



AGENDA ITEM NO.

COUNTY OF HUMBOLDT

For the meeting of: June 19, 2012

Date: May 21, 2012

To: Board of Supervisors

From: Thomas K. Mattson, Public Works Director

Subject: Lease Agreement with Denise McNulty and Associates, Inc. DBA Alamo National Car Rental for the Arcata/Eureka Airport

RECOMMENDATION(S):

That the Board of Supervisors by a 4/5 vote:

1. Approves and authorizes the Chairperson to execute the lease with Denise McNulty and Associates, Inc. DBA Alamo National Car Rental.
2. Direct the Clerk of the Board to return two executed originals of the lease to the Public Works Department for transmittal to the Lessee.

SOURCE OF FUNDING:

Revenue to Aviation Division (3530381)

DISCUSSION:

The existing lease with Denise McNulty and Associates, Inc. DBA Alamo National Car Rental expired on March 31, 2012. Since that time the lease has continued on a month-to-month basis. Staff has now negotiated a new lease agreement whereby the concessioner will continue pay County a rental for all its operations equivalent to ten percent (10%) of gross receipts with a minimum guarantee of One Thousand Six Hundred Fifty Dollars (\$1,650.00) per month.

Cheryl Dillingham
CAO Approval

DF. AN
Risk Manager

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor Seconded by Supervisor

Ayes
Nays
Abstain
Absent

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: _____
By: _____
Kathy Hayes, Clerk of the Board

Prepared by Josielyn N. Gilbaugh Auditor MSM County Counsel JS Personnel LF Risk Manager DF. AN Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

PREVIOUS ACTION/REFERRAL:
Board Order No. ____
Meeting of: _____

The new lease will run for five (5) years from Board approval date.

FINANCIAL IMPACT:

With the approval of the new lease, the estimated Denise McNulty and Associates, Inc. DBA Alamo National Car Rental annual revenue to County using gross sales figures from the last twelve months is \$28,200.

The requested action conforms to the Board of Supervisors' priorities of providing community-appropriate levels of service.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the new lease agreement. This alternative is not recommended because the airport needs car rental services for passengers who do not have their own means of transportation. Furthermore, the Aviation Division would lose \$28,200 in revenues.

ATTACHMENTS:

Attachment #1	Lease Agreement with Denise McNulty and Associates, Inc. DBA Alamo National Car Rental
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LEASE

This Lease is entered into on _____, between DENISE MCNULTY AND ASSOCIATES, INC., DBA ALAMO NATIONAL CAR RENTAL, a Delaware Corporation, herein called CONCESSIONER, and the COUNTY OF HUMBOLDT, a political subdivision of the State of California, herein called COUNTY.

WHEREAS, COUNTY owns and operates an airport known as Arcata/Eureka Airport, hereinafter called Airport; and

WHEREAS, pursuant to Government Code Section 25536, the Board of Supervisors, by a four-fifths vote, may enter into leases of County Airport property without competitive bidding; and

WHEREAS, CONCESSIONER is in the business of operating a car rental service; and

WHEREAS, it is deemed mutually desirable by the parties hereto that CONCESSIONER be permitted to carry on its car rental service at the Airport.

NOW, THEREFORE, it is mutually agreed as follows:

1. LEASED PREMISES

A. Office Space: The area to be leased hereunder for office space is shown on Exhibit A, which is attached hereto and made a part hereof.

B. Ready Parking: COUNTY will make available to CONCESSIONER ready automobile parking spaces. The location of said spaces will be designated by the Airports Manager. The number of spaces allocated will be determined by the gross receipts of CONCESSIONER as compared to the total gross receipts of all auto rental service operators located at Airport.

The number of spaces allocated each year shall be based on the preceding period of October 1 through September 30 and shall be allocated annually as of January 1.

C. Dead Parking: The location and amount of dead parking will be designated by the Airports Manager.

D. Auto Washing Area: To be designated by the Airports Manager.

2. USE OF PREMISES

CONCESSIONER shall be allowed to carry on a car rental business and all activities incidental thereto at Airport. Except as allowed by separate agreement, CONCESSIONER shall not conduct any other activities on Airport. Hours of operation shall be seven (7) days weekly excluding National Holidays and any local or national emergency which impacts the Arcata/Eureka Airport as determined by the County Airports Manager.

