ORANGE COUNTY BOARD OF SUPERVISORS

Agenda Rev is ions and Sup plements als

Note: This supplemental agenda is updated daily showing items that have been added, continued, deleted or modified. No new supplemental items will be added to the agenda following close of business on Friday.

September 15, 2020

DISCUSSION

12. Deleted

17. Revised Title to read: County Executive Office - Approve grant applications/awards submitted by OC Community Resources, Health Care Agency, Sheriff-Coroner, County Executive Office and District Attorney and retroactive grant applications/awards submitted by Social Services Agency in 9/15/20 grant report and other actions as recommended; adopt resolutions authorizing OC Community Resources Director or designee to revise submittal of NOFA application to California Department of Housing and Community Development for Homekey Program and executing standard agreements, any subsequent amendments and related documents to the program; adopt resolution authorizing Sheriff-Coroner or designee to execute and submit application and grant assurance to California Office of Emergency Services for FY 2020 Emergency Management Performance Grant ($773,386) and approving related actions under certain conditions; and adopt resolution authorizing District Attorney or designee to execute grant agreements and amendments with California Office of Traffic Safety for Alcohol and Drug Impaired Driver Vertical Prosecution Program, FFY 2020-21 ($1,039,400) and California Traffic Safety Resource Prosecutor Training Network, FFY 2020-21 ($761,738); and making California Environmental Quality Act and other findings - All Districts

THE FOLLOWING AGENDA ITEMS HAVE HAD CHANGES TO THEIR RECOMMENDED ACTIONS SINCE RELEASE OF THE AGENDA TO THE PUBLIC:

Item: 17

Supplemental Item(s)

S21A. John Wayne Airport - Approve Full-Service Fixed Base Operation leases with Clay Lacy Aviation, Inc. for Northwest parcel and Aviation Consultants, Inc. dba ACI Jet for Northeast parcel, 1/1/21 - 12/31/55; authorize Director or designee to make minor modifications and amendments under certain conditions and to provide 30 days written notice to terminate existing Southeast Fixed Based Operation Interim Lease with Newport FBO Two, LLC dba Atlantic Aviation; and consider application of Final Environmental Impact Report No. 627 and other findings - District 2 (4/5 vote of the members present)

S21B. Vice Chairman Do - Direct Health Care Agency or designee to conduct free drive thru flu vaccine clinic with walk up capabilities in each of five supervisorial districts, develop free mobile flu vaccine clinic operational plan by 9/30/20 and provide public education in English, Spanish, Vietnamese, Korean and Chinese in accordance with County’s Language Access Policy
S21C. **Vice Chairman Do and Supervisor Chaffee** - Direct Health Care Agency or designee to develop COVID-19 testing strategy and operational plan to expand testing into Asian Pacific Islander (API) and Middle Eastern and North African (MENA) Communities in Orange County; identify non-traditional venues for mobile test sites, and identify community-based organization to administer API and MENA COVID-19 testing strategy following California Department of Public Health testing guidelines

S21D. **Chairwoman Steel** - Approve and implement Veterans Employment Preference Policy, effective 9/15/20

S21E. **Sheriff-Coroner** - Approve agreement MA-060-21010188 with Rancho Santiago Community College District for tuition/registration fees for criminal justice classes, 10/1/20 – 9/30/23 ($894,000); renewable for one additional two-year term; and authorize County Procurement Officer or authorized Deputy to execute agreement - District 1

S21F. **Sheriff-Coroner** - Approve agreement MA-060-21010186 with Rancho Santiago Community College District for use of facilities and instructional services, 10/1/20 - 9/30/23 (total revenue $1,875,000); renewable for one additional two-year term; and authorize County Procurement Office or authorized Deputy to execute agreement - District 1

S21G. **Health Care Agency** - Approve master agreement MA-042-21010003 with various providers for Coronavirus Aid, Relief and Economic Security (CARES) Act Grant Assistance for Acute Hospitals for eligible medical expenses, 9/16/20 - 12/30/20; and authorize County Procurement Officer or authorized Deputy to execute individual agreements - All Districts

S21H. **Chairwoman Steel** - Assessment Appeals Board No. 5 - Reappoint Min Chai, Irvine for term ending 9/3/23

S21I. **Chairwoman Steel and Supervisor Wagner** - Adopt resolution opposing Proposition 15

SCS1. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Mihaela Iliescu v. County of Orange, Orange County Superior Court Case Number 30-2016-00833628

SCS2. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Monica Garcia, et al. v. County of Orange, United States District Court Case No. CV 17-7892 JVS (JDEx)

SCS3. **County Counsel** - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - Pursuant to Government Code Section 54956.9(d)(1):
Name of Case: Sandra Hawkins v. County of Orange, Orange County Superior Court Case Number 30-2019-01057010
Continuation or Deletion Request

Date: September 11, 2020
To: Clerk of the Board of Supervisors
From: James Treadaway, OC Public Works Director
Re: ASR Control #: 20-000567, Meeting Date 9/15/20, Agenda Item No. # 12
Subject: Approve Records Retention Schedules for Various County Departments

☐ Request to continue Agenda Item No. # _____ to the _____ Board Meeting.
Comments:

☒ Request deletion of Agenda Item No. # 12
Comments:
MEETING DATE: 09/15/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Peter DeMarco (714) 834-5777
Cynthia Shintaku (714) 834-7086

SUBJECT: Grant Applications/Awards Report

CEO CONCUR COUNTY COUNSEL REVIEW CLERK OF THE BOARD
Concur Approved Resolution to Form Discussion

Budgeted: N/A Current Year Cost: N/A Annual Cost: N/A

Staffing Impact: No # of Positions: Sole Source: N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A County Audit in last 3 years: No

Prior Board Action: N/A

RECOMMENDED ACTION(S):
Approve grant applications/awards as proposed and other actions as recommended.

1. Approve Grant Application and Adopt Resolutions – OC Community Resources – Project Homekey – $25,088,000.

2. Approve Grant Award – Health Care Agency – COVID-19 Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) Enhancing Detection Funding – $19,548,339.

3. Approve Grant Award – Health Care Agency – Childhood Lead Poisoning Prevention Program – $4,156,625.


5. Approve Grant Application – County Executive Office – County Victim Services (XC) Program – $842,126.
6. Approve Retroactive Grant Application – Social Services Agency – Housing and Disability Advocacy Program (HDAP) – $1,270,023.


SUMMARY:
See the attached Grants Report.

BACKGROUND INFORMATION:
See the attached Grants Report.

FINANCIAL IMPACT:
N/A

STAFFING IMPACT:
N/A

ATTACHMENT(S):
Attachment A - Grants Report
Attachment B - OCCR Homekey-Jamboree Riviera Resolution
Attachment B - OCCR Homekey - Jamboree Stanton Inn Resolution
Attachment B - OCCR Homekey - Jamboree Tahiti Motel Resolution
Attachment B - OCSD EMPG Resolution
Attachment B - DA Alcohol and Drug Resolution
County of Orange Report on Grant Applications/Awards

The Grants Report is a condensed list of grant requests by County Agencies/Departments that allows the Board of Supervisors to discuss and approve grant submittals in one motion at a Board meeting. County policy dictates that the Board of Supervisors must approve all grant applications prior to submittal to the grantor. This applies to grants of all amounts, as well as to new grants and those that have been received by the County for many years as part of an ongoing grant. Receipt of grants $50,000 or less is delegated to the County Executive Officer. Grant awards greater than $50,000 must be presented to the Board of Supervisors for receipt of funds. This report allows for better tracking of county grant requests, the success rate of our grants, and monitoring of County’s grants activities. It also serves to inform Orange County’s Sacramento and Washington, D.C. advocates of County grant activities involving the State or Federal Governments.

On September 15, 2020 the Board of Supervisors will consider the following actions:

RECOMMENDED ACTIONS

Approve grant applications/awards as proposed and other actions as recommended.

ACTION ITEMS

1. Approve Grant Application and Adopt Resolutions – OC Community Resources – Project Homekey – $25,088,000.

2. Approve Grant Award – Health Care Agency – COVID-19 Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) Enhancing Detection Funding – $19,548,339.

3. Approve Grant Award – Health Care Agency – Childhood Lead Poisoning Prevention Program – $4,156,625.


5. Approve Grant Application – County Executive Office – County Victim Services (XC) Program – $842,126.

6. Approve Retroactive Grant Application – Social Services Agency – Housing and Disability Advocacy Program (HDAP) – $1,270,023.


If you or your staff have any questions or require additional information on any of the items in this report, please contact Cynthia Shintaku at 714-834-7086.
<table>
<thead>
<tr>
<th><strong>Today's Date:</strong></th>
<th>09/15/2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requesting Agency/Department:</strong></td>
<td>OC Community Resources/OC Housing and Community Development</td>
</tr>
<tr>
<td><strong>Grant Name and Project Title:</strong></td>
<td>Project Homekey</td>
</tr>
<tr>
<td><strong>Sponsoring Organization/Grant Source:</strong></td>
<td>State of California Department of Housing and Community Development</td>
</tr>
<tr>
<td><strong>Application Amount Requested:</strong></td>
<td>Total Funding Requested: $25,088,000</td>
</tr>
<tr>
<td><strong>Application Due Date:</strong></td>
<td>August 13, 2020</td>
</tr>
<tr>
<td><strong>Board Date when Board Approved this Application:</strong></td>
<td>July 28, 2020</td>
</tr>
<tr>
<td><strong>Awarded Funding Amount:</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Notification Date of Funding Award:</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Is this an Authorized Retroactive Grant Application/Award?</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Recurrence of Grant</strong></td>
<td>New ☑ Recurrent ☐ Other ☐ Explain:</td>
</tr>
<tr>
<td><strong>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Does this grant require CEQA findings?</strong></td>
<td>Yes ☐ No ☑</td>
</tr>
<tr>
<td><strong>What Type of Grant is this?</strong></td>
<td>Competitive ☑ Other Type ☐ Explain:</td>
</tr>
<tr>
<td><strong>County Match?</strong></td>
<td>Yes ☑ Amount: $23,363,785 No ☐</td>
</tr>
<tr>
<td><strong>How will the County Match be Fulfilled?</strong></td>
<td>Match can include but is not be limited to County, City, State and Federal funds. The NOFA allows for all sources to be used as match.</td>
</tr>
<tr>
<td><strong>Will the grant/program create new part or full-time positions?</strong></td>
<td>No.</td>
</tr>
<tr>
<td><strong>Purpose of Grant Funds:</strong></td>
<td>Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.</td>
</tr>
</tbody>
</table>

Administered by the California Department of Housing and Community Development (HCD), $600 million in grant funding will be made available to local public entities, including cities, counties, or other local public entities, including housing authorities or federally recognized tribal governments within California to purchase and rehabilitate housing, including hotels, motels, vacant apartment buildings, and other buildings and convert them into interim or permanent, long-term housing. The $550 million is derived from the state's direct allocation of the federal Coronavirus Relief Fund (CRF) and $50 million is state General Fund. The $50 million in State General Fund money is intended to provide initial operating subsidies for Homekey sites to promote Project feasibility. Accordingly, these funds will be used to fund 24-month operating subsidies.

To ensure statewide distribution, HCD divided the State into eight regions. The regions are largely aligned with the various Councils of Government. Orange County is the Southern California Region along with Imperial, Riverside, San Bernardino and Ventura County. Our region was allocated $55,577,540 in CRF and $5,052,504 in General Funds.
Projects receiving an award from the state's direct allocation of the federal CRF must expend the funds by December 30, 2020. The portion of a Project's award associated with State General Fund must be expended by June 30, 2022. Depending on the funding award, the successful applicant must close escrow by the expenditure deadline.


Prior to the close of the priority application period, the County along with its co-applicant, Jamboree Housing, submitted three applications. All three applications are for motel sites located in the City of Stanton and are proposed conversions to permanent supportive housing. The City has been involved in the application process and anticipates contributing funding to the projects, if awarded.

As required by the State, the resolutions are revised/ to identify the co-applicant and the project specific amounts requested for each application.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☒</th>
<th>No ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Please attach document to eForm)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deputy County Counsel Name:</td>
<td>Jacqueline Guzman</td>
<td></td>
</tr>
<tr>
<td>(Please list the Deputy County Counsel that approved the Resolution)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recommended Action/Special Instructions</td>
<td></td>
<td></td>
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<tr>
<td>(Please specify below)</td>
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</tr>
</tbody>
</table>

1. Authorize the OC Community Resources Director or designee to revise submitted Homekey Notice of Funding Availability application and other related forms to State of California Housing and Community Development for Homekey Program funding.

2. Adopt updated Resolutions to authorize OC Community Resources Director or designee to execute the Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Homekey Notice of Funding Availability application, if application is approved for funding and as the California State Department of Housing and Community Development may deem appropriate.

<table>
<thead>
<tr>
<th>Department Contact:</th>
<th>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Julia Bidwell</td>
<td>OC Housing and Community Development</td>
</tr>
<tr>
<td><a href="mailto:julia.bidwell@occr.ocgov.com">julia.bidwell@occr.ocgov.com</a></td>
<td>(714) 480-2991</td>
</tr>
<tr>
<td>Name of the individual attending the Board Meeting:</td>
<td>List the name of the individual who will be attending the Board Meeting for this Grant Item:</td>
</tr>
<tr>
<td>Dylan Wright</td>
<td>Director, OC Community Resources</td>
</tr>
</tbody>
</table>

Grant Authorization e-Form
WHEREAS:
A. The Department of Housing and Community Development (Department) has issued a Notice of Funding Availability ("NOFA"), dated July 16, 2020, for the Homekey Program ("Homekey" or "Homekey Program"). The Department has issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.1 (Assem. Bill No. 83 (2019-2020 Reg. Sess.), § 21.)
B. The County of Orange ("Co-Applicant") desires to jointly apply for Homekey grant funds with Jamboree Housing Corporation ("Corporation"). Towards that end, Co-Applicant is joining Corporation in the submittal of an application for Homekey funds ("Application") to the Department for review and consideration.
C. The Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement ("Standard Agreement"), and all other legal requirements of the Homekey Program.

THEREFORE, IT IS RESOLVED THAT:

1. Co-Applicant is hereby authorized and directed to submit a joint Application to the Department in response to the NOFA, dated July 16, 2020, and to jointly apply for Homekey grant funds in a total amount not to exceed $2,000,000. That amount includes $2,000,000 for capital expenditures (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(1)-(6)) and $0 for a capitalized operating subsidy (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(7)).

2. If the Application is approved, Co-Applicant is hereby authorized and directed to ensure that any funds awarded for capital expenditures are spent by December 30, 2020, and that any funds awarded for capitalized operating subsidies are spent by June 30, 2022.

3. If the Application is approved, Co-Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed $2,000,000, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the "Homekey Documents").

4. Co-Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

5. Dylan Wright or his designee, is authorized to execute the Application and the Homekey Documents on behalf of Co-Applicant for participation in the Homekey Program.
PASSED AND ADOPTED this _____ day of __________, 2020, by the following vote:

<table>
<thead>
<tr>
<th>AYES:</th>
<th>NAYES:</th>
<th>ABSTAIN:</th>
<th>ABSENT:</th>
</tr>
</thead>
</table>

The undersigned, [NAME, TITLE OF SIGNATORY] of Co-Applicant, does hereby attest and certify that the foregoing is a true and full copy of a resolution of the governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, or repealed.

<table>
<thead>
<tr>
<th>SIGNATURE:</th>
<th>DATE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>NAME:</td>
<td>TITLE:</td>
</tr>
</tbody>
</table>
A RESOLUTION OF THE GOVERNING BODY OF ORANGE COUNTY BOARD OF SUPERVISORS AUTHORIZING JOINT APPLICATION TO THE HOMEKEY PROGRAM

WHEREAS:

A. The Department of Housing and Community Development (Department) has issued a Notice of Funding Availability ("NOFA"), dated July 16, 2020, for the Homekey Program ("Homekey" or "Homekey Program"). The Department has issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.1 (Assem. Bill No. 83 (2019-2020 Reg. Sess.), § 21.)

