

**Recorder's Office Cover Sheet**

**Recording Requested By:**

**Name:** ERICKSON AIRCRAFT

**Department:** AIRPORT



KAREN ELLISON, RECORDER

**Type of Document: (please select one)**

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other

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DATE

DOUGLAS COUNTY CLERK  
MINDEN, NV

2022 AVIATION ROUNDUP CONTRACT BY 90 DEPUTY

A CONTRACT BETWEEN

DOUGLAS COUNTY, NEVADA

AND

*ERICKSON AIRSHOW COLLECTION LLC*

This Contract is entered into by and between Douglas County, a political subdivision of the State of Nevada (the "County"), and *Erickson Airshow Collection LLC, an Oregon Limited Liability Company (Registration No. 1083628-98)* ("Contractor"). The County and Contractor are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

**WHEREAS**, Douglas County, a political subdivision of the State of Nevada, owns and operates the Minden-Tahoe Airport and thereupon hosts the Aviation Roundup Airshow; and

**WHEREAS**, Contractor represents that Contractor is duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein made, the County and Contractor mutually agree as follows:

**1. AIRSHOW DATES.** The 2022 Aviation Roundup Airshow performance dates are scheduled for October 1-2, 2022. The setup period will occur between September 25-30, 2022 (as coordinated between Airport Director and Contractor), and breakdown will occur between the show end on October 2, 2022 and close of business on October 3, 2022. This Contract will become effective on the date it is approved and signed by representatives of both Parties ("Effective Date").

**2. INDEPENDENT CONTRACTOR STATUS.** The Parties agree that Contractor (including associates and employees) shall have the status of an independent contractor and that this contract, by explicit agreement of the parties, incorporates and applies the provisions of NRS 333.700, as necessarily adapted to the parties, including that Contractor is not a Douglas County employee and that there shall be no:

- 1) Withholding of income taxes by the County;
- 2) Industrial insurance coverage provided by the County;
- 3) Participation in group insurance plans which may be available to employees of the County;
- 4) Participation or contributions by either the independent contractor or the County to the public employees' retirement system;
- 5) Accumulation of vacation leave or sick leave;

- 6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

**4. SERVICES TO BE PERFORMED.** The Parties agree that the Contractor will perform services related to: Static Displays of a B-17 Flying Fortress and P-51 Mustang, which will be available for airshow attendee rides on terms agreed upon between Contractor and attendee. The Materials and Services are more particularly described and shall be completed in accordance with the requirements set forth in Exhibit A hereto.

**5. PAYMENT FOR SERVICES.** Contractor agrees to provide the services set forth in Paragraph 4 for a total cost not to exceed Twenty Thousand Dollars (\$ 20,000) (the "Contract Price").

Of the total Contract Price, \$4,000 shall constitute the Deposit, and the remaining \$16,000 shall constitute the Remaining Balance. Prior to receiving payments, Contractor shall complete and submit to County the County's required vendor registration forms. Subject to the terms set forth in Paragraph 7, below, payment will be made on the following schedule:

- Immediately upon the Effective date of this Contract, Contractor may submit an invoice for the Deposit, which the County will pay within 30 days.
- 30 Days in advance of the Airshow, Contractor shall submit an invoice for the Remaining Balance, which will be due at the conclusion of the airshow on October 2, 2022, provided that Contractor has performed as required by the Contract. A delay in submitting this invoice may result in the delay of payment.

In addition to the Contract Price, the County agrees to provide the following accommodations to Contractor:

- 4 Hotel Rooms at the Carson Valley Inn From Sept. 28-Oct. 2, 2022 (or equivalent hotel)
- 1 SUV-type Rental-Cars from Sept. 28-Oct. 2, 2022
- Up to 550 Gallons 100LL Fuel (400gal/B-17; 150gal/P-51)
- Up to 25 gallons Engine Oil (20gal/B-17; 5gal/P-51)
- 0 Travel Expenses
- 0 Smoke Oil
- OTHER: NONE.

Except as specifically listed above, Contractor shall not be entitled to receive from County any compensation, reimbursement, or other value or payment of any kind.