CONCESSIONER shall abide by and comply with all regulations now in effect, or hereafter adopted, pertaining to the operation of a car wash and the disposal of waste water. In the event CONCESSIONER cannot comply with all regulations, then other arrangements "off-airport" must be made. There shall be no reduction in fees if car washing facilities are moved "off-airport."

The State Water Resources Control Board (SWRCB), pursuant to a Federal mandate, has promulgated a General Permit for storm water discharge associated with "industrial activity." Industrial activities at an airport that require storm water permit coverage include: mechanical repairs, rehabilitation, fueling, lubrication, painting, cleaning, and de-icing. Because CONCESSIONER'S operation includes such activities, CONCESSIONER shall comply with all regulations now in effect or hereafter adopted and may be subject to any fees adopted by COUNTY'S Board of Supervisors in connection therewith.

CONCESSIONER shall keep all areas leased and designated pursuant to Section 1 above, maintained and clean to the satisfaction of COUNTY.

3. TERM

The term of this Lease shall commence upon acceptance by the Board of Supervisors and shall terminate five (5) years from date of commencement.

Any holding over with COUNTY'S consent beyond the term of this Lease shall be on a month to month basis until terminated by either party upon thirty (30) days written notice prior to the end of any one (1) month period.

4. FEES AND RENTALS

CONCESSIONER shall pay to COUNTY a rental for all its operations under this Lease as follows:

Ten percent (10%) of gross receipts, with a minimum guarantee of One Thousand Six Hundred Fifty Dollars (\$1,650.00) per month.

The minimum guarantee, or ten percent (10%) of gross receipts for the preceding calendar month, whichever is greater, is due by the 10th day of each month. If said fee is not paid by the tenth day, a late fee of 10% of the unpaid amount shall be charged.

As an alternative, CONCESSIONER may pay the guaranteed minimum in advance (said fee must be paid by the 10th day of the month) and have until the 30th day of the month to pay the difference, if any, between the guaranteed minimum and the percentage of the gross receipts for the preceding month without incurring a late charge. If said difference is not paid by the 30th day of the month, a late fee of 10% shall be charged on the unpaid balance. The aforesaid rent shall be accompanied by a written statement showing, in a manner satisfactory to COUNTY, the gross receipts.

The term "gross receipts" as used herein shall mean the time and mileage charges, whether by cash or credit, received for the rental of automobiles and accessories by CONCESSIONER when said rentals are made or in any way generated at or from Airport.

A. Gross receipts shall specifically include:

1. Fees paid for the rental or leasing of vehicles pursuant to daily or time charges and/or mileage; and
2. Other rental fees including, but not limited to, rental of infant car seats, luggage racks, and rental/sale of mobile telephone service.

B. Gross receipts shall not include:

1. Federal, State, County, or municipal sales or use taxes now in effect or hereinafter levied on the concession which are separately stated and collected from customers of CONCESSIONER.
2. Amounts received as insurance proceeds or otherwise for damages to automobiles and other property of CONCESSIONER.
3. Sums received for loss, conversion, or abandonment of vehicles.
4. Proceeds received by CONCESSIONER from any authorized sale of its vehicles on Airport, which sale may be conducted after prior written approval by Airports Manager.
5. Amounts collected from customers for cost of fuel replacement.
6. Drop charges or monies received from customers for the privilege of renting an auto at CONCESSIONER'S on-airport location and returning the vehicle at an off-airport location.
7. Fees paid for acceptance of personal accident, collision, loss damage waiver, or other types of insurance.

C. No deductible from gross receipts shall be allowed for such items as:

1. Payment of franchise taxes or taxes levied on CONCESSIONER'S activities or real or personal property of CONCESSIONER.
2. Rental of vehicles not assigned to CONCESSIONER'S fleet, commonly known as "foreign cars," that are rented at Airport and returned to Airport.

CONCESSIONER shall have the right to conduct all or part of its business on a credit basis, provided that the risk of such operation shall be born solely by CONCESSIONER, and CONCESSIONER shall pay Percentage Privilege Fees on such credited amounts, and report all income, both cash and credit, in its monthly statement to COUNTY.