B. The County of Orange ("Co-Applicant") desires to jointly apply for Homekey grant funds with Jamboree Housing Corporation ("Corporation"). Towards that end, Co-Applicant is joining Corporation in the submittal of an application for Homekey funds ("Application") to the Department for review and consideration.

C. The Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement ("Standard Agreement"), and all other legal requirements of the Homekey Program.

THEREFORE, IT IS RESOLVED THAT:

1. Co-Applicant is hereby authorized and directed to submit a joint Application to the Department in response to the NOFA, dated July 16, 2020, and to jointly apply for Homekey grant funds in a total amount not to exceed $9,648,000. That amount includes $7,920,000 for capital expenditures (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(1)-(6)) and $1,728,000 for a capitalized operating subsidy (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(7)).

2. If the Application is approved, Co-Applicant is hereby authorized and directed to ensure that any funds awarded for capital expenditures are spent by December 30, 2020, and that any funds awarded for capitalized operating subsidies are spent by June 30, 2022.

3. If the Application is approved, Co-Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed $9,648,000, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the “Homekey Documents”).

4. Co-Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

5. Dylan Wright or his designee, is authorized to execute the Application and the Homekey Documents on behalf of Co-Applicant for participation in the Homekey Program.
PASSED AND ADOPTED this _____ day of _________, 2020, by the following vote:

<table>
<thead>
<tr>
<th>AYES:</th>
<th>NAYES:</th>
<th>ABSTAIN:</th>
<th>ABSENT:</th>
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The undersigned, [NAME, TITLE OF SIGNATORY] of Co-Applicant, does hereby attest and certify that the foregoing is a true and full copy of a resolution of the governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, or repealed.

<table>
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<tr>
<th>SIGNATURE:</th>
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</table>

<table>
<thead>
<tr>
<th>NAME:</th>
<th>TITLE:</th>
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<tbody>
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</table>
AUTHORIZING RESOLUTION

Resolution No.:

A RESOLUTION OF THE GOVERNING BODY OF ORANGE COUNTY BOARD OF SUPERVISORS AUTHORIZING JOINT APPLICATION TO THE HOMEKEY PROGRAM

WHEREAS:

A. The Department of Housing and Community Development (Department) has issued a Notice of Funding Availability (“NOFA”), dated July 16, 2020, for the Homekey Program (“Homekey” or “Homekey Program”). The Department has issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.1 (Assem. Bill No. 83 (2019-2020 Reg. Sess.), § 21.)

B. The County of Orange (“Co-Applicant”) desires to jointly apply for Homekey grant funds with Jamboree Housing Corporation (“Corporation”). Towards that end, Co-Applicant is joining Corporation in the submittal of an application for Homekey funds (“Application”) to the Department for review and consideration.

C. The Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement (“Standard Agreement”), and all other legal requirements of the Homekey Program.

THEREFORE, IT IS RESOLVED THAT:

1. Co-Applicant is hereby authorized and directed to submit a joint Application to the Department in response to the NOFA, dated July 16, 2020, and to jointly apply for Homekey grant funds in a total amount not to exceed $13,440,000. That amount includes $12,000,000 for capital expenditures (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(1)-(6)) and $1,440,000 for a capitalized operating subsidy (as allowed under Health and Saf. Code, § 50675.1.1, subd. (a)(7)).

2. If the Application is approved, Co-Applicant is hereby authorized and directed to ensure that any funds awarded for capital expenditures are spent by December 30, 2020, and that any funds awarded for capitalized operating subsidies are spent by June 30, 2022.

3. If the Application is approved, Co-Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed $13,440,000, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the “Homekey Documents”).

4. Co-Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities identified in the Standard Agreement.

5. Dylan Wright or his designee, is authorized to execute the Application and the Homekey Documents on behalf of Co-Applicant for participation in the Homekey Program.
PASSED AND ADOPTED this _____ day of __________, 2020, by the following vote:

<table>
<thead>
<tr>
<th>AYES:</th>
<th>NAYES:</th>
<th>ABSTAIN:</th>
<th>ABSENT:</th>
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</table>

<table>
<thead>
<tr>
<th>NAME:</th>
<th>TITLE:</th>
</tr>
</thead>
</table>
CEO-Legislative Affairs Office
Grant Authorization eForm

☐ GRANT APPLICATION / ☒ GRANT AWARD

<table>
<thead>
<tr>
<th>Today’s Date:</th>
<th>September 1, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>Health Care Agency</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>COVID-19 Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases (ELC) Enhancing Detection Funding Award Number COVID-19ELC30 County of Orange</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>California Department of Public Health (CDPH), Emergency Preparedness Office (EPO)</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$19,548,340</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>August 31, 2020</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td>August 11, 2020</td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td>$19,548,339</td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td>August 11, 2020</td>
</tr>
</tbody>
</table>

Is this an Authorized Retroactive Grant Application/Award?  
(If yes, attach memo to CEO)

<table>
<thead>
<tr>
<th>Recurrence of Grant</th>
<th>New ☒ Recurrent ☐ Other ☐ Explain:</th>
</tr>
</thead>
<tbody>
<tr>
<td>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Does this grant require CEQA findings?  
Yes ☐ No ☒

What Type of Grant is this?  
Competitive ☐ Other Type ☒ Explain: Formula

County Match?  
Yes ☐ Amount _____ or _____ %  
No ☒

How will the County Match be Fulfilled?  
(Please include the specific budget)  
N/A

Will the grant/program create new part or full-time positions?  
No

Purpose of Grant Funds:  
Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented.

CDPH, EPO is allocating these funds to Local Health Jurisdictions (LHJs) to address the following six core COVID-19 strategies: enhance laboratory, epidemiological surveillance and other workforce capacity; strengthen laboratory testing; advance electronic data exchange at public health labs; improve surveillance and reporting of electronic health data; use laboratory data to enhance investigation, response and prevention; and coordinate and engage with partners.

The activities proposed for use of these funds aim to build upon and leverage the investments of the past months, with a key goal of addressing gaps in the public health workforce, laboratory testing, epidemiological surveillance, case investigation and contact tracing, and expanding key partnerships. Orange County will use this funding to make data-driven policy decisions regarding testing, mitigation, and prevention efforts. Planned activities include prioritization of testing in congregate settings including critical turn-around times, supporting equitable access to testing across populations and geographies.
and supporting timely and accurate reporting of test results and integrating testing with contact tracing.

<table>
<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☐</th>
<th>No ☑</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name:</td>
<td>(Please list the Deputy County Counsel that approved the Resolution)</td>
<td></td>
</tr>
<tr>
<td>Recommended Action/Special Instructions</td>
<td>(Please specify below)</td>
<td></td>
</tr>
<tr>
<td>The Health Care Agency requests that the Board of Supervisors approve the Recommended Action authorizing the Agency to accept this allocation award for the term of May 18, 2020 to November 17, 2022, and delegate authority to the HCA director, or designee, to execute the allocation and any forms needed for this allocation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Authorize the Health Care Agency Director, or designee, to execute such future amendments to the allocation referenced above that do not change the allocation amount by more than 10% of the original amount and/or make immaterial changes to the scope of work.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Department Contact:</td>
<td>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</td>
<td></td>
</tr>
<tr>
<td>Marc Meulman, (714) 834-2980, <a href="mailto:mmeulman@ochca.com">mmeulman@ochca.com</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name of the individual attending the Board Meeting:</td>
<td>List the name of the individual who will be attending the Board Meeting for this Grant Item:</td>
<td></td>
</tr>
<tr>
<td>Margaret Bredehoft</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Today's Date: 9/1/2020

Requesting Agency/Department: Health Care Agency (HCA)/Community and Nursing Services

Grant Name and Project Title: Childhood Lead Poisoning Prevention Program

Sponsoring Organization/Grant Source: California Department of Public Health (CDPH)

Application Amount Requested: $1,278,569

Application Due Date: 1/31/2020

Board Date when Board Approved this Application: 7/16/2019

Awarded Funding Amount: $4,156,625

Notification Date of Funding Award: 8/28/2020

Is this an Authorized Retroactive Grant Application/Award? Yes

Recurrence of Grant

If this is a recurring grant, please list the funding amount applied for and awarded in the past:

FY 2017-2020 $3,849,707

Does this grant require CEQA findings? Yes

What Type of Grant is this? Competitive

County Match? Yes

How will the County Match be Fulfilled? Not Applicable

Will the grant/program create new part or full-time positions? No. HCA will use existing staff positions within the Community and Nursing Services Division to conduct grant related activities.

Purpose of Grant Funds:

The Health Care Agency requests approval for accepting the Standard Agreement #20-10535 for the period of July 1, 2020 to June 30, 2023. The grant to be received is a combination of State and Federal (Title XIX) funding issued through the California Department of Public Health and was increased from $3,849,707 in 2017 to $4,156,625 in 2020. Funding allocations have increased to support enhanced investigation and environmental health activities.

Since 1993, the Health Care Agency (HCA) has received funding from the California Department of Public Health (CDPH) to operate the Childhood Lead Poisoning Prevention Program (CLPPP). Program services include outreach and education activities, case management services including identification of the cause and linkage to physicians for children identified as having elevated blood lead levels, environmental investigation for lead hazards in the child’s home and lead hazard removal and clearance inspection by environmental health specialists. Research has shown these efforts have supported decreased childhood exposure to lead.

CDPH most recently published data (2018) on the percent of children under 6 years old with elevated blood lead levels (above the reference value of 4.5 mcg/dL) and these data indicate an Orange County rate of 1.02%. OC’s percentage is below the State’s 1.48% for the age group. For comparison, San Diego and Los Angeles rates are 1.37% and 1.33% respectively. (Source: https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/CLPPB/Pages/BLLMapsTables.aspx)

Funding and the public health interventions within the program are necessary for prevention and reduction of the disease burden. CDPH’s most recent data (2015) on the number of children with blood lead levels greater than or equal to 9.5 mcg/dL, indicated of the 58 counties in CA, OC has the fourth highest number of children under 6 years of age within this range, behind...
L.A., Fresno, and San Diego, respectively.  
(Source: https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/CLPPB/CDPH%20Document%20Library/BLL_Counts_2015_by_LHD.pdf)

The Agreement contains indemnification clauses that require the County to defend, hold harmless, and indemnify the State against all general claims and intellectual property claims. These provisions differ from the County’s practice of requiring contractors to indemnify the County; CEO/Risk Management has reviewed and approved the provisions.

---

**Board Resolution Required?**  
(Please attach document to eForm)  
Yes ☐ No ☒

**Deputy County Counsel Name:**  
(Please list the Deputy County Counsel that approved the Resolution)

**Recommended Action/Special Instructions**  
(Please specify below)

1. Approve and ratify the Standard Agreement No. 20-10535 for the Childhood Lead Poisoning Prevention Program with the California Department of Public Health in the amount of $4,156,625 for the period of July 1, 2020 to June 30, 2023.

2. Authorize the Health Care Agency Director, or designees, on behalf of the Board of Supervisors, to execute the Agreement No. 20-10535, the Contractor Certification Clauses CCC 04/2017 form, the California Civil Rights Law Attachment form, the Certification Regarding Lobbying form, and the Contractor’s Release form upon submission of the final invoices to the California Department of Public Health.

3. Authorize the Health Care Agency Director, or designee, to execute such future amendments to the Agreement referenced above that do not change the Agreement by more than 10% of the original amount and/or make immaterial changes to the scope of work.

**Department Contact:**  
List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.

Marc Meulman, Chief of Operations, Public Health Services, (714) 834-2980, mmeulman@ochca.com

**Name of the individual attending the Board Meeting:**  
Margaret Bredehoft  
List the name of the individual who will be attending the Board Meeting for this Grant Item:
**CEO-Legislative Affairs Office**

**Grant Authorization e-Form**

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### GRANT APPLICATION / GRANT AWARD

<table>
<thead>
<tr>
<th>Today’s Date:</th>
<th>September 15, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>Sheriff-Coroner Department</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>Emergency Management Performance Grant, CFDA 97.042</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>Department of Homeland Security; California Office of Emergency Services</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$773,386</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>None defined at this time.</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td></td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td></td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td></td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>No</td>
</tr>
<tr>
<td>(If yes, attach memo to CEO)</td>
<td></td>
</tr>
<tr>
<td>Recurrence of Grant</td>
<td>New ☐ Recurrent ☒ Other ☐ Explain:</td>
</tr>
</tbody>
</table>
| If this is a recurring grant, please list the funding amount applied for and awarded in the past: | 2015: $777,250  
2016: $777,980  
2017: $774,162  
2018: $775,004  
2019: $775,004  
2020 Supplemental: $ 320,955 |
| Does this grant require CEQA findings? | Yes ☐ No ☒ |
| What Type of Grant is this? | Competitive ☐ Other Type ☒ Explain: Offered by federal government to previous recipients |
| County Match? | Yes ☒ 100 % No ☐ |
| How will the County Match be Fulfilled? | Net County Cost Cash Match |
| (Please include the specific budget) | |
| Will the grant/program create new part or full-time positions? | No |
| Purpose of Grant Funds: | Provide a summary and brief background of why Board of Supervisors why should accept this grant application/award, and how the grant will be implemented; |

---

On December 20, 2019, the President signed Public Law 116-93, authorizing the 2020 Emergency Management Performance Grant (EMPG) under the U.S. Department of Homeland Security (DHS).

In April 2020, the DHS issued guidance and budget allocations to the States. In California, the administering agency is the California Office of Emergency Services (CalOES), which issues guidance to eligible applicants (Operational Areas). On July 10, 2020, CalOES issued a Grant Management Memorandum (GMM 2020-14) with allocation for each Operational Area; no application deadline was given. The Orange County Sheriff’s Department is responsible for administering and distributing the grant funds on behalf of the Orange County Operational Area. The anticipated award date is unknown at this time. The anticipated award amount is $773,386.

The purpose of the EMPG Program is to provide federal funds to states to assist state, local, and tribal governments in preparing for all hazards. Funds provided under the EMPG must be used to support...
activities that contribute to the Operational Area’s capability to prevent, prepare for, mitigate against, respond to, and recover from emergencies and disasters, whether natural or man-made. The grant-funded activities are a continuation of services funded by previous grant cycles. The goals described within the grant application relate to emergency management organizational and enterprise enhancement, managing risk and vulnerabilities, and enhancing customer and stakeholder services.

The grant includes a pass-through of $367,358 to local cities. These funds are distributed on a population basis to those cities who wish to apply and complete the required activities. The match to pass-through funds will be provided by participating cities. The Operational Area Executive Board reviewed and approved the proposed application budget and required activities at their quarterly meeting on August 12, 2020.

The federal performance period of the award is October 1, 2019 through September 30, 2022.

This grant has not been reviewed under the County Audit in the last 3 years.

ATTACHMENT(S): Resolution

| Board Resolution Required? (Please attach document to eForm) | Yes ☒ | No ☐ |
| Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution) | Wendy Phillips, Deputy County Counsel, has reviewed and approved the attached draft Board Resolution. |

**Recommended Action/Special Instructions** (Please specify below)

1. Authorize Sheriff-Coroner, or designee, to sign all necessary application documents required for the submission of the application and supporting documentation to CalOES.

2. Adopt a resolution authorizing the Sheriff, or specified designee, to execute any actions necessary for the purposes of obtaining federal financial assistance provided by DHS and sub-granted through CalOES, if those actions do not materially change the terms or amount of the County’s commitment as it is reflected in the above-referenced grant application and assurances.

A Board of Supervisors Resolution is required to appoint an agent authorized to execute any actions necessary for the submission of the application and supporting documentation.

