

**COUNTY OF EL DORADO
AIRPORT LAND USE AGREEMENT FOR
HANGARS LEASE # 339-L0711**

ORIGINAL

THIS LEASE, made and executed by and between the **COUNTY OF EL DORADO**, a political subdivision of the State of California, hereinafter called "**Lessor**", and **McDAVID LIVING TRUST**, 2689 Ivy Knoll Drive, Placerville, CA 95667 hereinafter called "**Lessee**,"

W I T N E S S E T H:

Lessor, pursuant to Government Code Sections 25350-25575 and 50470-50478 and El Dorado County Ordinance Code Sections 3.08.021, Lessor hereby leases to Lessee the real property at the Placerville Airport, described in Exhibit "A" attached hereto and made a part hereof, on the following terms and conditions:

1. **PREMISES:** Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, for and in consideration of rents, covenants and agreement hereinafter set forth, the "Premises" described as follows:

Hangar Space # TP-03 Placerville Airport

2. **TERM:** The term of said Lease shall be for ten (10) years commencing August 1, 2007, and ending July 31, 2017. Upon expiration of the foregoing terms, Lessee shall have the right of first refusal to an additional lease under such terms and conditions as may be agreed upon at such time.

3. **PAYMENT:** Lessee shall pay to Lessor a rental fee based on the single engine tie down rate as established by resolution of the El Dorado County Board of Supervisors which is in effect at each rental payment date. The annual rental at the commencement of this Lease shall be **Six Hundred and Sixty Two Dollars \$(662.00)**. Rent to be made to the order of: **El Dorado County Airports, P.O. Box 85, Placerville, CA 95667.**

Said rental is payable as follows:

- a. Upon commencement date, Lessee shall pay the annual rent for the time period from the commencement date to July 1, next succeeding.
- b. On each July 1, Lessee shall pay the annual rental for the next succeeding fiscal year.
- c. On July 1, at the commencement date of the fiscal year during which this Lease terminates, Lessee shall pay the prorated portion of the annual rent for the time period from July 1 to the termination date of said Lease.

4. USE OF PREMISES: The leased premises are leased herein for the sole purpose of storage of Lessee's aircraft, care and maintenance of lessee's aircraft and for uses normally incident thereto. Unless expressly provided for herein or by other written agreement with Lessor, nothing in this Lease shall be construed to grant Lessee the right to rent hangar to others, conduct business or any commercial activity upon the leased premises herein, including but not limited to any commercial activities, e.g., rental of hangar to others, for hire or profit, or those normally or actually conducted by fixed base operators upon airport premises. The storage of an aircraft used in Lessee's trade or business shall not be deemed a "commercial activity" and such aircraft shall be deemed to be "Lessee's aircraft" for purposes of this paragraph.

5. INSURANCE: Lessee shall provide proof of a policy of insurance satisfactory to the Lessor and documentation evidencing that Lessee maintains insurance that meets the following requirements:

A. General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for injury or damage arising out of Lessee's premises. Or Aircraft Liability Insurance of \$1,000,000 per occurrence for aircraft operated on Lessor's premises with Liability coverage extended to the hangar premises.

B. Lessee shall furnish a certificate of insurance satisfactory to Lessor as evidence that the insurance required above is being maintained.

C. The insurance shall be issued by an insurance company acceptable to the Lessor or be provided through partial or total self-insurance likewise acceptable to Lessor.

D. Lessee agrees that the insurance required above shall be in effect at all times during the term of this Lease. In the event said insurance coverage expires at any time or times during the term of this Lease, Lessee agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Lease, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Lessor and Lessee agrees that the Lease shall not commence prior to the giving of such approval. In the event the Lessee fails to keep in effect at all times insurance coverage, as herein provided, Lessor may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event.

E. The certificate of insurance must include provisions stating that:

1. The insurer will not cancel the insured's coverage without 30 days prior written notice to the Lessor; and
2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured, but only insofar as the operations under this Lease are concerned. This provision shall apply to all liability policies except workers' compensation.

