for other related general government purposes. Lessee shall not use, or permit said Premises or any part thereof to be used for any purpose other than the conduct of the necessary business of Washoe County governmental programs.

B. Lessee shall not conduct or at any time knowingly permit its employees, agents or visitors to conduct activity on the Premises which is unlawful or in violation of any federal or state statute, code or regulation.

## **SECTION NINE**

### **ALTERATIONS AND IMPROVEMENTS**

A. The parties hereby acknowledge that the Premises are in good condition, are architecturally acceptable to Lessee, and shall not be altered, repaired or changed except as provided herein.

B. Lessee agrees that it shall not erect partitions, install or change any doors or windows, or place any nails, screws or other implements or fasteners into the wood work or walls, except such items as are necessary to suitably decorate or make the Premises attractive for the purposes intended, without the prior written consent of Lessor. Upon Lessor's request, Lessee shall prepare plans and specifications of such work and submit the same to Lessor for its

approval prior to making such alterations or improvements. Said approval will not be unreasonably withheld.

C. The parties agree that all the erections, additions, fixtures and improvements, except only movable equipment, office furniture, shelving and any decorative items which can be removed without substantially affecting the integrity of the building, made in or upon said Premises shall remain upon the Premises at the termination of said term by lapse of time or otherwise, without compensation to Lessee. D. The erection, construction, installation or making of any improvements shall be accomplished in a workmanlike manner and in compliance with all applicable federal, state, county and municipal laws and regulations.

### **SECTION TEN**

#### **LESSOR IMPROVEMENTS**

A. Lessor reserves the right from time to time and at its own expense to make such improvements, alterations, renovations, changes, and repairs in and about the building in which the Premises are located including the demised Premises, as Lessor shall deem necessary or desirable provided Lessor prior to entering the demised Premises gives Lessee a minimum forty-eight (48) hours notice of its intent to do so, and, except where such improvements, alterations, changes and repairs unreasonably disrupt Lessee's use and peaceful enjoyment of the Premises, Lessee shall make no claim against Lessor for abatement of rent for interference with Lessee's leasehold interest or for loss or damage to its business during such improvements, alterations, changes and repairs.

B. Lessor shall make all improvements in a safe, workmanlike manner so as not to prove hazardous to tenants and/or the public.

### **SECTION ELEVEN**

#### **MAINTENANCE, REPAIRS AND INSPECTIONS**

A. Lessor, at its sole cost and expense, shall be responsible for performing periodic maintenance to the interior of the Premises in a reasonable and timely manner. Lessor, however, shall not be responsible for making repairs or replacements caused by the willful destruction or negligence of Lessee, Lessee's contractor's, agents or employees.

B. Lessee, shall keep the Premises at all times in a neat, clean and sanitary condition, and shall neither commit nor permit any waste or nuisance thereon.

C. Lessor shall maintain, at its sole cost and expense, parking areas including snow removal, the roof, sidewalks, windows, exterior walls and overhead roll-up doors of said building, in which the demised Premises are located.

D. Lessor specifically warrants the existing plumbing, electrical, HVAC system and all improvements in place at the time of delivery to be free from inherent or latent material defects and warrants same for the term of the Agreement.

E. Lessor, at its sole cost and expense, shall provide reasonable maintenance, repair and replacement of all plumbing including plumbing fixtures, central mechanical equipment, to specifically water heaters, heating, ventilating and air conditioning equipment, necessary to provide service to the Premises and maintain the Premises in a reasonable and safe manner and in full compliance with all mandated federal, state and local regulatory requirements.

F. Lessee shall permit Lessor or its authorized agent to enter into and upon the demised Premises at all reasonable times for the purpose of inspecting the same, or for the purpose of making repairs or maintaining the building in which the Premises are located.

G. Lessee, as appropriate, shall keep the Premises free from any liens arising out of any and all work that it may perform, or materials furnished, or obligations incurred by Lessee. Lessee shall have thirty (30) days from the date of notice of said lien, as provided by Lessor, within which to remove said encumbrance without breaching the provisions of this Agreement.

H. Lessor is solely responsible for compliance with and all necessary expenses associated with any modification required for compliance with any statutes, ordinances and/or regulations, including required changes in installations for supply of utilities or sanitary facilities or other modifications, which may be required for compliance with the requirements of the American's Disability Act (ADA).

## **SECTION TWELVE**

### **UTILITIES, CUSTODIAL, TELEPHONE AND PARKING**

A. Lessor shall provide heating, electricity, water, sewer, and trash removal services to the demised Premises. Lessee shall be responsible for payment of natural gas and electricity charges which are specifically used upon and separately metered to the Premises. Lessor desires



pass-through reimbursement for costs to provide potable water to the demised Premises restroom that is solely occupied by Lessee. Said service is not separately metered and cannot be invoiced directly to Lessee by the water purveyor. In the event that any units contain restrooms, Lessee agrees to pay to Lessor the sum of Twenty (\$20.00) Dollars per month for potable water service.

B. Lessee, at its sole cost and expense, shall provide interior trash removal and janitorial services including cleaning and sanitizing of restrooms on a regular basis. Lessee shall provide interior window cleaning on a periodic basis.