**Department Contact:**

Donna Boston 714-628-7059; dboston@ocsd.org

**Name of the individual attending the Board Meeting:**

Donna Boston or designee
RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
September 15, 2020

WHEREAS, the U.S. Department of Homeland Security, through the California Office of Emergency Services, is providing Fiscal Year 2020 Emergency Management Performance Grant funding to local Operational Areas to provide resources to sustain and enhance all-hazards emergency management capabilities;

NOW, THEREFORE, BE IT RESOLVED this Board authorizes the following positions to execute and submit to the California Office of Emergency Services, on behalf of the County of Orange, the Fiscal Year 2020 Emergency Management Performance Grant Application for assistance in the amount of $773,386 and grant assurances:

• Sheriff-Coroner
• Undersheriff
• Assistant Sheriff
• Executive Director

BE IT FURTHER RESOLVED this Board authorizes the above-listed positions to execute, on behalf of the County of Orange, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining federal financial assistance provided by the U.S. Department of Homeland Security and sub-granted through the State of California, if those actions do not materially change the terms or amounts of the County’s commitment as it is reflected in the above-referenced grant application and assurances.

BE IT FURTHER RESOLVED that this Board will provide 100% funding match to any grant funds awarded to and retained by the County of Orange if the grant application is approved.
<table>
<thead>
<tr>
<th>Field</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Today’s Date</td>
<td>8/21/20</td>
</tr>
<tr>
<td>Requesting Agency/Department</td>
<td>County Executive Office/Budget Office</td>
</tr>
<tr>
<td>Grant Name and Project Title</td>
<td>County Victim Services (XC) Program</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>California Governor’s Office of Emergency Services (Cal-OES)</td>
</tr>
<tr>
<td>Application Amount Requested</td>
<td>$842,126</td>
</tr>
<tr>
<td>Application Due Date</td>
<td>October 1, 2020</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application</td>
<td>N/A</td>
</tr>
<tr>
<td>Awarded Funding Amount</td>
<td>N/A</td>
</tr>
<tr>
<td>Notification Date of Funding Award</td>
<td>N/A</td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>(If yes, attach memo to CEO)</td>
</tr>
<tr>
<td>Recurrence of Grant</td>
<td>New ☐ Recurrent ☒ Other ☐ Explain:</td>
</tr>
<tr>
<td>Explain: The amount is pre-determined by Cal-OES for each County. Prior awards include: $2,262,560 (7/1/16-6/30/18); $1,643,487 (7/1/18-12/31/19); $827,772 (1/1/20-12/31/20)</td>
<td></td>
</tr>
<tr>
<td>Does this grant require CEQA findings?</td>
<td>Yes ☐ No ☒</td>
</tr>
<tr>
<td>What Type of Grant is this?</td>
<td>Competitive ☐ Other Type ☒ Explain: Non-competitive.</td>
</tr>
<tr>
<td>County Match?</td>
<td>Yes ☒ Amount $210,532 or ____% No ☐</td>
</tr>
<tr>
<td>How will the County Match be Fulfilled?</td>
<td>The match totaling $210,532 will be met with the use of in-kind services provided by volunteers through the contracted providers.</td>
</tr>
<tr>
<td>Will the grant/program create new part or full-time positions?</td>
<td>No new positions are needed.</td>
</tr>
<tr>
<td>Purpose of Grant Funds:</td>
<td>Provide a summary and brief background on why the Board of Supervisors should accept this grant application/award, and how the grant will be implemented.</td>
</tr>
</tbody>
</table>

Grant funds will be used to continue to address the gaps or needs of the victims of crimes as identified by the mandated steering committee, which is scheduled to meet in September 2020. The main purpose is to support eligible crime victim assistance programs that 1) respond to the emotional and physical needs of crime victims; 2) help primary and secondary victims of crimes to stabilize their lives after a victimization; 3) help victims to understand and participate in the criminal justice system; and 4) provide victim with a measure of safety and security.

Grant funds will be allocated to contract community-based organizations and qualified expenditures in the Social Services Agency and Health Care Agency to address the gaps identified in the following areas: 1) Supporting Survivors; 2) Increased access to supporting services; 3) Increased access for advocacy services; and 4) Emergency Housing Assistance.

Volunteers and in-kind services will fulfill the match requirement.
<table>
<thead>
<tr>
<th>Board Resolution Required? (Please attach document to eForm)</th>
<th>Yes ☐ No ☒</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)</td>
<td></td>
</tr>
<tr>
<td>Recommended Action/Special Instructions (Please specify below)</td>
<td>Authorize the CFO, or her designee, to sign all necessary application documents required for submission of the application and supporting documentation to Cal OES.</td>
</tr>
<tr>
<td>Department Contact: List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</td>
<td>Kim Engelby <a href="mailto:kimberly.engelby@ocgov.com">kimberly.engelby@ocgov.com</a> (714) 834-7487</td>
</tr>
<tr>
<td>Name of the individual attending the Board Meeting: List the name of the individual who will be attending the Board Meeting for this Grant Item:</td>
<td>Kim Engelby, 834-7487 <a href="mailto:kimberly.engelby@ocgov.com">kimberly.engelby@ocgov.com</a></td>
</tr>
</tbody>
</table>
MEMO

Date: August 27, 2020

To: County Executive Officer Frank Kim

From: Debra J. Baetz, Director Social Services Agency

Subject: Retroactive Request to Apply for Housing and Disability Advocacy Program

This memo is being submitted to request that the CEO place the subject grant application on the September 15, 2020, Board of Supervisors (Board) Meeting Agenda. The Social Services Agency (SSA) requests retroactive approval as the California Department of Social Services released an All County Welfare Directors Letter (ACWDL) on August 10, 2020, requesting grant applications for continued funding for the Housing and Disability Advocacy Program for Fiscal Year 2020-21 be submitted by September 10, 2020. Due to the time constraints of the application process and the unavailability of earlier Board Meetings in September, this request for approval could not be submitted until after the grant application deadline.

SSA now requests retroactive approval to apply for funding in the amount of $1,270,023, which is the allocation for Orange County stated in the ACWDL.

SSA plans to return to the Board with a request to accept funding should the grant application be accepted.

If you have any questions about the grant, please contact Denise Gallon at (714) 541-7717.

Thank you,

Debra Baetz
Director, Social Services Agency
### GRANT APPLICATION / GRANT AWARD

<table>
<thead>
<tr>
<th>Today’s Date:</th>
<th>August 17, 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requesting Agency/Department:</td>
<td>Social Services Agency</td>
</tr>
<tr>
<td>Grant Name and Project Title:</td>
<td>Housing and Disability Advocacy Program (HDAP)</td>
</tr>
<tr>
<td>Sponsoring Organization/Grant Source:</td>
<td>California Department of Social Services (CDSS)</td>
</tr>
<tr>
<td>Application Amount Requested:</td>
<td>$1,270,023</td>
</tr>
<tr>
<td>Application Due Date:</td>
<td>September 10, 2020</td>
</tr>
<tr>
<td>Board Date when Board Approved this Application:</td>
<td>N/A</td>
</tr>
<tr>
<td>Awarded Funding Amount:</td>
<td>N/A</td>
</tr>
<tr>
<td>Notification Date of Funding Award:</td>
<td>N/A</td>
</tr>
<tr>
<td>Is this an Authorized Retroactive Grant Application/Award?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Recurrence of Grant**

<table>
<thead>
<tr>
<th></th>
<th>New</th>
<th>Recurrent</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>If this is a recurring grant, please list the funding amount applied for and awarded in the past:</td>
<td>2018 Applied: $2,147,651; 2018 Awarded: $2,147,651</td>
<td>2020 Applied: $1,091,855; 2020 Awarded: $1,091,855</td>
<td>2020 Applied: $102,634; 2020 Awarded: $102,634</td>
</tr>
</tbody>
</table>

**Does this grant require CEQA findings?**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

**What Type of Grant is this?**

<table>
<thead>
<tr>
<th></th>
<th>Competitive</th>
<th>Other Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Competitive</td>
<td>Yes 100%</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**County Match?**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

**How will the County Match be Fulfilled?**

(Include the specific budget)

Counties receiving state HDAP funds shall match on a dollar-for-dollar basis over the award period and will be met through existing program expenditures. The HDAP pilot match was reached through general funds for the operations of homeless shelters, Courtyard Transitional Center and Bridges at Kraemer Place, and will be used for this funding allocation.

**Will the grant/program create new part or full-time positions?**

No.

**Purpose of Grant Funds:**

Provide a summary and brief background of why Board of Supervisors should accept this grant application/award, and how the grant will be implemented.

---

Assembly Bill (AB) 1603, Chapter 25, Statutes of 2016 established the Housing and Disability Advocacy Program (HDAP), which is a county-administered program that provides housing and disability benefits application assistance to people with a disability. HDAP requires outreach, case management, disability benefits advocacy, and housing assistance and prioritizes individuals experiencing chronic homelessness or individuals experiencing homelessness who rely most heavily on government-funded services. The HDAP pilot program application was approved by the Board on October 17, 2017, and submitted to the state thereafter. California Department of Social Services (CDSS) announced the award on January 8, 2018, and the grant award was brought to the Board of Supervisors (Board) for approval on February 6, 2018. The program provides support to the County’s System of Care, increasing care coordination between the Social Services Agency (SSA), OC Community Resources (OCCR), and the Health Care Agency (HCA) to better serve the homeless population in Orange County.

On February 20, 2019, a Memorandum of Understanding (MOU) between SSA and OCCR was signed to establish the
collaborative effort in meeting objectives and to comply with State of California obligations for HDAP. The MOU describes the HDAP services and activities that would be provided through subcontracted service providers. The selected providers were approved by the Board on April 3, 2019, and are currently administering HDAP services to eligible participants through sole source contracts in each Service Planning Area (North, Central, and South). Approval of this application for funds and subsequent award will allow for renewal of these contracts to ensure continuity of services and provide support to the System of Care as the County continues to address homelessness in our community.

The Social Services Agency (SSA) requests retroactive approval as the California Department of Social Services released an All County Welfare Directors Letter (ACWDL) on August 10, 2020, requesting grant applications for continued funding for the Housing and Disability Advocacy Program for Fiscal Year 2020-21 be submitted by September 10, 2020. Due to the time constraints of the application process and the unavailability of earlier Board Meetings in September, this request for approval could not be submitted until after the grant application deadline.

<table>
<thead>
<tr>
<th>Board Resolution Required? (Please attach document to eForm)</th>
<th>Yes ☐ No ☑</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputy County Counsel Name: (Please list the Deputy County Counsel that approved the Resolution)</td>
<td></td>
</tr>
<tr>
<td>Recommended Action/Special Instructions (Please specify below)</td>
<td>Authorize the Social Services Agency Director or designee to apply for the Housing and Disability Advocacy Program allocation in the amount of $1,270,023 and execute an agreement with the State of California Department of Social Services to administer HDAP funds.</td>
</tr>
<tr>
<td>Department Contact :</td>
<td>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</td>
</tr>
<tr>
<td>Debra Baetz, Director 714-541-7773 <a href="mailto:Debra.Baetz@ssa.ocgov.com">Debra.Baetz@ssa.ocgov.com</a></td>
<td></td>
</tr>
<tr>
<td>Name of the individual attending the Board Meeting:</td>
<td>List the name of the individual who will be attending the Board Meeting for this Grant Item:</td>
</tr>
<tr>
<td>Debra Baetz</td>
<td></td>
</tr>
</tbody>
</table>
Today's Date: August 28, 2020

Requesting Agency/Department: District Attorney’s Office

Grant Name and Project Title: Alcohol and Drug Impaired Driver Grants: Vertical Prosecution Program and California Traffic Safety Resource Program Training Network

Sponsoring Organization/Grant Source: California Office of Traffic Safety

Application Amount Requested: Total Grant Application Amount: $1,801,130
  - Vertical Prosecution Program: $1,039,400
  - CA Traffic Safety Resource Program: $761,738

Application Due Date: January 30, 2020

Board Date when Board Approved this Application: January 28, 2020

Awarded Funding Amount: Total Grant Application Amount: $1,801,130
  - Vertical Prosecution Program: $1,039,400
  - CA Traffic Safety Resource Program: $761,738

Notification Date of Funding Award: August 18, 2020

Is this an Authorized Retroactive Grant Application/Award? No

Recurrence of Grant

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>FFY 19-20</td>
<td>$754,563</td>
<td>Vertical Prosecution</td>
</tr>
<tr>
<td>FFY 19-20</td>
<td>$722,513</td>
<td>Statewide Training</td>
</tr>
<tr>
<td>FFY 18-19</td>
<td>$754,563</td>
<td>Vertical Prosecution</td>
</tr>
<tr>
<td>FFY 18-19</td>
<td>$722,513</td>
<td>Statewide Training</td>
</tr>
</tbody>
</table>

Does this grant require CEQA findings? Yes No

What Type of Grant is this? Competitive Other Type Explain:

County Match? Yes Amount or % No

How will the County Match be Fulfilled? N/A

Will the grant/program create new part or full-time positions? Existing personnel will provide the grant-funded services.

Purpose of Grant Funds: Provide a summary and brief background on why the Board of Supervisors should accept this grant application/award, and how the grant will be implemented.

The California Office of Traffic Safety (OTS) awards funds to identify and address emerging traffic safety issues through innovative and evidence-based programs. This grant will provide continued funding for specialized personnel consisting of prosecutorial and investigative staff to prosecute alcohol and drug impaired driving cases as well as to provide training and technical assistance to police officers, prosecutors and other traffic safety professionals throughout the state. OCDA has been working in partnership with OTS on traffic safety and driving under the influence of drugs prosecutions.
since 2011. In 2017, OTS designated the District Attorney’s Office as the statewide training agency for traffic safety.

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<thead>
<tr>
<th>Board Resolution Required?</th>
<th>Yes ☐</th>
<th>No ☒</th>
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<tbody>
<tr>
<td>Deputy County Counsel</td>
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<tr>
<td>Name:</td>
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<tr>
<td>(Please list the Deputy County Counsel that approved the Resolution)</td>
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<td>Recommended Action/Special Instructions</td>
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The District Attorney requests the Board to:

1. Authorize the District Attorney, or his designee, to sign and execute, on behalf of the County of Orange, the Grant Agreements with the California Office of Traffic Safety accepting the grant awards of $1,039,400 and $761,738 to continue the Alcohol and Drug Impaired Vertical Prosecution Program and California Traffic Safety Resource Prosecutor Training Network, respectively, for federal fiscal year 2020-21,

2. Authorize the District Attorney, or his designee, to sign and execute on behalf of the County of Orange, any extensions or amendments that reflect the actual grant award but do not materially alter the terms of the grant award, and


The District Attorney has been receiving grants for our drug impaired driving program since 2011. OTS requires the District Attorney to submit a Board Resolution.

<table>
<thead>
<tr>
<th>Department Contact</th>
<th>List the name and contact information (telephone, e-mail) of the staff person to be contacted for further information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glenn Robison 714-347-8778, <a href="mailto:glenn.robison@da.ocgov.com">glenn.robison@da.ocgov.com</a></td>
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<table>
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<tr>
<th>Name of the individual attending the Board Meeting</th>
<th>List the name of the individual who will be attending the Board Meeting for this Grant Item:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glenn Robison</td>
<td></td>
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</tbody>
</table>
RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

September 15, 2020

WHEREAS, the County of Orange desires to undertake its projects designated “Alcohol and Drug Impaired Driver Vertical Prosecution Program” and “California Traffic Safety Resource Prosecutor Training Network” to be funded for federal fiscal year (“federal fiscal year” i.e. October 1, 2020 – September 30, 2021), in part, from funds made available through California Office of Traffic Safety (hereafter referred to as OTS).

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby:

1. Find that the proposed project is exempt from CEQA pursuant to 14 C.C.R. 15061(b)(3) because it does not impose a significant effect on the environment.

2. Find that pursuant to Section 711.4 of the California Fish and Game Code, the proposed project is exempt from the required fees as it has been determined that no adverse impacts to wildlife resources will result from the project.