5. LABOR STRIKE

In the event all service by the air carrier(s) ceases due to labor strike, the One Thousand Six Hundred Fifty Dollar (\$1,650.00) minimum shall be waived, at the request of CONCESSIONER, for the actual days the carrier(s) is not serving Airport. In lieu of the minimum, CONCESSIONER shall pay office rent of Two Hundred Dollars (\$200.00) per month, plus ten percent (10%) of gross receipts.

6. AUDITS

COUNTY shall have the right of confidential review of records and the right to audit the accounts and records of CONCESSIONER. All relevant accounts and records of CONCESSIONER shall be made available at a location in Humboldt County within ten (10) days of a request by COUNTY. If a discrepancy of five-percent (5%) or more is found in gross receipts reported to COUNTY, the cost of the audit and the discrepancy shall be borne by CONCESSIONER within thirty (30) days of notice.

7. ASSIGNMENT

COUNTY'S prior consent to CONCESSIONER'S sublease, transfer, assignment, or hypothecation of this Lease or a portion thereof for similar and compatible use shall be required. Any such approved sublease, transfer, assignment or hypothecation of this Lease, however, shall not alter, affect, defeat or diminish CONCESSIONER'S liability and responsibility under the Lease.

Prior to any assignment of this Lease, COUNTY shall be paid a Five Hundred Dollar (\$500.00) non-refundable fee to offset personnel time required to review and process the proposed assignment.

8. OPERATIONAL OBLIGATIONS

CONCESSIONER shall comply with all applicable federal/state/county/municipal building, safety, health, fire, sanitary codes, ordinances, and Airport rules and regulations that are in effect or that may be hereafter adopted pertaining to CONCESSIONER'S activities on Airport. To the extent necessary to protect the rights and interests of COUNTY or to ascertain compliance with the standards and rules and regulations, the Director of Public Works or his authorized representative shall have the right to inspect, during reasonable hours, all premises and facilities on the Airport.

9. MAINTENANCE

During the term of this Lease or any extension thereof, COUNTY shall maintain the premises in good repair and tenantable condition so as to minimize breakdowns and loss of CONCESSIONER'S use of the premises caused by deferred or inadequate maintenance. COUNTY shall be responsible for all maintenance and repairs to the premises, including, but not limited to, office space, the interior and exterior of the building, landscaping, parking lot, VAC unit and window glass, except for the following:

- A. Light bulbs.
- B. Any repairs caused by negligence of CONCESSIONER'S personnel.
- C. Any repairs to phone system, computers, security system or ticketing system inside leased office space.
- D. Any painting within leased office space.

10. EMERGENCY CONTACTS

CONCESSIONER shall provide to Airports Manager, and keep current, a list of telephone numbers and street addresses of managerial personnel for emergency use.

11. UTILITIES

COUNTY shall pay electricity and heat furnished to the office space inside the terminal. In the event a procedure is developed that will determine the amount of water used by CONCESSIONER'S car wash facility, CONCESSIONER will be responsible for its portion of water use based on county rate.

12. JANITORIAL SERVICES

CONCESSIONER shall be responsible for janitorial services within leased office area, including the disposal of trash.

13. IMPROVEMENTS AND ALTERATIONS

CONCESSIONER may make non-structural alterations or improvements to the leased premises to accommodate CONCESSIONER'S use of the premises. However, CONCESSIONER shall not make any alterations or improvements to the premises without the prior written consent of COUNTY. Such consent shall not be unreasonably withheld.

CONCESSIONER, at its own cost, may install in the premises the equipment needed for telecommunication systems and computer terminals including, but not limited to, the following:

- A. Telephone cable;
- B. Key system units;
- C. Intercom system;
- D. Telephones;
- E. Answering machines; and
- F. Security system.

Upon termination of the Lease, CONCESSIONER shall have the right to remove from the premises any such equipment installed by CONCESSIONER.

14. NO SMOKING ORDINANCE

Pursuant to Humboldt County Code Section 971-1 et seq., COUNTY owned or leased premises are smoke free. CONCESSIONER shall comply with said provision.

15. CONCESSIONER'S RIGHT TO ERECT SIGNS

CONCESSIONER shall not install any advertising signs without prior approval of the Director of Public Works or his authorized representative.

16. EMPLOYEE PARKING

CONCESSIONER and its employees shall not contribute to the parking problems by parking their personal cars in restricted areas. Said automobiles are to be parked in the employee parking lot. CONCESSIONER shall take reasonable measures to control access to employee lot to bonafide employees.