F. The Lessee's insurance shall be primary insurance as respects the Lessor, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the Lessor, its officers, officials, employees or volunteers shall be in excess of the Lessee's insurance and shall not contribute with it.

G. Any deductibles or self-insured retention must be declared to and approved by the Lessor. At the option of the Lessor either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the Lessor, its officers, officials and employees; or Lessee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

H. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the Lessor, its officers, officials, employees or volunteers.

I. The insurance companies shall have no recourse against the County of El Dorado, its officers, officials or employees for payment of any premiums or assessments under any policy issued by any insurance company.

J. Lessee's obligations shall not be limited by the foregoing requirements and shall survive the expiration of this Lease.

K. In the event Lessee cannot provide an occurrence policy, Lessee shall provide insurance covering claims made as a result of performance of this Lease for not less than three (3) years following completion of this Lease.

L. The Certificate of Insurance shall meet additional standards as may be determined by the Lessor, either independently or in consultation with the Lessor's Risk Manager, as essential for protection of the Lessor.

6. INDEMNIFICATION: Lessee shall indemnify, defend and hold Lessor harmless from and against any and all claims arising from Lessee's use or use by Lessee's agents, contractors or employees of the premises, or from the conduct of Lessee's business or any activity, work or things done, permitted or suffered by Lessee in or about the premises or elsewhere, and shall further indemnify, defend and hold Lessor harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease and from all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim, or any action or proceeding brought thereon. Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damage to property or injury to persons in or upon the premises arising from any cause except that caused solely by Lessor or its employees, agents, and Lessee hereby waives all claim in respect thereof against Lessor.

7. **MAINTENANCE & REPAIR:** Lessee shall at all times during the term of this Lease and any renewal or extension thereof, maintain and keep, at Lessee' s sole cost and expense, said hangar, land and all improvements thereon, and all facilities appurtenant thereto, in good order, repair and safe condition and in compliance with all requirements of law. Lessee shall not make or permit any other person to make any alterations to the Premises without the written consent of Lessor first obtained. Should Lessor consent to the making of any alterations to the Premises by the Lessee, subsequent to execution of this Lease, said alterations shall be made at the sole cost and expense of Lessee by a contractor or other person selected by Lessee and approved in writing by Lessor before work commences. Any and all additions to, alterations, or repairs in and about the land and/or improvements which may be required, Lessee shall observe and comply with all applicable statues, ordinances, rules, and regulations established by any federal, state, county or local government agency. Lessee shall maintain an area of ten (10) feet from the exterior walls of said hangar or of the median point between hangars if there is less than twenty (20) feet between hangars, free from brush and weeds. If Lessee fails to keep and maintain the leased premises and improvements as required herein, Lessor may at its own discretion following written notification, may restore, repair or correct any health, fire, or safety conditions and any expenses incurred by Lessor shall be payable by Lessee.

8. **ALTERATIONS:** No structure or other improvements for which the plans, specifications and proposed location have not first received the written approval of Lessor and are in accordance with Exhibit "B", Board of Supervisors Policy F-9, incorporated herein and made by reference a part hereof, shall be constructed or maintained on the leased premises. No material addition to or alteration of any building or structure erected on the leased land shall be commenced unless and until said plans and specifications covering the exterior of the proposed addition or alterations have been first submitted to and approved by Lessor. For the purposes of this section, the County Airports Operations Supervisor or successor authority shall be the approval authority for such plans.

9. TAXES AND ASSESSMENTS: Lessee understands that the Lease creates a property interest which may be subject to property taxation and that any possessory interests vested in the Lessee or his or her assignees through this agreement make the Lessee or his or her assignees subject to the payment of any property taxes on that property interest pursuant to Revenue and Taxation Code section 107.6. It is further agreed by and between the parties hereto that Lessor has informed Lessee that such property interest, together with any improvements as may be made by Lessee, as may be created or allowed by this Lease may be subject to property taxation and that Lessee may be subject to the payment of property taxes levied on such interest(s).