C. Lessee shall pay for all telephone service costs incurred for installation of equipment and establishment of initial service and for ongoing monthly service charges for equipment, fees, line and toll charges or any changes thereto specifically requested by Lessee.

D. Lessor at its sole cost shall pay all real property taxes and/or sewer assessment fees applicable to the real property upon which the Building is located.

### **SECTION THIRTEEN**

#### **SIGNS**

Lessee agrees that no new sign or advertisement shall be painted or affixed to any part of the outside of the building in which the Premises are situated without the prior written approval of Lessor, which consent shall not be unreasonably withheld.

### **SECTION FOURTEEN**

#### **WAIVER**

Any failure on the part of either party to take action against the other for any breach or covenant herein shall not be construed to constitute a waiver of any other or subsequent breach.

### **SECTION FIFTEEN**

#### **DESTRUCTION OF PREMISES**

In the event of a partial destruction of said Premises or the buildings of which the Premises is a part during the said term, from any cause, Lessor shall forthwith repair the same within one hundred-twenty (120) days, provided such repair can be made within said period under the laws and regulations of the state, federal, county or municipal authorities. If required repairs are commenced promptly, this Agreement shall not be modified, except that Lessee shall be entitled to a proportionate reduction of rent if a portion of the demised Premises are rendered

unusable or substantially impaired while repairs are being made. If such repairs cannot be made in one hundred-twenty (120) days, this Agreement may be terminated at the option of Lessee. Lessee shall notify Lessor of its election to terminate the Agreement within twenty-one (21) days following the date Lessee receives written notice from Lessor of its inability to repair the building within the one hundred-twenty (120) day period due to such damage or destruction. A total destruction of the building in which the Premises is situated shall terminate this Agreement. This provision is not intended to affect the rights of either party to seek recovery against the person responsible for the damages, subject, however, to the provision provided in Section Sixteen below.

#### **SECTION SIXTEEN**

#### **CONDEMNATION**

In the event that any part of the Premises hereby demised shall be condemned or taken by any county, federal, state or other authority for any purpose, then the term of this Agreement shall cease on the part so taken from the day the possession of that part is required for any public purpose. The rent shall be paid up to that day and thereafter the Lessee or the Lessor shall have the right to either cancel this Agreement or to continue in the possession of the remainder of the same under the terms herein provided, except that the rent shall be reduced in proportion to the area of that portion of the Premises taken for such public purpose. All damages awarded as compensation for diminution in value to the leasehold or to the fee of the Premises shall belong to and be the property of Lessor. Lessee shall have the right to claim and recover from the condemning authority such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of any and all damages to Lessee's business by reason of the condemnation and for or on account of any cost or loss to which Lessee might be put in removing Lessee's furniture, fixtures, equipment and leasehold improvements.

#### **SECTION SEVENTEEN**

#### **INDEMNIFICATION**

A. Lessor shall hold harmless, indemnify and defend Lessee from and against any loss, damage, claim, suit or liability due to injury, including death, or property damage, to any third party arising out of the negligent acts or omissions of the Lessor, its agents or employees, in

connection with the ownership of the Property and the Lessor's duties and responsibilities pursuant to this Agreement.

B. Pursuant to Nevada Revised Statutes, Chapter 41 and without waiving any provisions thereof, Lessee, shall hold harmless, indemnify and defend Lessor from and against any loss, damage, claim, suit or liability due to injury, including death, or property damage, to any third party arising out of the negligent or alleged negligent acts or omissions of the Lessee, its agents, contractors or employees, arising out of the use of the demised Premises and the Lessee's duties and responsibilities pursuant to this Agreement.

## **SECTION EIGHTEEN**

### **INSURANCE**

A. Lessor, at its sole cost and expense shall:

(1) Secure and maintain fire and extended insurance on the building in which the Premises is located in an amount and coverage determined by Lessor during the term or any extended term of this Agreement.

(2) Secure and maintain a policy of comprehensive or commercial general liability coverage (occurrence form), in an amount of not less than \$1,000,000 per occurrence, and at least \$1,000,000 annual aggregate during the term of this Agreement. Lessee shall be provided with a certificate of insurance and endorsement evidencing such coverage.

(3) Lessor hereby expressly waives and releases any cause of action or right of recovery which Lessor may have hereafter against the Lessee for any loss or damage to the demised Premises, or to the contents thereof belonging to either, caused by fire, explosion, or any other risk covered by insurance; and,

(4) Lessor shall obtain a waiver from any insurance carrier with which Lessor carries fire, explosion or any other risk coverage insuring the building and other improvements releasing its subrogation rights against Lessee.

B. Lessee, at its sole cost and expense, shall:

(1) Maintain fire insurance on all contents owned by the Lessee located at the demised Premises.

(2) Lessee may fund any financial obligation relating to its negligence and

liability through a program of self-funding administered by its Risk Management Division. Any and all claims related to the use of the demised Premises by Lessee shall be forwarded to Lessee in a timely manner.