**6. TERMINATION OF CONTRACT AND AIRSHOW OR PERFORMANCE CANCELATION.** Either Party may terminate the Contract for cause if the other Party fails to correct any breach of the terms of the Contract within 30 days after receiving notice of such breach and having been given a reasonable opportunity to cure the breach. Provided, however, that except as otherwise set forth in this Contract, early termination will not relieve a Party of any obligation that became due prior to the date of termination.

In the event that the County cancels the Airshow, the following shall apply:

- If the Airshow is canceled more than 30 days in advance of the Airshow date, the Contractor shall, as its sole compensation, be entitled to retain its deposit.

- If the Airshow is canceled less than 30 days in advance, but prior to the September 28, then Contractor shall be entitled to the payment of the Contract Price, but shall not be entitled to receive any additional accommodations set forth in Paragraph 5.
- If the Airshow or Contractor's performance are canceled between September 28 and October 2, 2022 (due to weather or other condition), then Contractor will be entitled to the Contract Price and accommodations.

If Contractor fails to perform under this Contract (by failing to attend, failing to maintain proper licensing, becoming incapacitated, failing to bring required equipment or personnel, etc.), then Contractor shall not be entitled to any payment or accommodations. In such event, Contractor shall, within 30 days after the Airshow dates, reimburse the County for the Deposit.

**7. LICENSING.** Contractor agrees to maintain any required licenses to perform any services for County. The failure to maintain any required license will result in immediate termination of this Contract.

**8. ADVERTISING/PROMOTION.** In the course of advertising or promoting the Airshow, County may acknowledge Contractor's participation as a performer. Such acknowledgement may occur in external communication, including, without limitation, the Aviation Roundup website and its marketing and outreach materials. Contractor grants to County a non-transferable, non-exclusive, non-sublicensable, irrevocable license to display the marks displayed on Exhibit A for the purpose set forth above.

Contractor may also, in its marketing materials, identify itself as a performer at the 2022 Aviation Roundup. The County grants to Contractor a non-transferable, non-exclusive, non-sublicensable, revocable license to use, copy and display the marks set out in Exhibit B for the limited purpose of advertising its participation in the airshow.

**9. GENERAL LIABILITY INSURANCE.** Douglas County's liability coverage will not extend to the Contractor and Contractor is required to acquire and maintain general liability insurance pertinent to the Services described in Paragraph 4 in the minimum amount of \$1,000,000 during the term of no less than September 25 through October 3, 2022. The County, its contractors, volunteers, agents and employees must be listed as an additional insured party on the policy. Proof of insurance must be sent to the Douglas County Airport Manager. Such proof of insurance must be provided by September 25, 2022; Douglas County must be notified at least 30 days in advance of any cancellation or nonrenewal of such insurance.

**10. NONAPPROPRIATION.** All payments required pursuant to the Contract are contingent upon the availability of County funds. In accordance with NRS 354.626 and any other applicable provision of law, the financial obligations between the Parties will not exceed those monies appropriated and approved by the County for the Contract for the then current fiscal year under the Local Government Budget Act. The Contract will terminate and the County's obligations will be extinguished if the County fails to appropriate the necessary funding.

Nothing in the Contract will be construed to provide Contractor with a right of payment from any entity other than the County. Any funds budgeted by the County pursuant to the terms of the Contract that are not paid to Contractor will automatically revert to the County's discretionary control upon the completion, termination, or cancellation of the Contract. The County will not have any obligation to re-award or to provide, in any manner, the unexpended funds to Contractor. Contractor will have no claim of any sort to the unexpended funds.

**11. CONSTRUCTION OF CONTRACT.** The Contract will be construed and interpreted according to the laws of the State of Nevada. There will be no presumption for or against the drafter in interpreting or enforcing the Contract. The Contract Documents consist of this document, and Exhibit A. The Parties agree to be bound by the terms, conditions and specifications set forth in all Contract Documents, except as specifically modified or amended. The terms of the Contract Documents shall, to the extent reasonably practical, be read as complimentary to one another. In the event of an irreconcilable conflict between the terms of the Contract Documents, the terms of this document shall prevail, thereafter the terms of Exhibit A.