Lessee agrees to pay all taxes levied upon the leased property and improvements on the property, including trade fixtures and inventory not owned by Lessor and kept on the premises leased herein.

10. LESSEE'S OBLIGATIONS TO COMPLY:

A. The intent of Board of Supervisors Policy F-5, **Hangar Allocation Policy** and of this lease is to provide hangar space to those who have an aircraft but no hangar. In the event Lessee no longer occupies hangar and rents hangar to others the rate shall automatically be adjusted upwards to the commercial rate in effect at that time or as may be changed from time to time by the Board of Supervisors. In the case of hangars housing multiple aircraft, sharing of a portion of hangar with others will not trigger the increase to the established "commercial rate" as long as Lessee continuously occupies space in hangar with lessee's aircraft. At the commencement of rental of hangar, or portion thereof, to others, a commercial general liability insurance policy must be provided that includes Hangar Keepers Liability coverage of at least \$75,000 or the value of stored aircraft., All other limits for insurance shall remain in effect as stated in section 10 above.

B. Transition Allowance. In the event Lessee sells their aircraft and is actively pursuing replacement with another aircraft there shall be a six month period allowed for occupancy by others. Written notice of this intent to replace must be provided to the Airport Operations Office within thirty days of beginning of occupancy by others or the lease rate shall

be adjusted upwards effective immediately upon occupancy by other than Lessee. In the event that another aircraft is not obtained within this six month period and the hangar is occupied by others, the lease rate shall be adjusted upwards with out further notice and a revised billing will be provided for the balance of the annual lease period. Additional fees may be paid on a month to month basis but no further billing will be made by Lessor after initial notice and billing of adjustment.

C. Lessee shall submit to Lessor within thirty (30) days of sale, sublease, assignment or rental of any aircraft stored on the leased property, the Aircraft Registration Number (“N-number”), and the name of the registered owner.

D. Lessee shall confine his activities to the leased premises only excepting reasonable ingress and egress and the normal and intended use of the airport runways and taxiways and other airport public facilities.

11. ASSIGNMENT OR SUBLEASING: No one person shall have an interest in more than two land use leases. An interest would be defined as any incident of ownership in the lease; partnership or otherwise.

Lessee shall not transfer, assign or sublet its rights or interest to any other person under this Lease, without the express written consent of the Lessor first had and received provided said consent by Lessor shall not be unreasonably withheld.

It is the understanding and intent of the parties that in the event of sale of the hangar or sublease, assignment, or other transfer of the interests hereunder, only the balance of the term of this Lease may be transferred or assigned to a successor in interest and that such transfer or assignment requires the permission of Lessor to be first obtained. Such consent may be withheld by Lessor for any commercially reasonable objection, including where such transfer, assignment or sublease would result in a “commercial activity”. as described in paragraph 4 above.

Prior to sale of hangar and assignment of Lease the prospective buyer must submit to the Airport Operations Office proof of aircraft ownership. Lessee herein shall at all times remain

obligated for performance of the terms hereof.

12. LESSOR'S RIGHTS:

Lessor reserves to itself and to its successors or assigns hereunder the following rights:

A. Lessor shall have access, at any time during normal business hours, and at all reasonable times thereafter with notice, except in the case of emergency, during which, or in anticipation of which, Lessor shall have access at any and all times, for the purpose of monitoring and evaluating the obligations of Lessee hereunder to determine if the installation, maintenance and use of the aforementioned premises are in compliance with all federal, state and local laws, regulations and the terms and conditions under this Lease.