For the privilege of using the Employee Parking Lot, CONCESSIONER and its employees agree to abide by the rules and procedures established by Republic Parking and set forth below. Violators of the following rules and procedures are subject to the loss of their privilege to park in the Employee Parking Lot and the vehicle will be towed at their expense:

- A. Issued parking lot and gate cards are the property of Republic Parking. All cards are to be obtained from and returned to Republic Parking.
- B. CONCESSIONER'S manager or designee is in charge of issuing parking lot and gate cards to its employees.
- C. Deposit fee for card is Twenty Dollars (\$20.00).
- D. Lost/replacement card fee is Twenty Dollars (\$20.00). No charge for replacement of damaged or worn out cards if old card is turned in.

E. Parking lot card must be visible through windshield and must match with the vehicle(s) registered to card.

F. No free parking in paid lot.

G. No recreational vehicles (RV's) or trailers are allowed in the employee parking lot. If such a vehicle is used for transportation to work, prior arrangements must be made with and at the discretion of Republic Parking.

H. All cards must be returned to Republic Parking at the time of employee termination or resignation. If cards are not returned to Republic Parking, CONCESSIONER will be subject to a penalty by Republic Parking.

I. Vehicles parked in violation of the above rules will be towed at the employee's expense. CONCESSIONER shall take reasonable measures to advise its employees of the above rules and procedures.

17. POSSESSORY INTEREST

This Lease may create a possessory interest, as described in Section 107 et seq of the Revenue and Taxation Code of the State of California, in tax exempt property. If such an interest is created, it may be subject to property taxation and the party in whom the possessory interest is vested may be subject to the payment of taxes on such interest.

18. NUCLEAR FREE CLAUSE

CONCESSIONER certifies by its signature below that CONCESSIONER is not a nuclear weapons contractor, in that CONCESSIONER is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. CONCESSIONER agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this Lease if it determines that the foregoing certification is false or if CONCESSIONER becomes a nuclear weapons contractor.

19. DRUG-FREE WORKPLACE

CONCESSIONER is aware that COUNTY adheres to and certifies that CONCESSIONER will provide a drug-free workplace. CONCESSIONER shall notify COUNTY immediately of any unlawful manufacturing, distribution, dispensing, transporting, storing, possession, or use of a controlled substance on Airport property.

20. FIRE HAZARD

COUNTY reserves the right to restrict CONCESSIONER from conducting any activity or storing inflammable materials or substances, which would increase COUNTY'S insurance rate or cause an insurance agreement of COUNTY'S to be cancelled. CONCESSIONER shall keep the areas leased or used clear of oil and trash that may be deemed a fire hazard.

21. DESTRUCTION OF PREMISES

In the event the premises are destroyed in whole or in part by fire or other casualty to the extent that they are substantially unusable, CONCESSIONER reserves the right to forthwith terminate this Lease upon written notice within thirty (30) days following the date of loss.

If such casualty occurs and a portion of said premises is still usable by CONCESSIONER, the rent shall be prorated on a square footage basis of usable space until the premises are restored to their original condition. Payment of prorated rent shall not constitute a waiver of CONCESSIONER'S right to terminate this Lease as provided in this section.

In the event that the premises are destroyed in whole or in part by fire or other casualty, and the cost of restoring the same exceeds the then remaining rental for the unused portion of the term of this Lease, COUNTY shall have the option to rebuild or to terminate this Lease. Such option shall be exercised by COUNTY by notice in writing to CONCESSIONER within seven (7) days following the date of loss. COUNTY'S option to rebuild shall not constitute a waiver of COUNTY'S right to terminate this Lease, as provided in this section.

22. SECURITY

CONCESSIONER shall abide by CFR Title 49 Chapter XII Part 1544 and the TSA approved Airport Security Program. COUNTY shall abide by CFR Title 49 Chapter XII Part 1542 and CONCESSIONER shall abide by any programs implemented by COUNTY as it relates to its operations.

23. HOLD HARMLESS/INDEMNIFICATION

A. CONCESSIONER shall indemnify, defend and hold harmless COUNTY and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with CONCESSIONER'S duties and obligations under this Lease and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. COUNTY shall indemnify, defend and hold harmless CONCESSIONER and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with COUNTY'S duties and obligations under this Lease and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of CONCESSIONER.