3. Authorize the District Attorney, or his designee, to sign and execute, on behalf of the County of Orange, Grant Agreements with Office of Traffic Safety for the Alcohol and Drug Impaired Driver Vertical Prosecution Program for federal fiscal year 2020-21 in the amount not to exceed $1,039,400, and the California Traffic Safety Resource Prosecutor Training Network for federal fiscal year 2020-21 in the amount not to exceed $761,738.

4. Authorize the District Attorney, or his designee, to execute, on behalf of the County of Orange, any extensions or amendments that reflect the actual grant amount but do not materially alter the terms of the grant award.

5. Assure that the County of Orange will not use grant funds to supplant expenditures controlled by the Board of Supervisors.
Dear Supervisor:

I am a native of Orange County and my family has been here since 1926. During my lifetime, John Wayne Airport has grown from a small airport to a very large one with upwards of 1200 flights per day.

I own properties under both the landing pattern and the take off path so I am affected by all of those flights. While little has been done to improve the airport situation, we should not be actively making it worse.

As currently drafted, the proposed FBO leases would potentially make general aviation (GA) much more onerous for the residents (voters) of Orange County. The most egregious of the issues can be resolved with a few minor adjustments to the draft lease terms. It is my understanding that the FBO operators are quite willing to negotiate on these items. These changes are in accord with the discussions at your June 25, 2019 meeting. These additional terms will at least preserve the status quo regarding airport noise affecting commercial, retail and residential property owners and residents.

Specifically I request the following actions:

- Incorporate provisions into the 35-year leases eliminating any potential General Aviation Facility (GAF) designated for GA international flights, including customs and border patrol processing, a service that is already provided in the main commercial terminal;
- Incorporate provisions into the 35-year leases limiting all hours of FBO operations to the hours of the main JWA commercial airline terminal; and
- Incorporate the requirement that any future modifications to the terms pertaining to commercial use of an FBO, prohibiting a GAF, preserving the majority of the space for small general aviation, and/or revising the FBOs’ operating hours must go before the Board of Supervisors for review and approval, after reasonable public notice,

Thank you for your kind attention.

Respectfully,

Randy Black
Supervisors:

As a county resident with school children in the JWA flightpath (Eastbluff Elementary), I urge you to vote NO on Supplemental Agenda Item S21A - the issue of whether the county should approve proposed FBO leases at the airport. PREVENT JWA FROM BECOMING LAX!

It is clear from the staff report, recommendation, and proposed lease terms that JWA staff’s only goal is to increase the footprint of JWA without giving due regard to the impacts on the community.

At the very least, lease terms should include:

- Language specifying hangar sizes and configurations as requested by SoCal Pilots and the requested definition of “SMALL GA”;
- Language restricting FBO facility hours of operation;
- Language eliminating GAF international services; and
- Language requiring BOS approval of future modification of requested lease terms.

Further, the restriction on regularly scheduled charter flights cannot be conditional; it must be absolute. Otherwise, charter flights by private jets that are more or less as loud as commercial jets will occur at all hours, effectively doing an end run around the restrictions in place on commercial flights. These restrictions, you should know, are what separate JWA from LAX and prevent our surrounding communities from turning into a wasteland.

Thank you for your consideration. Please vote no.

Phil Stemler
Dear Board of Supervisors:

The National Business Aviation Association (NBAA) represents the interests of over 11,000 member companies that rely on general aviation (GA) aircraft to help make their businesses more efficient, productive and successful. Those members include numerous tenants and users of the John Wayne Airport (SNA) who continue to be strongly interested in the airport’s future accessibility and viability.

In advance of tomorrow’s Board meeting, and the Board’s consideration of two leases for Fixed-Based Operators (FBOs) at SNA, please find NBAA’s comments attached.

Thank you for your consideration of our input. While we applaud the county’s leadership for recognizing the benefits improvements to the general aviation facilities would bring to securing a strong, sustainable future for John Wayne Airport and for everyone’s efforts to date, we are concerned that the FBO leases prohibit scheduled charters from operating at those facilities. We encourage the Board of Supervisors to reconsider the proposed lease terms or to ensure that the airport designates an area of the terminal for use by scheduled charter operators to enplane and deplane passengers that are not subject to TSA security screening, to ensure that SNA continues to be accessible to all types of aeronautical activities.

We look forward to jointly working with the County Board of Supervisors, John Wayne Airport staff, GA users and tenants and the greater community to ensure that all users can benefit from our collective efforts as part of the GAIP program.

Please do not hesitate to contact me if NBAA can be of assistance.

Sincerely,
Alex Gertsen

Alex Gertsen, C.M., ACE
Director, Airports and Ground Infrastructure
National Business Aviation Association
1200 G Street NW
Suite 1100
Washington, DC 20005
agertsen@nbaa.org
P: (202) 737-4477

NBAA GO - Virtual Conferences: SDC2020, IOC2020, Maintenance Conference

ABACE 2021: April 13-15, 2021 – Shanghai, China
EBACE 2021: May 18-20, 2021 – Geneva, Switzerland
NBAA-BACE: October 12-14, 2021 – Las Vegas, NV

www.nbaa.org/events
Dear Chairwoman Steel and Supervisors Do, Bartlett, Chaffee and Wagner:

As a resident impacted by excessive jet noise from both commercial and private jets, I regret that due to Covid concerns and health issues that place me at greater risk, I am unable to attend the September 15th meeting. In my absence, please consider this email and make it a part of the record.

**FBO-Airport Lease Approval Should NOT Proceed As A Supplemental Agenda Item.**

Board of Supervisors Rules of Procedure, Rule 21, provides that an item is only supposed to be heard on a supplemental basis if there are facts that were unknown or could not have been known with the exercise of reasonable diligence, in sufficient time to meet the ordinary agenda deadline and that hardship will likely result if the supplemental item is not agendized and heard. The stated standard for creating a supplemental agenda is "[t]he item requires immediate action to avert a crippling disaster, work stoppage or other activity that may severely impair public health, safety, or both." In Chairwoman Steel's September 4th request to have this heard as a supplemental item, her only justification is: "This item needs to be heard at the next available Board date in order to have the lease agreements for the selected Fixed Base Operators for general aviation services in place as soon as possible."

Consideration of the two FBO leases on the basis the FBOs want them in place as soon as possible does not qualify as the type of urgent necessity required by Procedural Rule 21. Accordingly, there are no grounds for the Board to consider this item on an expedited basis and this item should be removed from the September 15, 2020 Supplemental Agenda.

**Board Approval Of The Leases Should Be Withheld Pending Amendment Of The Leases To Include Protective Lease Terms.**

In the event the agenda item is not postponed, as it should be, on September 15th, you will be voting on two 35-year leases that will shape the future of private aviation at JWA for generations to come and the impact more private jets will have on communities already overburdened by excessive jet noise. Recognizing the significance of these long-term leases and their potential for creating even more harm to their communities, city officials from Newport Beach, Costa Mesa and other corridor cities, SPON, AirFair, AWG, Citizens Against Airport Noise and Pollution, SoCal Pilots and Orange County residents worked together to create lease provisions to mitigate the adverse effects of the growing numbers of private jets utilizing JWA. They further met with executives of ACI and Clay Lacy, who agreed to many of
the lease provisions. Your own Airport Commission further voted to recommend your acceptance of the “green area” hangar dimensions and configurations requested by SoCal Pilots. Unfortunately, despite such wide support of the lease provisions, including support of certain provisions by the lessees and the OC Airport Commission, the airport staff has chosen to ignore them and has submitted leases for your approval that are either void of the lease provisions or have included conditional and incomplete versions of them.

It is now up to you to override the airport staff and protect your constituents through amending the leases to include language that will:

1. **Enforce the 2019 Steel directive preserving the existing small plane-jet mix through preserving the 34.7 acre “green area” for “small GA” planes, including the specific hangar and aircraft storage configuration proposed by the SoCal Pilots (76% 40’ hangars, 15% 50’ hangars and 9% 60’ hangars).**

   Although the “green area” for “small GA” is included in the leases, the leases fail to include the specific hangar and storage configurations agreed to by Clay Lacy and ACI and approved by the OC Airport Commission.

2. **Establish FBO facility operational hours that mirror the hours of the commercial airline curfew.**

   In its written proposal to become one of the FBOs, **ACI volunteered to operate its FBO consistent with the hours of the commercial terminal** and to be available 24/7; however, only for emergency medical flights or other critical issues. Clay Lacy has also agreed to limit its operational hours. Furthermore, various FBOs in numerous airports have differing hours of operation. Thus, there is no basis for the airport staff’s failure to include language limiting the FBOs’ hours of operation and their failure to do so should be overridden and the leases should be amended to include this language.

3. **Prohibit the operation of commercial airlines, including any regularly scheduled charter aircraft service, at any FBO facility.**

   Although this is included in the lease, the language is conditional, giving the airport director and the FBOs the ability to amend the provision “from time to time”. Please amend the leases to make this lease term unconditional and not subject to amendment, other than by action by the Board of Supervisors.

4. **Eliminate the ability of any lessee to construct and operate a General Aviation Facility (Customs and Border Protection).**

   You are well aware of the strong opposition to FBO GAF international services, including customs and border protection already available in the commercial terminal. The leases authorize the lessees to operate a GAF for customs clearance of international private jet arrivals by U.S. Customs and Border Protection between the hours of 5:00 a.m. and 12:00 a.m., which is unacceptable. This provision is made even more egregious by section 13.17 of the lease.
that orders the lessees to refrain from any action to diminish the likelihood of the Airport receiving Port of Entry designation. As you are further aware, Clay Lacy did not include the GAF in its written proposal and although ACI included it, ACI’s CEO subsequently stated that if the County decided it would not allow a GAF, ACI would remove it from its design. Accordingly, based on the strong opposition and lack of necessity for the GAF given the availability of international services in the commercial terminal, language should be added to the leases eliminating the GAF and eliminating JWA as a Port of Entry.

5. **Require that any future modifications to the terms referenced above, and the terms specific to the parcels set aside for small general aviation and mixed use, are only to be permitted with a vote of the Board of Supervisors (as opposed to airport management) in order to allow for public input.**

The airport staff has ignored this request and through lease section 13.03 has established the right of the airport director to modify any lease provision through mutual agreement with the lessee. On the basis Board approval is required of the lease, itself, it should also be required for any amendment to the lease, at least to the extent the amendment affects any of the requested protective lease provisions or specific parcels set aside for small GA and mixed use. Please override the airport staff and amend the leases to remove section 13.03 and replace it with language requiring Board approval of the protective lease provisions.

It is clear from the proposed FBO leases that the airport has no interest in being a good neighbor to the communities surrounding it. While the requested lease provisions seek to offer protection to communities adversely affected by JWA, the airport doesn’t appear willing to budge in the slightest to help them. I sincerely hope that you will take into account the airport staff’s failure to include the requested provisions that even received support from both the airport’s chosen FBOs and from its own airport commission, when you make your decision as to whether you should approve the leases.

In closing, this is YOUR chance to do the right thing for YOUR constituents. Through overriding the airport staff regarding the above provisions and withholding your approval of the leases, YOU will demonstrate that YOU truly care about the health and wellbeing of thousands of Orange County residents and their children who are already overly burdened by JWA noise and pollution.

Best Regards,
Beverly Blais Moosmann
Revision to ASR and/or Attachments

Date: September 14, 2020
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Barry A. Rondinella, Airport Director, John Wayne Airport
Re: ASR Control #: N/A, Meeting Date 9/15/20, Item No. # S21A
Subject: Approve Lease Agreements for Two Full-Service Fixed Base Operators at John Wayne Airport

Explanation:

Updated to correct an error on one coordinate on both the legal description and plat map to parcel NE 01 on Attachment A.

☐ Revised Recommended Action(s)

☐ Make modifications to the:
  ☐ Subject  ☐ Background Information  ☐ Summary  ☐ Financial Impact

☒ Revised Attachments (attach revised attachment(s) and redlined copy(s))

Attachment A - pages 81, 82 and 88 were updated to correct an error on one coordinate on both the legal description and plat map to parcel NE 01.
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NE-01
(SHEET 1 OF 2)

PARCEL NE-01:

THAT PORTION OF LOT 140, IN BLOCK 6 OF IRVINE SUBDIVISION, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDEO IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 140, SAID CORNER BEING AT THE INTERSECTION OF THE CENTERLINES OF CAMPUS DRIVE AND DOVE STREET AS SHOWN ON RECORD OF SURVEY NO. 87-1008, FILED IN BOOK 117, PAGES 5 THROUGH 9, INCLUSIVE OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID CENTERLINE OF CAMPUS DRIVE, N40°39'20"E 69.93 FEET; THENCE LEAVING SAID CENTERLINE, N49°20'40"W 72.00 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND DISTANT 72.00 FEET NORTHEASTERLY FROM SAID CENTERLINE OF CAMPUS DRIVE; THENCE ALONG SAID PARALLEL LINE, N40°39'20"E 822.87 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID PARALLEL LINE, N49°20'40"W 388.77 FEET; THENCE N41°39'16"E 908.78 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 1695.99 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°24'08", AN ARC LENGTH OF 278.31 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 232.98 FEET, A RADIAL LINE TO SAID POINT BEARS N57°54'44"E; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°57'45", AN ARC LENGTH OF 36.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 220.83 FEET, A RADIAL LINE TO SAID POINT BEARS S48°56'47"E; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°43'26", AN ARC LENGTH OF 45.19 FEET; THENCE N29°19'48"E 11.10 FEET; THENCE S61°12'12"E 324.28 FEET; THENCE S17°01'43"W 92.14 FEET; THENCE S44°13'54"W 8.21 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 189.01 FEET, A RADIAL LINE TO SAID POINT BEARS N12°59'14"W; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 112°59'02", AN ARC LENGTH OF 372.71 FEET; THENCE S16°29'44"W 30.12 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1524.89 FEET, A RADIAL LINE TO SAID POINT BEARS N31°20'32"W; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°46'19", AN ARC LENGTH OF 180.23 FEET; THENCE N49°20'39"W 9.55 FEET; THENCE S40°39'20"W 11.00 FEET; THENCE S38°36'24"E 7.28 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1524.89 FEET, A RADIAL LINE TO SAID POINT BEARS N38°35'13"W; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°45'27", AN ARC LENGTH OF 286.30 FEET TO SAID LINE THAT IS PARALLEL WITH AND DISTANT 72.00 FEET NORTHWESTERLY FROM SAID CENTERLINE OF CAMPUS DRIVE; THENCE ALONG SAID PARALLEL LINE, S40°39'20"W 457.52 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 494,568 SQUARE FEET, MORE OR LESS.
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NE-01
(SHEET 2 OF 2)

NOTE:
THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

Stéphanie A. Wagner
STEPHANIE A. WAGNER, P.L.S. 5752

September 11, 2020
DATE:

[Stamp]
To avoid COVID-19 exposure, I do not wish to attend the September 15, 2020, Orange County Board of Supervisors' meeting in person, but I do wish to offer these comments on Item S21a (John Wayne Airport - Approve Full-Service Fixed Base Operation leases):

I ask the Board to reschedule this important supplemental item to a future meeting where it can be properly noticed and reported, and, ideally, reviewed by the County Airport Commission prior to action by the Supervisors.

First, the Board's Rules of Procedure Rule 20 required the agenda for this meeting to be posted by noon on June 2.

Chair Steel's request for an "Exception to Rule 21," dated June 4, despite its stated reasons and despite its being concurred to by the CEO, clearly does not meet either of the Rule 21(d) "justification criteria" for late posting.

This item deals with the approval of leases set to begin many months from now, on January 1, 2021. Given that distant start date, Chair Steel's mere desire to have the lease agreements "in place as soon as possible" does not create any special urgency to this matter that would not attach to any other matter before the Board. Indeed, Rule 20 and its exceptions in Rule 21 would be completely pointless if simply completing a staff report after the deadline and wishing to move quickly on a matter were sufficient to justify late notice.