B. The right to enter onto the premises to serve, post any required notices, or to carry out and enforce all laws.

C. The right for the use and benefit of the public of flight for the passage of aircraft in the airspace above the surface of the premises herein leased, to include but not limited to the right to cause in said airspace any noise inherent in the operation of any aircraft through said airspace or from the taking off from or landing of said aircraft at said airport.

D. The right to further develop or improve the airport as it sees fit without interference or hindrance by Lessee.

E. Lessor has the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the airport and all publicly owned facilities at said airport, together with the right to direct and control all activities of Lessee in this regard.

F. In the event the airport or other premises herein leased are rendered totally or partially inaccessible, untenable or unusable because of the condition thereof, which condition was not caused by Lessor or its agents, and Lessor, in its sole discretion, determines that restoration, repair or further use is not desirable, this Lease shall be automatically terminated upon thirty (30) days' notice to Lessee. In such event, Lessor shall owe nothing as a result thereof and all and any costs or expenses of removal of structures as provided for herein are to be borne by Lessee.

G. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States, relative to the development, operation, or maintenance of the airport, including such required covenants promulgated by the Federal Aviation Administration, Exhibit "C", incorporated herein and made by reference apart hereof. For the purposes of the FAA required covenants, Lessor shall be the "sponsor" and the Lessee or its successor in interest shall be the lessee, licensee, permittee or other similar party.

H. During the term of this Lease, Lessor shall have the right, at Lessor's obligation and expense, to relocate the leased tract herein to a different location at the Placerville Airport and to move and install Lessee's hangar to such located tract, provided that:

1. Lessee is given thirty (30) days' notice of such relocation; and
2. Lessor provides surfacing and improvements at the relocated tract at least equal to the surfacing and improvements at Lessee's prior location.

13. **NOTICES:** Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party, Lessor or Lessee, to whom it is directed or any managing employee of such party or, in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid, addressed to:

Lessee: **McDAVID LIVING TRUST**
2689 Ivy Knoll Drive
Placerville, Ca 95667

Lessor: County Of El Dorado, Airports
P.O. Box 85
Placerville, California 95667

Attention: Airport Manager
Telephone: (530) 622-0459

Either party, Lessor or Lessee, may change its address for purposes of this paragraph by giving written notice of the change to the other party in the manner provided in this

paragraph.

14. CANCELLATION: Upon termination of this Lease, improvements of a permanent nature placed upon the leased premises, such as concrete pads, gravel or other site preparation, shall become the property of the Lessor without charge to the Lessor or Lessee shall remove the hangar at Lessee' s sole obligation and expense. If Lessee fails to remove said hangar within thirty (30) days after termination of this Lease, Lessor may, at its discretion, after written notification to Lessee, of its intent to do so, cause said hangar to be removed and the costs for storage, removal and additional rental thereof shall be paid by Lessee. For purposes of calculating additional rent in the event Lessee holds over beyond the termination of this Lease, Lessee shall be charged one-twelfth (1/12) of the current annual lease fee for each thirty (30) calendar-day period or portion thereof after the expiration date of this Lease.

15. SOLE AND ONLY AGREEMENT: The Lease contains the entire agreement of the parties with respect to the matters covered by this Lease and no other agreement, statement or promise made by any party or to any employee, officer or agent of any party which is not contained in this Lease shall be binding or valid.

16. ATTORNEY FEES: Should any litigation be commenced between Lessor and Lessee concerning the Premises, this Lease or the rights and duties of either Lessor or Lessee in relation thereto, the party , Lessor or Lessee, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney's fees in the litigation which shall be determined by the court in such litigation or in a separate action brought for that purpose.

17. TIME OF ESSENCE: Time is of the essence of each provision of this Lease.

18. SEVERABILITY: The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.


19. **HOLDING OVER:** If Lessee holds over following expiration of Lease with consent of Lessor, lessee's occupancy shall be month to month and Lessee's occupancy of leased premises after expiration shall be subject to compliance with all terms of this Lease including, but not limited to, payment of the annual lease fees.