C. Acceptance of insurance, if required by this Lease, does not relieve CONCESSIONER from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by CONCESSIONER'S operations regardless if any insurance is applicable or not.

24. INSURANCE

A. CONCESSIONER'S INSURANCE

THIS LEASE SHALL NOT BE EXECUTED BY COUNTY and CONCESSIONER is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.

Without limiting CONCESSIONER'S indemnification obligations provided for herein, CONCESSIONER shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Lease and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with

the activities hereunder of CONCESSIONER, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

1. Comprehensive or Commercial General Liability Insurance:

Comprehensive or General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$2,000,000 for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.

2. Workers Compensation Insurance Compensation Coverage:

If required by California Law, and in accordance with the statutory limits set forth therein, said policy shall contain or be endorsed to contain a waiver of subrogation against COUNTY, its officers, agents, and employees and provide for thirty (30) days prior written notice in the event of cancellation.

3. Automobile Liability Insurance:

With coverage at least as broad as Insurance Services Office Form CA 0001 06092, Code 1 (any auto), for vehicles used in the performance of this Lease with minimum coverage of not less than \$2,000,000 per accident combined single limit (CSL). Such policy shall contain or be endorsed with the provision that coverage shall not be cancelled or materially reduced in coverage without thirty (30) days prior written notice, ten (10) days for non-payment of premium, to COUNTY by certified mail.

B. SPECIAL INSURANCE REQUIREMENTS

Said policies shall unless otherwise specified herein be endorsed with the following provisions.

1. The Comprehensive General Liability Policy shall provide that COUNTY, its officers, officials, employees, and volunteers are endorsed as additional insured for liability arising out of the operations performed by or on behalf of CONCESSIONER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:

- a. Includes contractual liability
- b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- c. Is primary insurance as regards to County of Humboldt.
- d. Does not contain a pro-rata, excess only, and /or escape clause.
- e. Contains a cross liability, severability of interest or separation of insureds clause.
- f. Shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section 28. It is further understood that CONCESSIONER shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.
- g. Is primary coverage to COUNTY, and insurance or self-insurance programs maintained by COUNTY are excess to CONCESSIONER'S insurance and will not be called upon to contribute with it.

2. CONCESSIONER shall furnish COUNTY with certificates and original endorsements affecting the required coverage prior to execution of this Lease by COUNTY. The endorsements shall be on forms as approved by COUNTY'S Risk Manager or County Counsel. Any deductible or self-insured retention over \$100,000 shall be disclosed to and approved of by COUNTY. If CONCESSIONER does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Lease, take out the necessary insurance, and CONCESSIONER agrees to pay the cost of said insurance.

3. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and CONCESSIONER shall be required to purchase additional coverage to meet the aggregate limits set forth above.

4. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

5. Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to CONCESSIONER, COUNTY, their officers, officials, employees, and volunteers.

25. CONCESSIONER'S DEFAULT

Except where another time limit is specifically provided in this Lease, CONCESSIONER shall be in default of this Lease if it fails or refuses to perform any material provision of this Lease that it is obligated to perform if the failure to perform is not cured within ten (10) days after written notice of the default has been given by COUNTY to CONCESSIONER. If the default cannot reasonably be cured within ten (10) days, CONCESSIONER shall not be in default of this Lease if CONCESSIONER commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default.

26. COUNTY'S REMEDIES ON CONCESSIONER'S DEFAULT

COUNTY, at any time after CONCESSIONER is in default, can terminate this Lease or can cure the default at CONCESSIONER'S cost. If COUNTY at any time, by reason of CONCESSIONER'S default, pays any sum or does any act that requires the payment of any sum, the sum paid by COUNTY shall be due from CONCESSIONER to COUNTY within five (5) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate COUNTY is permitted by law to charge from the date the sum is paid by COUNTY until COUNTY is reimbursed by CONCESSIONER. The remedies set forth in this Section are in addition to and do not in any manner limit other remedies set forth in particular sections of this Lease.

27. ACTS OF GOD, WAR/TERRORISM AND OTHER CASUALTIES

COUNTY shall not be responsible for monetary losses or damage to personal property, equipment, or materials of CONCESSIONER caused by Acts of God, fire, epidemics, labor strikes, or public enemy including but not limited to acts of war and/or terrorism. CONCESSIONER hereby waives any claims for damages against COUNTY resulting from said acts.