**12. DISPUTE RESOLUTION.** In the event a dispute arises between the Parties, the Parties promise and agree to first meet and confer to resolve any dispute. If such meeting does not resolve the dispute, then the Parties agree to mediate any dispute arising from or relating to the Contract before an independent mediator mutually agreed to by the parties. The fee, rate or charge of the mediator will be shared equally by the Parties, who will otherwise be responsible for their own attorney's fees and costs. If mediation is unsuccessful, litigation may only proceed before a department of the Ninth Judicial Court of the State of Nevada in and for the County of Douglas that was not involved in the mediation process and attorney's fees and costs will be awarded to the prevailing party at the discretion of the court.

**13. COMPLIANCE WITH APPLICABLE LAWS.** Contractor promises and agrees to fully and completely comply with all applicable local, state and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of the Contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all hazardous materials regulations, and all immigration and naturalization laws.

**14. ASSIGNMENT.** Contractor will neither assign, transfer nor delegate any rights, obligations or duties under the Contract without the prior written consent of the County.

**15. PUBLIC RECORDS LAW.** Contractor expressly understands and agrees that all documents submitted, filed, or deposited with the County by Contractor, unless designated as confidential by a specific statute of the State of Nevada, will be treated as public records pursuant to NRS chapter 239 and shall be available for inspection and copying by any person, as defined in NRS 0.039, or any governmental entity. Contractor expressly and indefinitely waives all of its rights to bring, including but not limited to, by way complaint, interpleader, intervention, or any third party practice, any claims, demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the County or any of its officers or employees, in either their official or individual capacity, for violations of or infringement of the copyright laws of the United States or of any other nation.

**16. INDEMNIFICATION.** Contractor agrees to indemnify, defend, and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from or related to Contractor's negligent performance pursuant to the terms of the Contract by Contractor or Contractor's agents or employees.

**17. MODIFICATION OF CONTRACT.** The Contract and the attached exhibits constitute the entire agreement and understanding between the Parties and may only be modified by a written amendment signed by both of the Parties.

**18. AUTHORITY.** The Parties represent and warrant that they have the authority to enter into this agreement. Each signatory individually warrants that he or she is authorized to sign on behalf of the party for whom he or she is signing.

**19. STANDARD OF CARE.** Contractor will perform all services in a manner consistent with that level of care and skill ordinarily exercised by other members of Contractor's profession currently practicing in the same locality under similar conditions.

**20. THIRD PARTY BENEFICIARY.** Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either Contractor or County.

**21. FORCE MAJEURE.** Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to unforeseeable protests, strikes, legal impossibility, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, emergencies or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event, the intervening cause must not be through the fault of the Party asserting such an excuse, and the excused Party is obligated to promptly perform in accordance with the terms of this Agreement after the intervening cause ceases.

**22. WAIVER.** The County's failure to insist upon Contractor's performance of any obligation hereunder shall not constitute a waiver of the County's right to enforce that obligation and the County may require compliance with that obligation or any other obligation at any time.

**23. NOTICES.** All notices, requests, demands and other communications hereunder must be in writing and will be deemed delivered when sent via certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

**To County:**

Douglas County  
Attn: Airport Manager  
Post Office Box 218  
Minden, Nevada 89423

**To Contractor:**

**Erickson Airshow Collection LLC**



2408 NW Berg Drive  
Madras, Oregon 97741

24. **CONFLICT OF INTEREST.** By signing the Contract, Contractor agrees that any information obtained from Douglas County, in whatever form, will not be divulged to other competing interests without the permission of the County Manager. In the event of a breach of this provision, Douglas County may immediately withdraw, without penalty or any payment, from the Contract. Contractor must notify Douglas County of any other contracts or projects Contractor is working on that may impact Douglas County.