Furthermore, this item involves just two of the three leases that were approved by the Board for negotiation on August 11 (Item 11). No reason is offered why these two leases are any more urgent than the third.

Next, the late posted "Supplemental Agenda Staff Report" (which has been posted in a non-searchable image format) describes the August 11 meeting, but appears to completely fail to mention that the Board met on this matter again since then, as Supplemental Closed Session Item SCS3 on August 25.

I previously questioned the validity of the August 25 meeting, noting that Government Code Section 54956.8 permits closed session discussion only of the price and terms of payment of the lease, and the lease rates had already been set in the RFP approved as Item 18 on September 10, 2019, and included in the August 11, 2020, agenda materials.

In the leases being presented in this Supplemental Item, I can find no change to the basic lease rates or terms, other than the fleshing out of the minor "Additional Rent" provisions in Section 4.10.B.

Since the lease negotiations are presumably complete now and ready for public approval, I believe the public has a right for the staff report to fully disclose what, if anything, was decided, and why, by the Supervisors at their August 25 meeting.
For all these reasons, I, again, ask that this non-urgent item be delayed until it can be properly noticed on the regular (not supplemental) agenda, ideally with a recommendation from the Airport Commission.

Should that not happen, I urge the Board to ensure that definition of "SMALL GA" in proposed lease Section 5.01.C be modified to require them to meet both the criteria of "small" (wingspan \text{ AND weight}), not just one.

Yours sincerely,

Jim Mosher
I’m responding to a request to add additional guidelines to the operations at JWA.

I’ve been living in Newport Beach now since 1994 and it is quite sad that we can no longer have a pleasant conversation on the patio without the extremely loud aircraft buzzing overhead as well as the flight school take off and returns right over our heads by the back bay.

So as requested I’m affirming my commitment to the following provisions:

– Eliminate the ability of any lessee to construct for processing international passengers.
– Restrict the operational hours of the FBOs to
– Require any future modifications to the terms preserving the majority of the space for small general Board of Supervisors for review and approval, after

These are reasonable requests that will provide Board to add these three provisions to the final lease

Thank you for addressing these issues.
Regards,

Rhonda Thompson
138 Baycrest Court

Sent from my iPad
From: Blankenhorn, Regina <RBlankenhorn@tustinca.org>
Sent: Friday, September 11, 2020 4:46 PM
Subject: City of Tustin - Letter re John Wayne Airport and Full-Service Fixed Base Operation leases

Attached (and copied below for your convenience) please find a letter from the City of Tustin regarding the lease agreements for Fixed Based Operators at John Wayne Airport. This is Item S21A on the upcoming Board Agenda.

September 10, 2020

The Honorable Donald P. Wagner
Orange County Board of Supervisors
P.O. Box 687
Santa Ana, CA  92702-0687

RE: John Wayne Fixed Base Operator Lease Agreements

Dear Supervisor Wagner and Members of the Board of Supervisors:

On behalf of the City of Tustin, I would like to thank you for your continued attention to issues that impact your District and our City. As you know, the City of Tustin is located along the incoming flight path to John Wayne Airport. The lease agreements for Fixed Based Operators at John Wayne Airport will set the terms for the next three decades and have significant ramifications on our community. We believe that the County’s negotiated agreements are critically important in solidifying the Board’s previous actions to preserve noise and air quality impacts to our communities.

While we appreciate the steps that the County has taken to ensure that commercial flights have strict takeoff and landing curfews, we would like to ensure that general aviation flights respect the same limits. As such, we would like to request that you and your colleagues direct County Counsel to include the following provision in the final lease agreements with the selected Fixed Base Lease operators at John Wayne Airport.

1. Restrict the operational hours of the FBOs to match the hours of the commercial curfew at John Wayne Airport.
   
   a. Add to Use, Section 5.01, the following: All Limited/Full Service FBO activities on the Leased Premises shall be carried out between 7 a.m. and 11 p.m. Monday through Saturday and 8 a.m. and 11 p.m. on Sunday. Unless there is an emergency, no Limited/Full Service FBO activities shall occur on the Leased Premises outside of these hours.
We understand that in the case of an emergency, general aviation will be allowed to make an exception to this restriction and John Wayne Airport must allow those flights to land. However, by restricting these hours in the lease agreement, we believe that the vast majority of general aviation flights will respect these hours, thus lessening the impacts to our community during the early morning and late evening hours.

We appreciate your continued attention to this issue and to your District. Thank you for your consideration.

Sincerely,

Dr. Allan Bernstein
Mayor

Please do not hesitate to contact me should you have any questions. Thank you.

Cordially,

Regina M. Blankenhorn
Executive Coordinator to the City Council & City Manager
City of Tustin | 300 Centennial Way | Tustin, CA 92780
Direct: 714-573-3012
Fax: 714-838-1602
rblankenhorn@tustinca.org
September 10, 2020

The Honorable Donald P. Wagner
Orange County Board of Supervisors
P.O. Box 687
Santa Ana, CA  92702-0687

RE: John Wayne Fixed Base Operator Lease Agreements

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While we appreciate the steps that the County has taken to ensure that commercial flights have strict takeoff and landing curfews, we would like to ensure that general aviation flights respect the same limits. As such, we would like to request that you and your colleagues direct County Counsel to include the following provision in the final lease agreements with the selected Fixed Base Lease operators at John Wayne Airport.

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We understand that in the case of an emergency, general aviation will be allowed to make an exception to this restriction and John Wayne Airport must allow those flights to land. However, by restricting these hours in the lease agreement, we believe that the vast majority of general aviation flights will respect these hours, thus lessening the impacts to our community during the early morning and late evening hours.

We appreciate your continued attention to this issue and to your District. Thank you for your consideration.

Sincerely,

Dr. Allan Bernstein
Mayor
Dear County Supervisors,

I am writing to thank you for listening and acting on the Newport Beach community’s concern about limiting the scope and extent of the pending general aviation operator leases. I understand that they are many competing interests that you are weighing in turf decision making on this matter. I want to further urge you as to the importance of limiting the hours of operations to match those restrictions currently in place at John Wayne Airport. This uninterrupted peace and quiet during the late evening and early morning hours is critically important for the health and welfare of the community that is directly and adversely impacted by the noise of aircraft on a daily basis. Having the ability to take advantage of restful sleep is vital for both physical and mental health. This is ever more important as the frequency of flights is expected to continue to increase in the next decade.

Sincerely,
Dana White
204 Villa Point Dr
Newport Beach, CA 92660

Sent from my iPhone
Orange County Board of Supervisors,

I am a resident of Newport Beach and the purpose of this email is to request additional provisions to be included in the leases, the OC Board of Supervisors will be reviewing on September 15, 2020, with the private companies (FBOs) that will build and operate John Wayne Airport’s new general aviation facilities. The requested additional provisions are as follows:

- Language that eliminates the ability of any lessee to construct and operate a General Aviation Facility (GAF) – the space used for processing international passengers.
- A term that restricts the operational hours of the FBOs to match the hours of the commercial curfew at John Wayne Airport.
- The requirement that any future modifications to the terms pertaining to commercial use of an FBO, prohibiting a GAF, preserving the majority of the space for small general aviation, and restricting the FBOs’ operating hours must go before the Board of Supervisors for review and approval, after reasonable public notice.

Your implementation of these provisions in the leases will help to protect our community and the neighboring communities of Costa Mesa, Orange, Tustin. The communities each of you represent.

Sincerely,

Carmen Rawson
Jeff Herdman  
City Council Member  
Chair, Newport Beach Aviation Committee  
Diane Dixon  
City Council Member  
Vice Chair, Newport Beach Aviation Committee  

Ms. Dixon & Mr. Herdman,  
I have lived near the departure end of the SNA for 19 years and have experienced the steady commercial and quasi commercial expansion of the airport. The airport is evolving beyond the general aviation airport that let a few commercial turboprops in as an experiment.  
The new “improvement program” must at a minimum:  
–Eliminate the ability of any lessee to construct and operate a General Aviation Facility (GAF). This is a space used for processing international passengers.  
• SNA is not an international airport it is a local airport service the local community  
–Restrict the operational hours of the FBOs to match the hours of the commercial curfew at John Wayne Airport.  
• Business jets landing at 2:00 am with the air stream howling through the open gear doors is a disruption to a good night’s sleep  
• A 757/A321 class aircraft is considered a general aviation airplane. 24-7 operations was not what the community signed up for.  
–Require any future modifications to the terms pertaining to commercial use of an FBO, prohibiting a GAF, preserving the majority of the space for small general aviation, and restricting the FBOs’ operating hours to go before the Board of Supervisors for review and approval, after reasonable public notice  
• No sneaking in a new terminal under the guise of renovation.  

Regards,  
Jeff Krolopp  
2306 Windward Lane  
Newport Beach, CA 92660
Revision to ASR and/or Attachments

Date: September 8, 2020
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Barry A. Rondinella, Airport Director, John Wayne Airport
Re: ASR Control #: N/A, Meeting Date 9/15/20, Item No. # S21A
Subject: Approve Lease Agreements for Two Full-Service Fixed Base Operators at John Wayne Airport

Explanation:

Updated to include Exhibits A through I to each lease, and updated signature page for each lease.

☐ Revised Recommended Action(s)

☐ Make modifications to the:

☐ Subject ☐ Background Information ☐ Summary ☐ Financial Impact

☑ Revised Attachments (attach revised attachment(s) and redlined copy(s))

Exhibits A through I were added to Attachments A and B.

Updated signature page for Attachments A and B.
NORTHEAST FULL-SERVICE FIXED BASE OPERATION (FBO) LEASE

Dated _____________

between

County of Orange

and

Aviation Consultants, Inc., doing businesses as ACI Jet

LESSEE
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EXHIBIT B  MAP OF LEASED PREMISES
EXHIBIT C  PROPOSED PROJECT MAP DEPICTING MIXED USE AND SMALL GA AREAS
EXHIBIT D  LISTING OF EXISTING ENVIRONMENTAL CONDITIONS AND HISTORICAL ASSESSMENTS
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EXHIBIT F  CONCEPTUAL PLANS
EXHIBIT G  DEVELOPMENT AND PHASING PLAN AND SCHEDULE
EXHIBIT H  MAINTENANCE PLAN
EXHIBIT I  TRAINING AND CUSTOMER SERVICE PLANS

EXHIBIT DISCLAIMER

Some information contained in the Exhibits to this Lease has been obtained by COUNTY’s representatives and/or third parties. The information is believed to be reasonably correct, but the COUNTY does not warrant either the completeness or accuracy of such information. It is the responsibility of the LESSEE to verify all such information.
THIS FBO Lease (“Lease”) is made and entered into this _____ day of ______________, 20__, by and between the COUNTY OF ORANGE, a political subdivision of the State of California (“COUNTY”), and AVIATION CONSULTANTS, INC. doing business as ACI Jet (“LESSEE”).

RECITALS

WHEREAS, COUNTY, through its Board of Supervisors, is the owner and airport proprietor of John Wayne Airport (“JWA” or “Airport”), located in the County of Orange, State of California, and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public; and

WHEREAS, JWA is in the process of implementing a comprehensive General Aviation Improvement Program (“GAIP”) with the intent to improve service, safety, security and efficiency for general aviation services and activities at JWA; and

WHEREAS, on June 25, 2019, COUNTY certified the GAIP Environmental Impact Report (“EIR”) 627 and selected the Proposed Project, providing a framework for general aviation improvements at the Airport and a comprehensive update of JWA’s general aviation facilities; and

WHEREAS, JWA conducted a competitive Request for Proposal (“RFP”) process and COUNTY selected LESSEE to develop and operate an updated Fixed Based Operator (“FBO”) facility at the Airport under this long-term Lease;

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter contained to be observed and performed by the respective parties hereto,

THE PARTIES HERETO COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

ARTICLE I - DEFINITIONS

The following words, terms and phrases whenever used in this Lease shall have the meaning and significance attached to them in this Article, unless otherwise apparent from context.

SECTION 1.01 AIRPORT

“Airport” or “JWA” shall mean the John Wayne Airport, Orange County, California.

SECTION 1.02 AIRPORT DIRECTOR

“Airport Director” or “Director” shall mean the Director of John Wayne Airport, County of Orange, as appointed by the County Executive Office, or Director's designee.
SECTION 1.03 AIRPORT FUEL FARM

“Airport Fuel Farm” or “Fuel Farm” shall mean the area located at the Southeast corner of the Airport located at the intersection of Campus Drive and Bristol Street, which contains COUNTY and LESSEE fueling facilities consisting of above ground sump tanks, underground fuel storage tanks, piping and associated fueling apparatus of which LESSEE’S Fuel Storage Parcel comprises a portion.

SECTION 1.04 BEST MANAGEMENT PRACTICES

“Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, safety plans, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment measures, operating procedures, and practices to control erosion, facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include any type of pollution prevention and pollution control measure necessary to achieve compliance.

SECTION 1.05 BOARD OF SUPERVISORS

“Board of Supervisors” shall mean the members of the Board of Supervisors of the County of Orange, as governing body of the County and proprietor of the Airport through its Airport Director, or designees, as appropriate.

SECTION 1.06 COUNTY

“COUNTY” shall mean the County of Orange, a political subdivision of the State of California.

SECTION 1.07 DOT

“DOT” shall mean the United States Department of Transportation.

SECTION 1.08 ENVIRONMENTAL LAWS

of 1986 (“Proposition 65”); (ix) California Health and Safety Code §§25100, 25395.7, 25915 et seq.; (x) the Porter-Cologne Water Quality Control Act (California Water Code); (xi) California Civil Code § 3479 et seq.; (xii) Storm Water Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (xiii) the Carpenter-Presley-Tanner Hazardous Substances Account Act; (xiv) the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; (xv) the Safe Drinking Water Act, 24 U.S.C. § 300f, et seq.; (xvi) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (or most current); (xvii) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ; (xviii) The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Areawide Urban Storm Water Runoff Orange County Municipal Separate Storm Sewer System (MS4) Permit Order No. R8-2009-0030 (National Pollutant Discharge Elimination System No. CAS618030) as amended by Order No. R8-2010-0062; (xix) South Coast Air Quality Management District Regulations and Rules; and (xx) all other federal, State, and local laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (a) emissions, discharges, releases, and/or threatened releases of Hazardous Materials into the environment (including, but not limited to, ambient air, surface water, groundwater, land surface, or subsurface strata); and (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials, as such laws are amended, and the regulations and administrative codes applicable thereto.

SECTION 1.09 FAA

“FAA” shall mean the Federal Aviation Administration created under the Federal Aviation Act of 1958, or such successor agency as may from time to time have similar jurisdiction over LESSEE or its business, and the Airport.

SECTION 1.10 HAZARDOUS MATERIALS

“Hazardous Materials” shall mean any pollutant, contaminant, chemical, compound, substance, hazardous or toxic substance, material, waste, and/or any other matter, which is or shall become regulated by any governmental entity, including, but not limited to COUNTY acting in its governmental capacity, the State of California, and/or the United States Government. The term “Hazardous Materials” includes, without limitation, any material or substance which is: (i) defined or listed as a “hazardous waste,” “extremely hazardous waste,” “restrictive hazardous waste” or “hazardous substance” or considered a waste, condition of pollution, nuisance, and/or is controlled or governed under any Environmental Law; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos-containing materials; (iv) flammable or explosive substances; (v) mold-containing materials; poly-chlorinated biphenyl compounds; and/or (vi) substances designated by any governmental entity to cause cancer and/or reproductive toxicity.
SECTION 1.11 NON-STORM WATER DISCHARGE

“Non-Storm Water Discharge” shall mean any discharge to storm sewer systems that is not entirely composed of storm water. “Non-Storm Water Discharge” includes “Unauthorized Non-Storm Water Discharges” and “Authorized Non-Storm Water Discharges” as defined by the California Environmental Protection Agency State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities and Construction Activities.