28. NOTICE

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

CONCESSIONER: Denise McNulty and Assoc., Inc.
DBA Alamo National Car Rental
A Delaware Corporation
PO Box 2531
McKinleyville, CA 95519

COUNTY: County of Humboldt
Public Works - Aviation Division
Real Property Division
1106 Second Street
Eureka, CA 95501

All insurance notifications shall also be addressed to:

County of Humboldt
Attn: Risk Management
825 5th Street, Room 131
Eureka, CA 95501

Each party may at any time change its address for notice by giving written notice of such change to the other party in the manner provided in this Section.

29. NON-DISCRIMINATION AND COMPLIANCE WITH LAWS

A. NON-DISCRIMINATION AND AFFIRMATIVE ACTION PROVISIONS –
FAA RULES

CONCESSIONER assures that it will undertake an affirmative action program as required by federal and state regulations, to ensure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any employment activities. CONCESSIONER assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered under this subpart. CONCESSIONER assures that it will require that its covered sub-organizations provide assurance to COUNTY that they similarly will require assurances from their sub-organizations, as required by federal and state regulations, to the same effect.

B. COMPLIANCE WITH FAA, STATE, AND COUNTY REGULATIONS

CONCESSIONER agrees to abide by all FAA rules and regulations pertaining to the operation of the Airport, said rules being more particularly set forth in the FAA Lease and Use Agreement Provisions, which are attached hereto and incorporated herein as Exhibit B. Failure to comply with said rules and regulations shall be grounds for the termination of this Lease.

CONCESSIONER and its officers, agents, and employees shall carry on their activities and operations at the Airport in compliance with Federal Laws and Federal Aviation Administration regulations, State statutes, and the rules and regulations governing the use of the Airport and all other applicable COUNTY ordinances and regulations.

C. DESIGNATION

CONCESSIONER shall designate in writing to COUNTY the name and title of the officer or member responsible for compliance with paragraphs (29)(A) and (29)(B).

D. TERMINATION

COUNTY shall have the right to terminate this Lease upon seven (7) days written notice if any of the above mentioned applicable laws, standards, or criteria are not complied with.

30. AIRPORT MAINTENANCE, REPAIRS AND IMPROVEMENTS

COUNTY reserves the right, but shall not be obligated to CONCESSIONER, to maintain, repair, or improve runways, taxiways, parking area, or any other part of said Airport. COUNTY also reserves the right to enter COUNTY property and to grant easements over and under the property covered by this Lease, together with the right to direct and control all activities of CONCESSIONER related to the maintenance, repair, and improvements covered by this Section.

CONCESSIONER waives any and all claims against COUNTY for any loss of profit or increased costs due to COUNTY'S maintenance, repair, or improvements on or about said Airport.

31. NON-EXCLUSIVE RIGHTS

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S. Code Sections 40103(e) and 47107(a)(4).

32. CONCESSIONER NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY

While engaged in carrying out and complying with the terms and conditions of this Lease, CONCESSIONER is an independent contractor and not an officer, employee, or agent of COUNTY.

33. ATTORNEYS' FEES

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to perform or keep any provision of this Lease to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorneys' fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorneys' fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, "the party prevailing" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

34. WAIVER OF BREACH

The waiver by COUNTY of any breach of any provisions of this Lease shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this Lease.

35. BREACH, REMEDY FOR

In the event of breach of this Lease by CONCESSIONER, COUNTY shall have all rights and remedies provided by law, including those set forth in California Civil Code Section 1951.2.

36. BINDING EFFECT

All provisions of this Lease shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, successors, and assigns.