(3) Lessee hereby expressly waives and releases any cause of action or right of recovery which Lessee may have hereafter against the Lessor for any loss or damage to the demised Premises, or to the contents thereof belonging to either, caused by fire, explosion, or any other risk covered by Lessee's insurance and,

(4) Lessee shall not keep or use in or upon the Premises any article, which may be prohibited by the Lessor's insurance policy then in effect covering the Premises or Common Areas. In the event Lessee's occupancy causes any increase of premium for Lessor's insurance on the Premises, or any parts thereof, above the rate for the least hazardous type of occupancy legally permitted in the Premises, Lessee shall have fifteen (15) days after receipt of written notification from Lessor of such increase to correct or mitigate said circumstances which resulted in the need for a premium increase. If Lessee is unable to mitigate or correct said hazardous occupancy, Lessee shall upon written agreement pay the increased premium or terminate said Agreement Agreement.

## **SECTION NINETEEN**

### **HAZARDOUS SUBSTANCES**

A. Lessee shall not cause or permit any hazardous substances to be used, stored, released, manufactured or disposed in or upon the Premises, except in the minimum quantities as are customary and usual in connection with Lessee's permitted use. If the premises become contaminated as a result of a violation by Lessee of this Section Nineteen, for which Lessee is legally liable, Lessee shall indemnify, defend and hold Lessor harmless from all related claims, judgments, penalties, costs or losses, including all expenses incurred for investigation, removal, remediation and restoration mandated by federal, state, and local governments, together with Lessor's attorney fees.

B. If hazardous substances have been used, stored, released, manufactured or disposed in or upon the Premises or connected areas outside the Premises, or if the Premises or connected areas outside the Premises, are or become contaminated in any manner, for which Lessor is legally liable, Lessor shall indemnify, defend and hold Lessee harmless from all related

claims, judgments, penalties, costs, or losses, including all expenses incurred for investigation, removal, remediation and restoration mandated by federal, state and local governments, together with Lessee's attorneys fees.

C. "Hazardous Substances" means all toxic, ignitable, reactive and corrosive substances regulated by federal, state or local governments.

## **SECTION TWENTY**

### **SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE**

A. This Agreement, at Lessor's option, shall be subordinated to any mortgage, deed of trust, or any other hypothecation for security now or hereafter placed upon Lessor's leasehold interest in the real property or building of which the Premises are a part and which constitute a mortgage or deed of trust lien or encumbrance against Lessor's interest in such Premises or building and to any and all advances made on the security thereof and to all the renewals, modifications, amendment, consolidations, replacements and extensions thereof.

B. Lessee agrees to execute any documents required to effectuate such subordination to the lien of any mortgage, deed of trust, or other security document, as the case may be, and failing to do so within thirty (30) days after written demand shall give Lessor the right to terminate this Agreement and immediately re-enter the Premises.

C. Lessee shall in the event of the sale or assignment of Lessor's interest in the real property or building of which the Premises are a part, or in the event of any proceeding brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage or deed of trust made by Lessor covering the Premises, attorn to the purchaser or assignee and recognize such purchaser or assignee as Lessor under this Agreement.

D. Any purchaser, assignee, or other party acquiring Lessor's interest in the real property or Building of which the Premises are a part, agrees to recognize the validity and enforceability of this Agreement and that notwithstanding any default by Lessor with respect to any mortgage, deed of trust, or other security document, Lessee's possession, quiet enjoyment and all of Lessee's rights under this Agreement in and to the Premises shall not be disturbed by such purchaser, assignee or other party unless Lessee is in default under the terms of this Agreement.

## **SECTION TWENTY-ONE**

### **QUIET ENJOYMENT**

Lessee, while in compliance with the terms and covenants herein, is entitled to the quiet enjoyment of the demised Premises for the term hereby created.

## **SECTION TWENTY-TWO**

### **ASSIGNMENT AND SUBLEASE**

This Agreement may be assigned or the Premises sublet only with the prior written consent of the Lessor. Lessor shall consent to an assignment or subletting provided the proposed assignee is, in Lessor's judgment, a suitable tenant, which can demonstrate to Lessor's satisfaction that it is compatible with the Building and other tenants of the Building and has the financial and operational capability to remain through the lease term. Any rents or other consideration due from an assignee or sublessee, in excess of the rents due under this Agreement from Lessee shall be paid to Lessor.

## **SECTION TWENTY-THREE**

### **NOTICES**

All notices and demands which may be required to be served upon the respective parties to this Agreement shall be in writing and may be served either personally or by certified mail, postage prepaid, addressed to the Lessee at the address of the Premises herein demised, with a copy to Washoe County Community Services Director, P.O. Box 11130, Reno, NV 89520-0027, with a copy to Washoe County Search and Rescue, and MMK Properties c/o Meiser Enterprises Inc., 315 Freeport Blvd. Sparks, NV 89431, or at such other address as the parties may designate and serve upon the other. Any service by mail shall be deemed served upon deposit in the United States Post Office.

## **SECTION TWENTY-FOUR**

### **ATTORNEY'S FEES**

Should any party hereto institute any legal action or proceeding of any kind, to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Agreement, neither party shall be entitled to recover any amount as a reasonable attorney's fees,