SECTION 1.12 NPDES PERMIT

“National Pollutant Discharge Elimination System (NPDES) Permit” means the currently applicable discharge permit(s) issued by the Regional Water Quality Control Board, Santa Ana Region, which establish waste discharge requirements applicable to storm runoff within the County and Airport.

SECTION 1.13 POLLUTANT

“Pollutant” means any chemical, compound, substance, liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

a. Artificial materials (such as floatable plastics, wood products or metal shavings);

b. Household waste (such as trash, paper, and plastics; cleaning chemicals, yard wastes, animal fecal materials, used oil and fluids from vehicles, lawn mowers and other common household equipment);

c. Metals and nonmetals, including compounds of metals and nonmetals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic) with characteristics which cause an adverse effect on living organisms;

d. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);

e. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;

f. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;

g. Materials which contain base/neutral or acid extractable organic compounds;

h. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act;

i. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus, or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial use of the receiving waters, flora or fauna of the State; and

j. Any substance listed under Health and Safety Code, §25316.
SECTION 1.14 PROHIBITED DISCHARGE

“Prohibited Discharge” shall mean any discharge that contains any pollutant, from public or private property to (i) the storm water drainage system; (ii) any upstream flow, which is tributary to the storm water drainage system; (iii) any groundwater, river, stream, creek, wash or dry weather arroyo, wetlands area, marsh, or coastal slough; or (iv) any coastal harbor, bay, or the Pacific Ocean.

SECTION 1.15 STORM WATER

“Storm Water” shall mean storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

SECTION 1.16 STORM WATER DRAINAGE SYSTEM

“Storm Water Drainage System” means street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of a tributary to the county-wide storm water runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of storm water. The Airport storm drain system shall mean any gutter, channel, storm drain, constructed drain, wash area, inlet or outlet or other facility that flows into, onto, through or out of the Airport property.

SECTION 1.17 TERMINAL

“Terminal” means the Thomas F. Riley commercial passenger terminal at John Wayne Airport.

SECTION 1.18 TSA

“TSA” shall mean the Transportation Security Administration of the United States Department of Homeland Security, the federal agency responsible for regulation of airport security, or any similar successor agency.

ARTICLE II - TERM OF LEASE

SECTION 2.01 TERM OF LEASE

The term of this Lease shall be thirty-five (35) years commencing on January 1, 2021 ("Commencement Date"), and continuing through December 31, 2055.

SECTION 2.02 HOLDING OVER

In the event LESSEE shall continue in possession of the Leased Premises after the term of this Lease, such possession shall not be considered an extension or renewal of this Lease but a tenancy from month-to-month and shall be terminable upon 30 days’ written notice and otherwise governed.
by the conditions and covenants contained in this Lease. The Minimum Annual Rent used as the basis to calculate monthly rents for any month-to-month holdover period shall be subject to the terms in Section 4.01 of this Lease.

**ARTICLE III - LEASED PREMISES**

**SECTION 3.01 LEASED PREMISES**

COUNTY leases to LESSEE that certain real property as shown in Exhibits A and B hereinafter referred to as “Leased Premises” and incorporated herein by this reference. **Said Leased Premises are being leased to LESSEE in their “as-is” and “where-is” condition.**

LESSEE further acknowledges that COUNTY has made no representation or warranty regarding the condition of the Leased Premises or the suitability of such Leased Premises for the operation or conduct of LESSEE’s use thereon or for any other purpose. The taking of possession of the Leased Premises by LESSEE shall conclusively establish that the Leased Premises is acceptable to LESSEE and in satisfactory condition for LESSEE’s use at such time. LESSEE further, by taking possession of the Leased Premises, expressly acknowledges and represents to COUNTY that LESSEE is accepting LESSEE’s interest in, and possession of, the Leased Premises in their present condition “as-is” and “where-is” including, but not limited to, the physical condition and environmental condition of the Leased Premises and all applicable laws affecting or related to the Leased Premises, or any part thereof, including, but not limited to, building and safety codes, zoning ordinances, land use restrictions and regulations, Environmental Laws, and other such matters. LESSEE acknowledges and represents to COUNTY that neither COUNTY nor any agent or representative of COUNTY has made any representation, warranty or promise with respect to the Leased Premises, or any part thereof; that LESSEE has satisfied itself with the condition of the Leased Premises and the suitability of the Leased Premises for LESSEE’s intended use; and that LESSEE has made all such investigations as LESSEE deems necessary with reference to the Leased Premises and assumes all responsibility therefor as the same relates to LESSEE’s occupancy thereof.

**SECTION 3.02 NATURE OF LESSEE’S ESTATE**

LESSEE acknowledges and agrees to all of the following:

A. COUNTY has granted to LESSEE a leasehold interest in the Leased Premises only.

B. COUNTY retains a fee ownership for federal income tax purposes in and to the Leased Premises, as well as all other ownership burdens and benefits connected with such fee ownership.

C. LESSEE has not been granted any direct or indirect right or option to purchase the Leased Premises from COUNTY at any time during or after the termination and/or expiration of this Lease.
SECTION 3.03 INSTALLATION OF EQUIPMENT OUTSIDE THE LEASED PREMISES

LESSEE shall not make any alteration or install any fixture or equipment of any kind outside the Leased Premises unless authorized in writing by the Airport Director prior to installation.

ARTICLE IV - RENT

SECTION 4.01 RENT, FEES, AND CHARGES

Rent shall consist of Minimum Annual Rent and Additional Rent, as defined and adjusted from time to time as set forth hereinafter.

A. Minimum Annual Rent

For purposes of this Lease the “Minimum Annual Rent” is defined as the sum of Ground Rent and Building Rent. The Minimum Annual Rent shall be payable in twelve (12) equal monthly installments on or before the first (1st) day of each calendar month beginning on the Commencement Date. Said amount shall be subject to annual adjustment as set forth in that section of the Lease entitled “REVISION OF RENT, FEES AND CHARGES.”

1) Ground Rent

Ground Rent shall consist of $1.77 price per square foot (psf) for the square footage of all land that makes up the Leased Premises.

Ground Rent = $200,349.10 per month

2) Building Rent

Subject to the provisions of Sections 4.01(B)(5) and 4.01(B)(6) below, Building Rent shall consist of $8.16 price per square foot (psf) for the square footage of all enclosed structures located upon the Leased Premises on the Commencement Date.

Building Rent at Commencement Date = $183,867.24 per month

LESSEE shall pay 150% of Minimum Annual Rent during any holdover period, which shall be calculated based on the most current month prior to holdover period commencement.

B. Additional Rent

Additional Rent shall include Percentage Rent of Gross Receipts, Rent-a Car Fees, Advertising Fees, Fuel Flowage Fees, and Lubricant Fees as defined below. Additionally, NSF Check Fees, Charges for Late Payments, Penalty Fees, and Unauthorized Use and
Services Fees, and all other monetary obligations under this Lease shall be deemed Additional Rent. Further, COUNTY has the right to make any payment to any third-party on any delinquent obligation which LESSEE is obligated to pay under this Lease and recover that amount from LESSEE as Additional Rent.

LESSEE agrees to pay all Additional Rent monthly, in arrears, on or before the fifteenth day of each month, up to and including the last day of the preceding month.

1) Percentage Rent of Gross Receipts

LESSEE shall pay an amount equal to five percent (5%) of all Gross Receipts (as defined in Section 4.02) realized by LESSEE from its business operations on or from the Leased Premises including any amounts received by LESSEE from subtenant(s), sublessee(s), or licensee(s), as more fully set forth in Section 4.02, below.

LESSEE shall pay an amount equal to one-quarter of one percent (.25%) of all Gross Receipts realized by LESSEE for aircraft charter operations, the sale of aircraft, the sale of aircraft parts, and third-party aircraft maintenance services.

2) Rent-A-Car Fees

LESSEE shall pay its percentage of reportable Gross Receipts from rental car activities equal to the percentages paid by other rental car companies operating on Airport, which on the Commencement Date equals ten percent (10%), and which is subject to adjustment from time to time.

3) Advertising Receipts

LESSEE shall pay fifty percent (50%) of its Gross Receipts from all third-party advertising activities conducted on the Leased Premises. At least fifteen (15) days in advance of any advertising activity, LESSEE shall submit all advertising creatives and programs to JWA for Airport Director’s prior written approval.

4) Fuel Flowage Fees and Lubricant Fees

LESSEE shall pay a fuel flowage fee of six cents ($0.06) per gallon of fuel delivered to the Airport and lubricant fees of ten cents ($0.10) per gallon or as otherwise set by COUNTY’s Board of Supervisors.

All fuel flowage fees shall be applied to all fuel handlers without unjust discrimination. All such fees shall be calculated upon deliveries made to LESSEE at the airport. The fuel gallonage shall be computed on the basis of net gallonage delivered and invoiced to LESSEE. Oil gallonage and lubricant weights shall be based on delivery invoices as supplied by the oil delivery company to LESSEE.
5) **Building Rent Adjustment During Construction**

Beginning upon the initiation of demolition of enclosed structures located on the Leased Premises as of the Commencement Date, Building Rent shall be adjusted each month to reflect, on a pro-rata basis, the maximum square footage of usable space of such buildings at any point during the prior month. Ground Rent and Additional Rent shall remain unchanged during the course of any demolition or construction activities.

6) **No Building Rent for New Improvements**

In recognition that LESSEE will be constructing or causing new improvements to be constructed without cost to COUNTY and that LESSEE will be obligated to pay the property taxes, insurance, and other costs that become payable with respect to the Leased Premises, including any new improvements, and that all new improvements will revert to COUNTY at the expiration or termination of this Lease, no Building Rent will be due or payable by LESSEE for such new improvements.

C. **Fuel Pricing**

LESSEE’s highest fuel prices for aircraft fuel sold at JWA shall be established with reference to a regional average of the following airports: McClellan–Palomar Airport (CRQ), Van Nuys Airport (VNY), Hollywood Burbank Airport (BUR) and Long Beach Airport (LBF), and shall not be more than ten percent (10%) above the median retail price of fuel sold at those four airports, as published weekly by Airnav.com.

LESSEE may also provide other discounts and shall seek to maintain competitive fuel pricing for customers purchasing fuel at JWA.

Fuel pricing shall be accessible and subject to inspection or audit by Airport Director or designee upon request.

Notwithstanding anything in this Lease to the contrary, all amounts payable by LESSEE to or on behalf of COUNTY under this Lease, whether or not expressly denominated as Minimum Annual Rent, Ground Rent, Building Rent, or Additional Rent, shall also constitute rent for the purposes of the Bankruptcy Code, 11 United States Code Section 502(b). Rent payments shall be made in accordance with the provisions with that section of the Lease entitled “PAYMENT PROCEDURE.”

**SECTION 4.02 DEFINITION OF GROSS RECEIPTS**

As used in this section, the term “LESSEE” shall include LESSEE, its officers, directors, employees, agents, affiliates, assigns, and successors. The term “Gross Receipts” upon which five percent (5%) of Gross Receipts is to be calculated, shall include the following:
A. All business activities that generate income or revenue for LESSEE on or from the Leased Premises, which shall include but not be limited to, the sale price of all goods, services, wares, and products sold, performed or traded on or from the Leased Premises, whether for cash or credit and whether payment is actually made or not (provided, however, that it is expressly understood that the activities encompassed in this Subsection 4.02(A) do not include those activities that are covered by the separate percentage (.25%) provided for in the second paragraph of Subsection 4.01(B)(1);

B. All admission, entry, rental and other fees of any nature or kind charged by LESSEE;

C. The fair rental value of facilities on the Leased Premises used by LESSEE or its employees for purposes other than the business purposes for which the Leased Premises are leased;

D. The value of all consideration received by LESSEE including, without limitation, non-monetary considerations, including trades, for the items sold, leased, rented or services rendered.

E. Any rent, consideration or other amounts paid to LESSEE by subtenant(s), sublessee(s), or licensee(s), or any person acting under contract with LESSEE based on LESSEE’s operations at JWA.

F. Revenue from box hangars.

Gross Receipts subject to the five percent (5%) payment amount shall exclude revenue from tie-downs, sunshades, and T-hangars; Rent-a-Car Fees; Advertising Receipts; Fuel Sales; Fuel Flowage Fees and Lubricant Fees; pass-through costs (which are understood to be expenses that LESSEE prepays on behalf of aircraft owners in the course of aircraft operations as a matter of convenience, and which are then reimbursed by said aircraft owners and on which LESSEE charges no markup), and all sales and excise taxes as defined by federal, State, county or municipal government tax codes, and that are paid by LESSEE as a direct result of operations under this Lease.

Refunds for goods returned shall be deducted from current Gross Receipts upon return. Bad debt losses, including but not limited to NSF checks and uncollectible credit card charges, shall not be deducted from Gross Receipts.

Discounts including but not limited to allowances, deductions, rebates, trades, kickbacks, hidden credit, promotional sales, or any other reductions shall not be deducted from Gross Receipts, unless the Airport Director provides written approval for such a discount.

**SECTION 4.03 CHARGE FOR UNAUTHORIZED SERVICES AND USES**

In the event LESSEE breaches this Lease by using or permitting the Leased Premises to be used in any manner other than as expressly permitted under this Lease or by providing unauthorized services on the Airport outside of the Leased Premises, LESSEE shall pay COUNTY a sum equal
to one hundred percent (100%) of the Gross Receipts for any such service or use. Said payment shall be subject to the charge for late payment in that section of the Lease entitled “CHARGE FOR LATE PAYMENT.” As used in this section, the term “LESSEE” shall include LESSEE, its employees, agents, successors, assigns, affiliates, sublessees, concessionaires, licensees, or any person acting under contract with LESSEE, or on LESSEE’s behalf. All charges for unauthorized services and uses are due and payable as Additional Rent. Furthermore, this Lease may be subject to termination by the COUNTY for LESSEE’s unauthorized services or uses, which termination would be governed by the provisions of Section 9.02.

SECTION 4.04  REVISION OF RENT, FEES AND CHARGES

A. Minimum Annual Rent

The Minimum Annual Rent specified in that section of the Lease entitled “RENT, FEES AND CHARGES” shall be subject to automatic annual adjustments in proportion to changes in the Consumer Price Index for Los Angeles-Long Beach-Anaheim, CA (All Urban Consumers - All Items 1982-1984=100) promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor.

The automatic adjustment shall be effective on each anniversary of the Commencement Date of the Lease and shall be calculated by means of the following formula:

\[
A = \frac{B \times C}{D}
\]

A = Adjusted Rent
B = Minimum Annual Rent as originally set forth in that section of the Lease entitled “RENT, FEES AND CHARGES”
C = Monthly index for the fourth month prior to the month in which each rental rate adjustment is to become effective
D = Monthly index for the month in which this Lease becomes effective

In the event that the Consumer Price Index (CPI) ceases to use 1982-84 = 100 as the basis of calculation, or if, in COUNTY’s sole judgment, a substantial change is made in the method used by the federal government to determine the CPI or the items used to calculate the CPI, then the CPI shall be converted to the figure that would have been calculated (or as close to such figure as shall be practicable) had the manner of calculating the CPI in effect at the date of this Lease not been altered.

In the event that the CPI is not issued or published for the period for which such minimum annual rent is to be adjusted and computed hereunder, or in the event that the Bureau of Labor Statistics of the United States Department of Labor should cease to publish said index figures, then any similar index published by any other branch or department of the United States Government shall be used and if none is so published, then another index generally recognized as authoritative shall be substituted by COUNTY.
Notwithstanding the foregoing, in no event shall the rent be reduced by reason of any such adjustment.

B. **Fees and Charges**

The fuel flowage and lubricant fees shall be adjusted periodically by COUNTY based on the latest schedule established by Board of Supervisors. The rent-a-car percentage fees shall be the same as the percentage fees paid by other rental car companies operating on Airport.