37. TERMINATION

Except as provided elsewhere herein, COUNTY reserves the right to terminate this Lease on seven (7) days notice for any cause or reason provided by the Lease itself, or by law, or upon the happening of one or more of the following:

- A. Filing a petition of voluntary or involuntary bankruptcy with respect to the CONCESSIONER.
- B. The making by CONCESSIONER of any general assignment for the benefit of creditors.
- C. The abandonment or discontinuance of any operation or activity which CONCESSIONER has agreed to provide under the terms of the Lease. If this condition exists for a period of ten (10) days without prior written consent of the COUNTY, it will constitute an abandonment of the land or facilities and of this Lease.
- D. The failure of CONCESSIONER to pay promptly when due all rents, charges, fees, or other payments in accordance with this Lease.
- E. The failure of CONCESSIONER to remedy any default, breach, or violation of COUNTY'S Airport rules and regulations by it or its employees.
- F. Violation of any of the provisions of this Lease or failure to maintain current licenses required for its operation.
- G. Intentionally supplying COUNTY with false or misleading information or misrepresenting any material fact on its application or documents, or in its statement to or before COUNTY, or intentional failure to make full disclosure on its financial statement or other documents.

38. LEASE MODIFICATION

This Lease may be modified only by subsequent written agreement signed by COUNTY and CONCESSIONER.

39. JURISDICTION AND APPLICABLE LAWS

This Lease shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this Lease shall be litigated in the courts of the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §394 and 395.

40. SURRENDER OF PREMISES

At the termination of this Lease, CONCESSIONER shall surrender the premises to COUNTY in good condition and repair, except for normal wear and tear. CONCESSIONER shall be under no obligation to repair or restore the whole or any portion of the premises which may be damaged by reason of fire, earthquake, the elements or other casualty.

41. INTERPRETATIONS

As this Lease was jointly prepared by both parties, the language in all parts of this Lease shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

//
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IN WITNESS WHEREOF, this Lease has been executed by the parties hereto upon the date first written above.

(SEAL)
ATTEST:

CLERK OF THE BOARD

BY _____

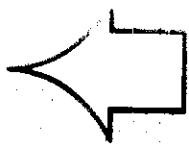
CONCESSIONER:
DENISE MCNULTY,
AND ASSOCIATES, INC.
dba ALAMO NATIONAL CAR RENTAL
A DELAWARE CORPORATION

BY *Denise McNulty*
TITLE *President*

APPROVED AS TO FORM:
COUNTY COUNSEL

BY *Joyce Stigter*
DEPUTY

BY *Molly L. McNulty*
TITLE *Assistant Secretary*



INSURANCE CERTIFICATES
REVIEWED AND APPROVED:

BY *Daniel J. Gibbs*
RISK MANAGER
Amy Olsen

COUNTY OF HUMBOLDT

BY _____
CHAIRPERSON,
BOARD OF SUPERVISORS
COUNTY OF HUMBOLDT
STATE OF CALIFORNIA

FAA LEASE AND USE AGREEMENT PROVISIONS

Definitions (For information purposes only)

Aeronautical Activities: Any activity that involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted at airports, include but are not limited to air taxi and charter operations, scheduled and nonscheduled air carrier services, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute, glider, balloon or ultralight activities and any other activities which, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities.

Nonaeronautical activities: These include but are not limited to ground transportation (taxis, car rentals, limousines), restaurants, barber shops, auto parking lots, non-aviation businesses, recreational facilities and any other commodities, services, or accommodations made available to the general public that are of a nonaeronautical nature.

Assurance: A provision contained in a federal grant agreement with which the recipient of federal airport development assistance has voluntarily agreed to comply in consideration of the assistance provided.

Exclusive Right: A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred by express agreement, by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right.

Federal Obligation: Used in the context of a federal grant program, federal airport development assistance, land transfers, or other federal aid. It refers to an airport sponsor's legal duty and responsibility to comply with the terms of conveyance instruments and grant agreements.

Minimum Standards: The qualifications or criteria which may be established by an airport owner as the minimum requirements that must be met by businesses engaged in on-airport aeronautical activities for the right to conduct those activities.

Revenue Diversion: The use of airport revenue for purposes other than the capital or operating cost of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

Self-Sustaining: The requirement to maintain a schedule of charges for use of the airport which will make the airport as self-sustaining as possible under the circumstances existing at the airport.

a) For aeronautical users, reasonable rates and charges that reflect the sponsor's cost of providing aeronautical services and facilities are satisfactory.

b) For nonaeronautical users, rates and charges must be based on the fair market value of the services and facilities provided.

PROVISIONS:

1. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does

hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The (contractor, tenant, concessionaire, lessee) assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates the (tenant, concessionaire, lessee) or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the contract.