20. **LEASE ADMINISTRATOR:** The County Officer or employee with responsibility for administering this Lease is the General Services Director or successor.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first below written.

LESSEE


Dated: 7-9-07

By: 
Curtis McDavid
"Lessee"

Correction: B. Curtis McDavid

-- COUNTY OF EL DORADO --

Dated: 9/25/07

By: 
HELEN K. BAUMANN Chairman
Board of Supervisors
"County"

ATTEST:
Cindy Keck, Clerk
of the Board of Supervisors

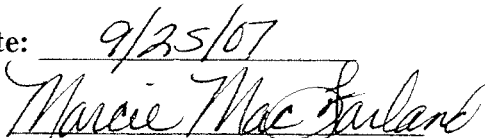
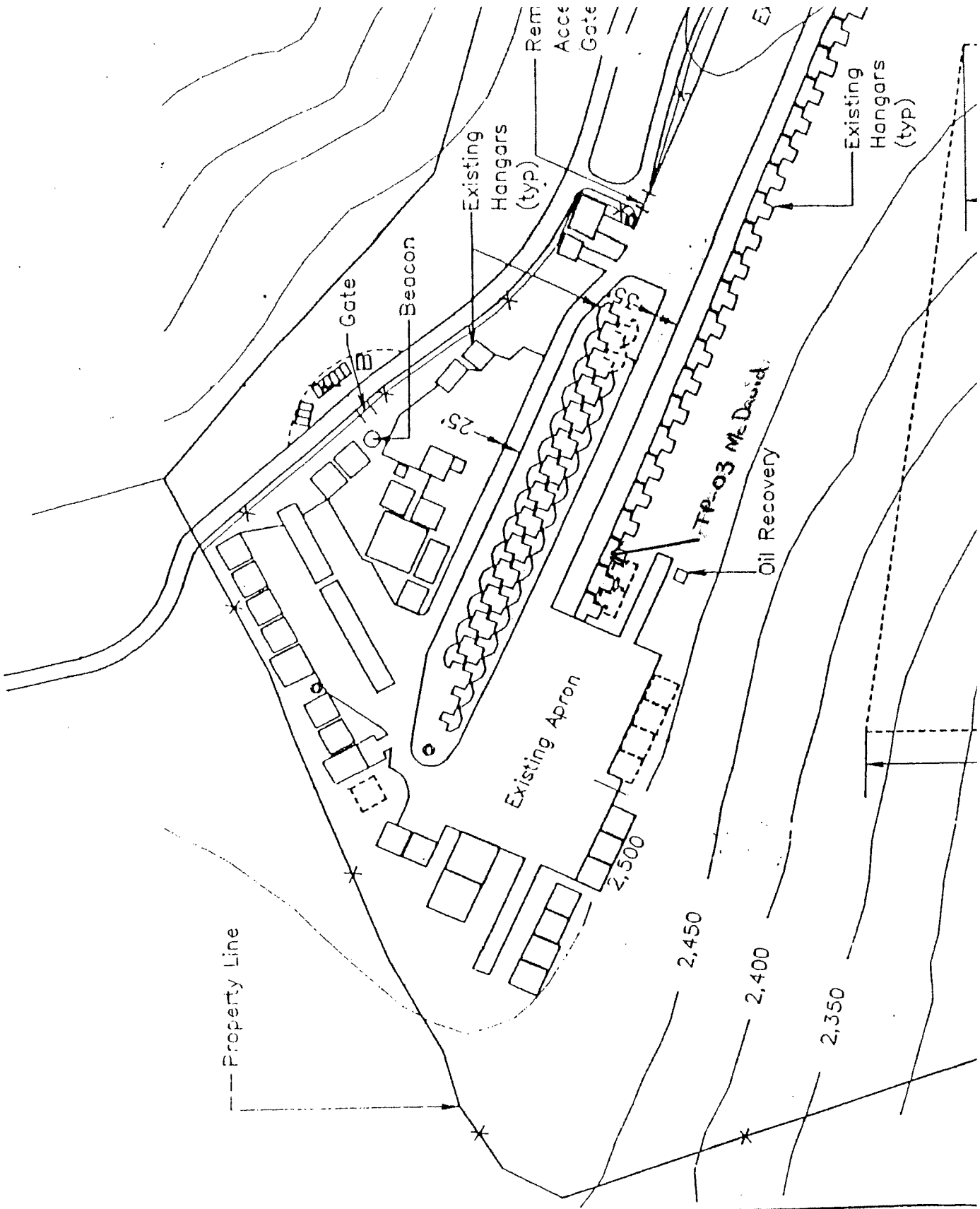
Date: 9/25/07
By: 
Deputy Clerk