**IN WITNESS WHEREOF**, the Parties hereto have caused the Contract to be signed and intend to be legally bound thereby.

**Erickson Airshow Collection LLC**

By: Michelle A Foster - Asset Manager \* on behalf of Michael Oliver, Manager  
Michael Oliver, Manager  
7/8/2022 (Date)

**Douglas County**

By: Patrick Cates  
Patrick Cates, County Manager  
Acting County Manager, Jennifer Davidson  
7/15/2022  
(Date)

Exhibit A



**AIR SHOW AGREEMENT**

Performer: Erickson Airshow Collection LLC  
Performer Address: 2408 NW Berg Drive  
Madras, Oregon 97741

Sponsor: Minden-Tahoe Airport  
Sponsor Address: 1146 Airport Road, Minden NV 89423  
Contact: BThompson@douglasnv.us

Aircraft: B-17 Flying Fortress & P-51 Mustang  
Name of Air Show: Minden-Tahoe Airport Aviation Roundup  
Dates of Air Show: October 1-2, 2022  
Practice Date (if any): September 30, 2022  
Date(s) of Performance: October 1-2, 2022

Performer Fee: US\$20,000.00  
Deposit: US\$4,000.00

Expenses: See Exhibit A

Performance: Performer's performance will be Static Display for each Date of Appearance listed above.

**Terms and Conditions**

Sponsor agrees to pay Performer the Performer Fee and the Expenses set forth on **Exhibit A**. The Deposit, which will be credited against the Performer Fee, must be received by Performer within 10 days of the date of the Agreement. The balance of the Performer Fee must be received at the first show brief the first day of the Air Show. **THE PERFORMER FEE IS PAYABLE BY CHECK PAYABLE TO ERICKSON AIRSHOW COLLECTION LLC.**

The Deposit is non-refundable except upon Performer's material breach of the Agreement. Without limitation, the Deposit shall be retained by Performer as liquidated damages should Sponsor cancel or reschedule the Air Show and notify Performer in writing at least 45 days before the Date of Performance. If the Air Show is cancelled or rescheduled for any reason not less than 45 days before the first Date of Performance, then Performer shall be immediately paid the entire Performer Fee and reimbursed for any expenses incurred that cannot be avoided (such as hotel room charges if the room cannot be cancelled).

If weather, mechanical failure or any other circumstance(s) prevents Performer from starting Performer's traveling to the Air Show, then Performer shall not be entitled to be reimbursed for its expenses. If Performer reaches the Air Show and weather or any other circumstances outside of Performer's reasonable control causes or prevents Performer from flying its performance or causes Performer to shorten or modify its performance, Sponsor agrees to pay the full Performer Fee and reimburse all expenses, as if Performer had been able to fly its full performance.



The Performer Fee is net of all federal, state and local taxes, duties, and other assessments, except for taxes on the income of Performer, which shall be the responsibility of Performer.

Other than the Aircraft and the pilot for the Aircraft, Sponsor is responsible for providing all other equipment, personnel and facilities necessary for the performance, including without limitation a start cart.

This Agreement is governed by Oregon law. Sponsor agrees that exclusive jurisdiction shall be in Oregon state court. In the event of a lawsuit seeking payment of the Performer Fee, the expenses, or both, the prevailing party in such lawsuit shall be entitled to recover its reasonable attorney fees and all costs and expenses of such lawsuit.

Sponsor

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: \_\_\_\_\_

ERICKSON AIRSHOW COLLECTION LLC

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: \_\_\_\_\_

**EXHIBIT A  
EXPENSES**

**PERFORMER EXPENSES TO BE PAID BY SPONSOR**

- 1) AVGAS as required for performance, practice, and Sponsor flights
- 2) Departure fuel
  - B-17 - (400) gallons of AVGAS
  - P-51 - (150) gallons of AVGASOil:
  - B-17 - (20) gallons of Aeroshell W120 Oil
  - P-51 - (5) gallons of Aeroshell W120 Oil
- 3) Four (4) hotel rooms for all days that Performer is on site.
- 4) One SUV or Van type rental car for all days that Performer is on site.
- 5) LHFE Rides in B-17 and P-51 available prior and after the airshow.
- 6) Rides available to all marketing and advertising.

**MAILING INSTRUCTIONS**

Mail to:

Erickson Airshow Collection  
2408 NW Berg Dr.  
Madras, OR 97741

Exhibit B



COPY

Douglas County State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

26<sup>th</sup> day of July, 2022

By Jacqueline W. King Deputy