2. The airport owner/sponsor reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or views of the (lessee, licensee, permittee, etc.) and without interference or hindrance.

3. The airport owner/sponsor reserves the right, but shall not be obligated to the (lessee, licensee, permittee), to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the (lessee, licensee, permittee, etc.) in this regard.

4. This (lease, license, permit, etc.) shall be subordinate to the provisions and requirements of any existing or future agreement between the airport owner/sponsor and the United States, relative to the development, operation, or maintenance of the airport. Failure of the (lessee, licensee, permittee) or any occupant to comply with the requirements of any existing or future agreement between the lessor and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of (lessee's, licensee, permittee's) rights hereunder.

5. There is reserved to the airport owner/sponsor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the (leased, licensed, permitted) premises. This public right of flight shall include the right to

cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operating on the airport premises.

6. The (lessee, licensee, permittee) agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the (leased, licensed, permitted) premises or in the event of any planned modification or alteration of any present or future building or structure situated on the (leased, licensed, permitted) premises. . This requires the submission of FAA Form 7460-1, *Notice of Construction or Alteration* to the FAA.

7. The (lessee, licensee, permittee) by accepting this (lease, license, permit) agreement expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or building nor permit object of natural growth or other obstruction on the land leased hereunder above a height as determined by the application of the requirements of Title 14 CFR Part 77. In the event the aforesaid covenants are breached, the owner reserves the right to enter upon the land hereunder and to remove the offending structure or object or cut the offending natural growth, all of which shall be at the expense of the (lessee, licensee, permittee).

8. The (lessee, licensee, permittee) by accepting this (lease, license, permit) agrees for itself, its successors and assigns that it will not make use of the (leased, licensed, permitted) premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the owner reserves the right to enter upon the premises hereby (leased, licensed, permitted) and cause the abatement of such interference at the expense of the (lessee, licensee, permittee).

9. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of U.S. Code 40103 (e) and 47107(a)(4).

10. This (lease, license, permit) and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said airport or the exclusive or nonexclusive use of the airport by the United States during the time of war or national emergency.

11. The (lessee, licensee, permittee) will furnish services on a reasonable and not unjustly discriminatory basis to all users, and charge reasonable and not unjustly discriminatory prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

12. The (lessee, licensee, permittee) will conform to airport and Federal Aviation Administration safety and security rules and regulations regarding use of the airport operations area including runways, taxiways, aircraft aprons by vehicles, employees, customers, visitors, etc. in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; will complete and pass airfield safe driving instruction program when offered or required by the airport; and will be subject to penalties as prescribed by the airport for violations of the airport safety and security requirements.

Revised: January 2004 (AWP-620.1)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/30/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER J.L. von Arx & Associates 10761 Los Alamitos Blvd Los Alamitos CA 90720	CONTACT NAME: Michelle Peyton PHONE (A/C, No, Ext): (562) 436-6455 E-MAIL ADDRESS: Mpeyton@jlvonarx.com	FAX (A/C, No): (562) 436-3255
	INSURER(S) AFFORDING COVERAGE	
INSURED Denise McNulty & Associates, Inc. DBA: National Car Rental DBA: Alamo Car Rental P.O.Box 2531 3561 Boeing Ave. McKinleyville CA 95519-	INSURER A: National Casualty Company	NAIC #: 11991
	INSURER B: Scottsdale Insurance Company	NAIC #: 41297
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

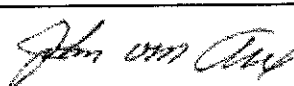
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR. WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		OPS0059576	04/01/2012	04/01/2013	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		CAO0247532 CAO0247532	04/01/2012 04/01/2012	04/01/2013 04/01/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ 15,000 BODILY INJURY (Per accident) \$ 30,000 PROPERTY DAMAGE (Per accident) \$ 5,000 \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		XLO0018945	04/01/2012	04/01/2013	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Physical Damage		CAO0247532	04/01/2012	04/01/2013	Comp Deductible 1,000 Collision Deductible 1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Certificate holder is named as Additional Insured as their interest may appear.

CERTIFICATE HOLDER**CANCELLATION**

AI 000100

Humbolt County Dept of Public Works Attn: Darcy Gray 30333 H. Street #17 Eureka CA 95501-	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Fax: (707)445-7388

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