**SECTION 4.05 PAYMENT PROCEDURE**

A. **Place of Payment and Filing.** Payments and statements required by Section 4.01 “RENT” shall be delivered to the County of Orange, John Wayne Airport Accounting Services, 3160 Airway Avenue, Costa Mesa, California 92626. The designated place of payment, filing and reporting may be changed at any time by COUNTY upon ten (10) days' written notice to LESSEE. Payments may be made by check payable to the County of Orange. LESSEE assumes all risk of loss if payments are made by mail.

B. **Form of Payment.** All sums due under this Lease shall be paid in lawful money of the United States of America without offset or deduction or prior notice or demand. No payment by LESSEE or receipt by COUNTY of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and COUNTY shall accept such check or payment without prejudice to COUNTY’s right to recover the balance of the amount due or pursue any other remedy in this Lease. All Electronic Funds Transfer (EFT) payments must be remitted by Automated Clearing House (ACH) / direct deposit to the COUNTY’s designated bank account, or any future mode prescribed by the COUNTY. Any fees assessed to the COUNTY’s bank account due to the use of other form of payment (e.g. wire transfer) not prescribed or approved by the COUNTY, shall be passed through to the LESSEE plus $25 processing fee.

C. In the event the obligation to pay rent begins or terminates on some day other than the first or last day of the month, the rent shall be prorated to reflect the actual period of use on the basis of a thirty (30) day month. The rent for any partial calendar month during which this Lease becomes effective will be payable on such effective date.

D. **NSF Check Fees.** In the event a check submitted by LESSEE is returned for non-sufficient funds (“NSF”), LESSEE agrees to pay COUNTY a fee in the amount of twenty-five dollars ($25) for the first check, and thirty-five dollars ($35) for each subsequent check. All NSF check fees are due and payable as Additional Rent. LESSEE will be liable for treble the amount of the check under certain circumstances described by California Civil Code Section 1719.
SECTION 4.06 CHARGE FOR LATE PAYMENT

LESSEE hereby acknowledges that the late payment of rent or any other sums due hereunder will cause COUNTY to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, increased accounting costs, lost interest income.

Accordingly, if any payment of rent as specified in that section of the Lease entitled “RENT, FEES AND CHARGES” or of any other sum due COUNTY is not received by COUNTY by the due date, a late charge of one and one-half percent (1.5%) of the payment due and unpaid plus one hundred dollars ($100) shall be added to the payment, and the total sum shall become immediately due and payable to COUNTY. An additional charge of one and one-half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid. All charges for late payments are due and payable as Additional Rent.

LESSEE and COUNTY hereby agree that such late charges represent a fair and reasonable estimate of the costs that COUNTY will incur by reason of LESSEE's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by COUNTY shall in no event constitute a waiver of LESSEE's default with respect to such overdue payment, or prevent COUNTY from exercising any of the other rights and remedies granted hereunder.

SECTION 4.07 PROVISION AGAINST SET-OFFS

It is the obligation of LESSEE to pay all rents, fees, and charges, free of any set-offs or claims, in the amount and at the times specified in this Lease. In the event that LESSEE desires to contest the validity or amount due and owing, LESSEE shall first pay the same to COUNTY and may then seek a refund in any appropriate forum.

SECTION 4.08 SECURITY DEPOSIT

No less than thirty (30) days prior to the Commencement Date of this Lease, LESSEE shall deposit with COUNTY a security deposit subject to the provisions for adjustment as provided hereinafter. Concurrently with each revision of the rent pursuant to that section of the Lease entitled “RENT, FEES, AND CHARGES,” the security deposit to be provided by LESSEE shall be adjusted to six (6) times the total monthly building and ground rent to guarantee the faithful performance by LESSEE of its obligations under this Lease and the payment of all rents, fees and charges due hereunder. Any increased security deposit is due within ten (10) business days of such adjustment.

The security deposit shall take one of the forms set out below and shall guarantee LESSEE's full and faithful payment and performance of all the terms, covenants, and conditions of this Lease:

A. An instrument or instruments of credit from one or more financial institutions, subject to regulation by the State of California or Federal government, pledging that funds necessary to secure performance of the Lease terms, covenants, and conditions are on deposit and guaranteed for payment, and agreeing that said funds shall be trust funds securing
LESSEE’s performance and that all or any part shall be paid to COUNTY, or order upon demand by Airport Director. Both the financial institution(s) and the form of the instrument(s) must be approved by Airport Director.

B. A Faithful Performance Bond executed by a surety company or financial institution qualified and admitted to do business in the State of California and issued in a form, approved by the COUNTY. Under the bond, the surety company shall guarantee to COUNTY full and complete payment and performance of all the terms, conditions and covenants herein to be performed on the part of the LESSEE, including the payment of use fees, charges, rents, as well as any and all other payments. Said bond shall be maintained at the cost of the LESSEE throughout the existence of this Lease. Said Surety shall give Airport Director a minimum (30) days' prior written notice of cancellation or material change in said bond. Such cancellation or material change without Airport Director's prior written consent shall constitute a default under this Lease.

Regardless of the form in which LESSEE elects to make said security deposit, all or any portion of the principal sum shall be available unconditionally to the COUNTY for correcting any default or breach of this Lease by LESSEE, its successors or assigns, or for payment of expenses incurred by COUNTY as a result of the failure of LESSEE, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this Lease.

Any instrument or bond shall have the effect of releasing depository or creditor therein from liability on account of the payment of any or all of the principal sum to COUNTY, or order upon demand by Airport Director.

In the event Airport Director withdraws all or any portion of the security deposit as provided herein, LESSEE shall, within ten (10) days of any withdrawal by Airport Director, replenish the security deposit to maintain it at amounts herein required throughout the Lease term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Lease.

LESSEE shall be obligated to maintain the security deposit in effect until all obligations of LESSEE under this Lease have been fully paid and/or performed. LESSEE shall deliver to the COUNTY an original copy of all instruments obtained under this Section including renewals and amendments as applicable.

The security deposit, after deduction of all amounts due COUNTY, shall be rebated, reassigned, released or endorsed by the COUNTY to LESSEE or order, as applicable, after one hundred twenty (120) days have elapsed following the expiration date of the Lease term, provided LESSEE has fully and faithfully performed each and every term, covenant, and condition of this Lease.
ARTICLE V - USE

SECTION 5.01 USE

LESSEE's use of the Leased Premises shall be for operation of a Full Service FBO. LESSEE shall furnish all services on a reasonable, and not unjustly discriminatory, basis to all Airport users, and shall charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that LESSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Any use or provision of services on Airport is specifically subject to rules and regulations as may be promulgated from time to time by COUNTY.

LESSEE shall ensure that aircraft fueling or self-fueling facilities (as applicable), aircraft storage (hangars and tie-downs), aircraft charters, and aircraft maintenance and repair services are provided from the Leased Premises throughout the term of this Lease. LESSEE shall designate an area for transient aircraft self-service activity as approved by Airport Director in his/her reasonable discretion.

Other required services and operations include, without limitation:

A. Maintenance, repair, overhaul, and modification of general aviation aircraft, aircraft engines, airframes, automatic flight systems, instruments, radio, electronic equipment, propellers and other aircraft components under cover or indoors.

B. All taxiing and movement of aircraft must be accomplished in a manner that does not disturb or damage other aircraft or pavement outside the Leased Premises. Aircraft must be parked so that no portion of the aircraft extends outside the Leased Premises. Any takeoff and landing of rotorcraft may only be from an area approved by both the Airport and FAA for such use.

C. Effective upon LESSEE’s completion of a given phase of construction, as approved by the Airport Director, LESSEE shall park or store aircraft affected by such construction phase on the Leased Premises in strict accordance with the uses depicted on Exhibit C for the remaining term of the Lease. Full implementation of Exhibit C shall occur no later than seven (7) years from the initial date of demolition.

For purposes of the uses depicted on Exhibit C, the following definitions shall apply:

a. The green area marked as “SMALL GA” on Exhibit C shall only be used for the parking or storage of aircraft that meet at least one of the following criteria:

   i. The aircraft has a wingspan of less than 49 feet in accordance with FAA Airplane Design Group I (see Advisory Circular AC 150/5300-13A regarding Airport Design, updated September 28, 2012); or

   ii. The aircraft is a “small aircraft” with a maximum certificated takeoff weight of
12,500 pounds or less in accordance with Title 14 CFR § 1.1.

b. The yellow area marked as “MIXED USE” may be used for the parking or storage of aircraft of any size.

Any modification to the parking areas depicted on Exhibit C shall be permitted only with Airport Director’s prior written approval and shall not increase the acreage allotted for MIXED USE.

For each violation of this provision, LESSEE shall pay to COUNTY liquidated damages in the amount of $1,000 per occurrence, per day. LESSEE agrees this amount is reasonable in light of the anticipated harm to COUNTY for each such occurrence, which would otherwise be difficult to calculate with certainty.

D. Storage of aircraft-related supplies, parts and equipment necessary for support of said aircraft.

E. Retail and wholesale sales of aircraft fuel by into-plane full service fueling, engine oil, and lubricants. LESSEE acknowledges that COUNTY has installed a hydrant fueling system and fuel storage tanks to serve commercial airline aircraft, and LESSEE’s fuel storage improvements and wholesale deliveries will be serving only general aviation aircraft.

F. Line service for the purpose of fueling, supplying engine oil, checking tire pressures, and use of auxiliary power units for starting and/or on-the-ground utility service on the Leased Premises or in the public transit area.

G. Flight instruction (schools or individual instructors), including flight training and demonstration of aircraft for sale or charter.

H. Towing of disabled aircraft.

I. Maintenance and servicing of general aviation automotive ramp equipment (under cover or indoors), and the sale of aircraft fuel, subject to Airport Director approval.

J. Installation of food vending equipment and/or a coffee bar for the purpose of serving LESSEE’s employees and customers. Sale or vending of tobacco products is prohibited. Use of tobacco products is prohibited within any building on the Leased Premises.

K. Provision of aircraft washing beginning at such time as appropriate facilities are constructed and operational on the Leased Premises.

L. Office space incidental to LESSEE’s operations permitted herein.
Other allowed services and operations may be provided, including:

A. Sale, lease, and rental of new and used aircraft (both retail and wholesale).

B. Sale of aircraft parts and accessories (retail or wholesale).

C. Sale of new and used radio and other electronic equipment, including aircraft instruments.

D. Sale of navigational and aviation supplies and accessories.

E. Aircraft chartering, operation, and management services.

F. Financing, leasing, and insuring of aircraft.

G. Rent-a-car service.

H. Upholstery and maintenance of aircraft interiors.

I. Operation of a general aviation facility for customs clearance of international general aviation arrivals by United States Customs and Border Protection between the hours of 5:00 a.m. and 12:00 a.m.

J. Such other services or uses as Airport Director may approve in writing.

Additional Use Requirements and Prohibitions:

LESSEE shall provide on-site management personnel for hangars, tie-downs, and other uses permitted above. On the Commencement Date of this Lease, LESSEE shall accept the assignment from COUNTY to LESSEE of all aircraft parking and storage licenses (including all tie-down, sunshade, and hangar licenses) on the Leased Premises, and LESSEE shall assume responsibility for any waitlists for formerly COUNTY-operated facilities on the Leased Premises. LESSEE shall offer aircraft storage and maintain any waitlists for aircraft storage in a fair and transparent manner. Within fifteen (15) days of the Commencement Date, LESSEE shall submit to JWA an operational plan on managing the existing COUNTY waiting list for the COUNTY hangar spaces.

LESSEE shall provide the Airport with copies of all subleases and/or agreements with subtenants and/or third parties for the leasing of office space or another portion of the Leased Premises, community hangars, box hangars, flight instruction, maintenance and servicing of aircraft, wash and wax services, and rent-a-car services, within fifteen (15) days following execution of this Lease (in the case of pre-existing subleases and agreements), or within fifteen (15) days following the execution of any new such subleases or agreements.

LESSEE shall make restroom facilities available for general aviation users, as well as allow Airport Security personnel staffing perimeter gates to use such facilities closest to the gate they are staffing.
LESSEE shall comply with all applicable federal, State, and local laws and regulations. LESSEE agrees not to use the Leased Premises for any unauthorized commercial airline aviation purposes or to engage in or permit any activity not enumerated by this section within or from the Leased Premises. Additionally, LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time. LESSEE agrees not to conduct or permit to be conducted any public and/or private nuisance (as defined in Civil Code, §§3479 – 3481, et seq.) at, in, on, or from the Leased Premises, or to commit or permit to be committed any waste in, on or from the Leased Premises.

However, LESSEE may be permitted to provide certain commercial aviation ramp services and other contract ground services to commercial airlines pursuant to a separate Airline Related Services License.

SECTION 5.02 USE OF PUBLIC AIRPORT FACILITIES

COUNTY grants the LESSEE a license for the non-exclusive use of all public Airport facilities including, but not limited to, taxiways, runways, navigational aids and facilities relating thereto for purposes of landings, takeoffs and taxiing of LESSEE's aircraft. All such use shall be in accordance with the laws of the United States of America, the State of California, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all reasonable and applicable rules, regulations, and ordinances of COUNTY now in force or hereafter prescribed or promulgated by ordinance or by law. The use of these areas shall be subject to the control and regulation of Airport Director, in his/her sole discretion. This license for non-exclusive use is subject to all rights reserved by the COUNTY to license, permit, authorize, regulate, and relocate concessionaires and other Airport lessees.

SECTION 5.03 RULES AND REGULATIONS

During the term of this Lease, the COUNTY may adopt and enforce rules and regulations which LESSEE agrees to observe and obey with respect to the use of the Airport and its appurtenances, facilities, improvements, equipment and services; provided that such rules and regulations shall not be inconsistent with safety and with rules, regulations, and orders of the FAA and TSA with respect to all operations of the Airport. Except in the case of emergency, the COUNTY shall give LESSEE written notice and opportunity to comment on any proposed changes or additions to the rules and regulations that could impact LESSEE's operations at the Airport before such proposed rules and regulations are adopted by the COUNTY. If requested, the COUNTY shall promptly provide a copy of such rules and regulations to LESSEE.

LESSEE must comply with the Minimum Standards promulgated by the Airport and presently in effect at the Commencement Date or in effect at such time as this Lease is amended.

LESSEE shall comply with all Airport Rules and Regulations, the Airport’s General Aviation Minimum Standards, and shall observe, obey, comply with and not otherwise hinder or obstruct any and all rules, regulations, laws, ordinances, statutes or orders of any governmental authority,
whether federal, State, or local, lawfully exercising authority over the Airport or the activities thereon, including compliance with FAA, TSA and Airport security rules, regulations, grant assurances, and plans. The Airport Rules and Regulations contain environmental and sustainability requirements that LESSEE agrees to make reasonable efforts to participate in, help facilitate, and cooperate with, including those related to air quality, waste, and water and energy conservation.

To the fullest extent authorized by law, LESSEE shall be liable to COUNTY for any and all claims, losses, expenses, demands, damages, fines or penalties of any nature whatsoever which may be imposed upon COUNTY due to LESSEE's violation of any governmental rules, regulations, or standards as now or may hereafter be promulgated or enacted, including, but not limited to, the payment of any fines or penalties for any breach of security, arising from the unauthorized entry of any person or vehicle onto Airport, or from any other violations caused directly or indirectly by the act, omission, negligence, abuse, or carelessness on the part of LESSEE, its employees, sublessees, agents, or suppliers.

COUNTY shall not be liable to LESSEE for any diminution or deprivation of possession, or of its rights hereunder, on account of the exercise of such right or authority as in this section provided, nor shall LESSEE be entitled to terminate the whole or any portion of the Leasehold estate herein created, by reason of the exercise of such right or authority, unless the exercise thereof shall so interfere with LESSEE’s use and occupancy of the Leased Premises so as to constitute a termination in whole or in part of this Lease by operation of law in accordance with the laws of the State of California.

SECTION 5.04 FUEL STORAGE PARCEL

The Leased Premises includes an area designated as “Fuel Storage Parcel” which is described in the Exhibits attached hereto. LESSEE shall not use any other fuel storage tanks or facilities at the Airport without the prior written approval of the Airport Director, subject to any conditions described therein.