Exhibit A

SITE PLAN

PLACERVILLE AIRPORT - WEST END





BOARD OF SUPERVISORS POLICY

EXHIBIT "B"

Subject: AIRPORTS -- PORTABLE HANGER COLOR	Policy Number	Page Number
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Date Adopted: 10/19/93		

Background:

The practice of having a standard color for privately owned hangars at both Placerville and Georgetown Airports was established at approximately the time hangar agreements without reversion were allowed under the Airport Land Use Agreement for Portable Hangars. Placerville Airport has had the green color since approximately 1975. Georgetown Airport users chose a beige color in 1989 when the first hangars of that type were constructed. This has not been a written policy but in most cases was followed as being in the best interest of the Airports.

Purpose:

The purpose of this policy is to formalize an unwritten policy, clarify the colors and provide for an orderly look by maintaining the uniformity of color of the portable hangars on both Placerville and Georgetown Airports.

Policy:

1. The color of all privately owned hangars erected on Placerville Airport shall be GREEN. For the purposes of this policy the color GREEN is intended to mean a medium green color common to the existing GREEN hangars.
2. The color of all privately owned hangars erected on the Georgetown Airport shall be BEIGE. For the purposes of this policy the color BEIGE is intended to mean a medium beige/brown color common to the existing BEIGE hangars.



BOARD OF SUPERVISORS POLICY

Subject: AIRPORTS -- PORTABLE HANGER COLOR	Policy Number	Page Num
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Date Adopted: 10/19/93		

3. This policy shall be included in and made part of each privately ow hangar lease under the Airport Land Use Agreement for Portable Hang Airport Land Use Agreement for Non "T" Portable Hangar and FBO Airport Agreement constructed on either Airport.
4. Any request for deviation shall be reviewed, and approved or denied by El Dorado County Airport Commission.

Primary Department: Department of Transportation/Airports

References: None

EXHIBIT "C"
FEDERAL AVIATION ADMINISTRATION

1. The Permittee for himself, his heirs, personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in event facilities are constructed, and maintained, or otherwise operated on said property described in this permit for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Permittee 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.
2. The Permittee for himself, his personal representative, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree 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 subject 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, (3) that the Permittee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Program of the Department of Transportation, and as said Regulations may be amended.
3. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.
4. Permittee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that Permittee may make reasonable, nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.
5. County reserves the right (but shall not be obligated to 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 Permittee in this regard.

6. County reserves the right further to develop or improve the landing area and all publicly owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of Permittee, and without interferences or hindrance.
7. County reserves the right to take any action it considers necessary to protect the aerial approaches against obstructions, together with the right to prevent Permittee from erecting, or permitting to be erected, any building or other structure on the airport which in the opinion of County would limit the usefulness of the airport or constitute a hazard to aircraft.
8. During time of war or other national emergency County shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this instrument, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.
9. It is understood and agreed that the rights granted by this agreement will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.
10. There is hereby reserved to County, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the airport.
11. The permit shall become subordinate to provisions of any existing or future agreement between the County and the United States of America or any agency thereof relative to the operation, development, or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.