A. Use

The use of said Fuel Storage Parcel shall be limited to the storage and transfer of fuel, the installation and maintenance of all auxiliary equipment, and facilities required to handle such fuel storage and parking of aircraft refueling vehicles. Except as approved by Airport Director in writing, parking of fuel delivery or other vehicles is prohibited. LESSEE is prohibited from replacing, altering, or modifying the fuel storage tanks located on LESSEE’s designated Fuel Storage Parcel without the prior written approval of the Airport Director.

B. Fuel Storage Parcel Access

COUNTY agrees to provide LESSEE with access to the Fuel Storage Parcel from the ramp and runway areas which will not require LESSEE’s fuel handling equipment to travel upon
a public roadway. COUNTY reserves the right to access groundwater and/or soil below the Fuel Storage Parcel, for monitoring, assessment, evaluation, remediation, or as otherwise deemed necessary by the Airport Director.

C. Liability

LESSEE acknowledges that said Fuel Storage Parcel was under control and operation of prior lessees during a previous lease with COUNTY which expired. As set forth in this Lease, and without releasing any other party that may be legally responsible and/or financially liable for the environmental conditions that exist upon execution of this Lease, LESSEE agrees that LESSEE shall be liable and assume responsibility for the environmental conditions associated with the fuel storage tanks on the Leased Premises and for the cleanup of any Hazardous Materials in, at, on, under, and/or emanating from said Fuel Storage Parcel which were present during that prior occupancy or control and to indemnify and hold COUNTY harmless for any such condition as required by the “ENVIRONMENTAL INDEMNIFICATION” section of this Lease.

D. Termination for Non-Use

In the event LESSEE ceases all use and activity on said Fuel Storage Parcel for a period of six (6) months, as shown by fuel not being delivered or withdrawn from the fuel storage tanks on said parcel for that period, then Airport Director, may elect to terminate that portion of the Lease relating to the Fuel Storage Parcel. Termination shall occur upon the date the Notice of Termination is issued. LESSEE shall not be entitled to any compensation for termination of the portion of the Leased Premises covering the Fuel Storage Parcel if said termination occurs due to non-use by LESSEE.

Airport Director shall also notify LESSEE whether to leave the existing improvements on the Fuel Storage Parcel or to remove all or a portion of said improvements. LESSEE agrees that should the Fuel Storage Parcel of this Lease be terminated for non-use under the provisions of this section, LESSEE shall leave the Fuel Storage Parcel in such condition as is required to conform with federal, State, and local regulations, particularly those regulations relating to underground storage tanks and the cleanup of Hazardous Materials.

If LESSEE’s use of the Fuel Storage Parcel is terminated, the monthly rent required under this Lease shall be reduced in proportion to the square footage eliminated from the total Leased Premises.

SECTION 5.05 LIMITATION OF THE LEASEHOLD

This Lease and the rights and privileges granted LESSEE in and to the Leased Premises are subject to all covenants, conditions, restrictions, and other exceptions of record. Nothing contained in this Lease or in any document related hereto shall be construed to imply the conveyance to LESSEE of rights in the Leased Premises which exceed those owned by COUNTY, or any representation or warranty, either expressed or implied, relating to the nature or condition of the Leased Premises.
or COUNTY’s interest therein. LESSEE acknowledges that LESSEE has conducted a complete and adequate investigation of the Leased Premises and that LESSEE has accepted the Leased Premises in “as is” condition.

SECTION 5.06      PROVISION OF SUFFICIENT PARKING

LESSEE shall provide sufficient vehicular parking to accommodate LESSEE’s operation within the Leased Premises consistent with applicable building or zoning regulations. Should LESSEE need off-site parking to meet the parking requirements for its operations or improvements on the Leased Premises, then LESSEE shall first obtain the approval of the Airport Director and, if approved, agrees that any future sale or assignment of this Lease shall also include an assignment of LESSEE’s off-site parking or provision of a comparable alternate off-site parking area outside the Airport perimeter fence to be available for use during the remaining term of the Lease.

COUNTY has no obligation whatsoever to make vehicular parking available to accommodate LESSEE’s operation.

SECTION 5.07      RECORDS AND ACCOUNTS

A. Records. LESSEE shall, at all times during the term of this Lease, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents.

B. The Accounting Year. The accounting year shall be twelve full calendar months. The accounting year may be established by LESSEE, provided LESSEE notifies the COUNTY in writing of the accounting year to be used. Said accounting year shall be deemed to be approved by COUNTY unless COUNTY has objected to LESSEE's selection in writing within sixty (60) days of LESSEE's written notification.

In the event LESSEE fails to establish an accounting year of its choice, regardless of the cause, the accounting year shall be synonymous with the twelve-month period contained in the first one-year term of the Lease.

Any portion of a year that is not reconciled, should the accounting year and the anniversary year of the Commencement Date not be the same, shall be accounted for as if it were a complete accounting year.

Once an accounting year is established, it shall be continued through the term of the Lease unless COUNTY specifically approves in writing a different accounting year. COUNTY shall only approve a change in accounting years in the event of undue hardship being placed on either the LESSEE or COUNTY, and not because of mere convenience or inconvenience.
C. Financial Statements.

1) Annual Balance Sheet and Income Statement

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY a detailed balance sheet and income statement prepared in accordance with generally accepted accounting principles reflecting all business transacted by the LESSEE on or from the Leased Premises during the preceding accounting year. The LESSEE shall attest in writing that the balance sheet and income statement submitted are true and accurate representation of LESSEE’s records. LESSEE shall also provide standalone audited financial statements of the LESSEE’s business entity if they are available from LESSEE’s corporate audit or upon request of the COUNTY. The COUNTY has the option to require LESSEE’s submission of audited financial statements.

2) CPA-Audited Gross Receipts

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY an audited statement of total Gross Receipts and total gallons of fuel delivered to LESSEE. This statement must include a breakdown schedule of all total gallons and all total Gross Receipts by type and month. At a minimum, Gross Receipts should be divided into the categories as set forth in Section 4.01(B). This statement must be prepared by a Certified Public Accountant (CPA) who is a member in good standing with the American Institute of Certified Public Accountants (AICPA) or the California Society of CPA's. The audit must be performed in accordance with Generally Accepted Auditing Standards (GAAS) authorized by the AICPA. The reference for this is Statement on Auditing Standards (SAS) #95. The audited statement of fuel and lubricant deliveries and Gross Receipts shall include total Gross Receipts for the accounting year classified according to the categories of business established for fuel flowage and lubricant fees and for rent-a-car fees as listed in Section 4.01 of this Lease entitled “RENT, FEES AND CHARGES.”

A reviewed statement of Gross Receipts may be requested by LESSEE instead of an audited statement of fuel deliveries and Gross Receipts if undue hardship is placed on the LESSEE to obtain an audited statement. LESSEE must request and obtain written approval for a reviewed statement from the COUNTY prior to the start of the financial statement engagement for the year to be audited. If a reviewed statement of Gross Receipts is approved by the COUNTY, COUNTY retains the right to require an audited statement of Gross Receipts for future years.

LESSEE shall provide COUNTY with copies of any CPA audit or review report and audited or reviewed financial statements prepared in conjunction with their audit of LESSEE’s operations from the leased premises. Copies of reports and/or
financial statements shall be provided directly to COUNTY by the CPA at the same
time LESSEE's copy is provided to LESSEE.

LESSEE acknowledges its understanding that any and all of the “Financial
Statements” submitted to COUNTY pursuant to this Lease become public records
subject to public inspection as required by California Government Code Section
6250 et seq.

D. Failure to Submit Financial Statements. In addition to any other remedies available to
COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to submit
any financial statements by the due date listed in Section 5.07 “RECORDS AND
ACCOUNTS”, Airport Director may require LESSEE to pay the greater of:

1) Five thousand dollars ($5,000); or

2) Any and all costs incurred by COUNTY for the Certified Public Accountant hired
by the COUNTY to prepare the required financial statements, including an
administrative fee equal to fifteen percent (15%) of those costs.

E. Audits. All LESSEE’s books of account and records and supporting source documents
related to this Lease or to business operations conducted within or from the Leased
Premises shall be kept and made available at one location within the limits of the County
of Orange. COUNTY shall, through its duly authorized agents or representatives, have the
right to examine and audit said books of account and records and supporting source
documents at any and all reasonable times.

The COUNTY, upon request of LESSEE and at said COUNTY’s sole discretion, may
authorize the above-referenced books and records and supporting source documents to be
kept in a single location outside the limits of Orange County provided LESSEE shall agree
to pay all expenses including but not limited to transportation, food, and lodging necessary
for COUNTY to send a representative to audit said books and records. Said right shall not
be exercised by COUNTY more than once each accounting year.

The full cost of said audit, as determined by COUNTY, shall be borne by LESSEE if either
or both of the following conditions exist:

1) The audit reveals an underpayment of more than two percent between the rent due
as reported and paid by LESSEE in accordance with this Lease and the rent due as
determined by said audit;

2) LESSEE has failed to maintain true and complete books, records, accounts and
supporting source documents in accordance with Section A “Records” above. The
adequacy of records shall be determined at the sole discretion of COUNTY in
accordance with the provisions of a letter of agreement between LESSEE and
COUNTY.
Otherwise, COUNTY shall bear the cost of said audit, excluding the aforementioned expenses related to audit of documents kept outside the limits of Orange County.

Upon the request of COUNTY, LESSEE shall promptly provide, at LESSEE's expense, necessary data to enable COUNTY to fully comply with any and every requirement of the State of California or the United States of America for information or reports relating to this Lease and to LESSEE's use of the Leased Premises. Such data shall include, if required, a detailed breakdown of LESSEE's receipts and expenses.

F. Environmental Compliance Audits. LESSEE shall provide the COUNTY Airport Environmental Resources Manager with any documentation of environmental compliance audits, inspections, and violations within 5 days. LESSEE is responsible for correcting environmental conditions to address the findings, paying fines/fees to maintain compliance, and responding to the oversight agency. A copy of correspondence shall be submitted to the Airport’s Environmental Resources Manager within 5 days.

G. Failure to Maintain Adequate Records. In addition to any other remedies available to COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to maintain and keep books, records and accounts of Gross Receipts from business operations conducted on or from the Leased Premises and/or source documents relating thereto, or to make the same available to COUNTY for examination and audit, or to record sales and/or to maintain registers to record sales, or to provide financial statements and other information to COUNTY regarding gross sales as required by this Lease, COUNTY, at COUNTY’s option, may:

1) Perform such examinations, audits and/or investigations itself or through agents or employees as COUNTY and/or its auditors may deem appropriate to confirm the amount of percentage rents payable by LESSEE under this Lease and any and all costs and/or expenses incurred by COUNTY in connection therewith shall be promptly reimbursed to COUNTY by LESSEE upon demand.

2) Provide accounting services and/or a system for recording retail sales and charges, including without limitation, cash registers, for use by LESSEE in business transactions upon or from the Leased Premises, and, at COUNTY's option, maintain personnel on the Leased Premises to observe and/or record such sales during LESSEE's business hours, or from time to time, all at LESSEE’s sole cost and expense and, in such event, LESSEE shall promptly reimburse COUNTY for any and all costs incurred by COUNTY in connection therewith; and/or

3) Require that LESSEE pay percentage rents based on COUNTY's best good faith estimate of LESSEE's Gross Receipts from business operations conducted on or from the Leased Premises and any such determination made by COUNTY shall be conclusive and binding upon LESSEE.

The above costs payable by LESSEE shall include reimbursement to COUNTY of
COUNTY provided services at such rates as COUNTY may from time to time, in
good faith, establish for such services. In the case of services provided by
COUNTY's employees, such rates shall be sufficient to reimburse COUNTY for
employee salaries, including employee taxes and benefits and COUNTY's overhead
or, at COUNTY’s option, may be the rate for such services that would be charged
by a qualified third-party or parties, approved by COUNTY, if engaged by
COUNTY to perform such services.

H. Review Period. COUNTY or its designee may conduct such audits or inspections
throughout the term of this Lease and for a period of three (3) years after final payment or
longer if permitted by law.

I. Methodology. COUNTY or designee may, without limitation by LESSEE, conduct
verifications including, but not limited to, inspection of LESSEE's Records, observation of
LESSEE's employees in or about the Leased Premises, and verification of information and
amounts through interview and/or written communications with LESSEE's employees or
sub-contractors.

J. Record Retention. All of LESSEE's Records shall be retained by LESSEE for a period of
the balance of the fiscal year in which the Record was created, recorded, or otherwise
prepared, plus five (5) years regardless of when this Lease expires or is terminated.

K. The Airport is developing a tenant portal/revenue system for daily automated reporting of
operations, revenues and data exchange. Airport shall have the right to implement such
system that can provide daily reports to Airport. If Airport exercises such right, LESSEE
must, at its cost, purchase and install the necessary equipment, train its employees, and
thereafter use, such equipment to take part in such system. Until such time as the system is
implemented, LESSEE shall comply with the following:

1) Sales Recording System. LESSEE shall prepare a description of its cash handling and
sales recording systems and equipment which shall be submitted to Airport Director, or
designee for approval no later than thirty (30) days after Commencement Date.
Following approval by Airport Director, or designee, such systems and equipment shall
be utilized by LESSEE. LESSEE shall accurately record each transaction on a system
that can generate daily electronic reporting. LESSEE shall report on a daily basis and in
an electronic format all business activities. Such system shall be sufficient to supply an
accurate record of all sales.

2) Electronic Reporting Requirements. LESSEE shall install in the Leased Premises an
electronic reporting system which shall meet current industry standards for transmitting,
capturing and recording transactions, and data in a secure fashion while protecting Card
Holder Data, and shall register every transaction made in, on, about or from the Premises,
including every type of Gross Revenue daily automated reporting. Said system shall be
accessible to and subject to inspection or audit by Director or designee upon request. All
cash receipts must include LESSEE’s identification thereon. Customer must be issued a
receipt or sales slip for each transaction, which transaction must be recorded either on or serially numbered sales slip or digital record produced. COUNTY should have the right during business hours to examine the totals of the electronic reporting system used in the Leased Premises and to inspect for compliance with this section. LESSEE shall ensure a capability for the installation of Airport and Airport partner applications that can be integrated with LESSEE’s system to exchange data. Any sales captured from third-party applications, LESSEE branded applications, cell phone applications must be provided to the COUNTY as part of the monthly sales reporting.

SECTION 5.08 MAINTENANCE AND OPERATION OF LEASED PREMISES

At LESSEE’s sole cost and expense, LESSEE shall keep and maintain the Leased Premises in good working order, and in a safe, clean, wholesome, sanitary condition in compliance with all applicable laws, rule, regulations, and ordinances, and as provided in LESSEE’s maintenance plan attached hereto as Exhibit H. At LESSEE’s sole cost and expense, LESSEE shall be responsible to make all necessary replacements and/or repairs required to maintain the Leased Premises and improvements in good condition and working order. In addition to the building facilities, drainage facilities (storm and sanitary sewer), above and below ground utilities, lighting, and security (i.e. gates, fencing, etc.), this includes routine maintenance, replacements, and/or repairs of all pavements (including subgrade) and below-ground improvements including underground storage tanks, wash racks, and/or clarifiers that may be on the Leased Premises. All repairs and/or replacements shall be of a quality equal to or exceeding the original. All repairs, replacements, and improvements made by the LESSEE to the Leased Premises shall be submitted to JWA for review and approval prior to construction, require JWA inspection upon completion of construction, and shall be in compliance with all current federal, State, and local ordinances and building codes, fire codes, zoning, safety, all Airport Regulations, and with the requirements of Title III of The Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, et seq., and the regulations issued pursuant thereto (Codes). The Codes encompass all fire, life, and safety aspects and apply to the construction, alteration, moving, demolition, repair, replacement, and use of the Leased Premises. LESSEE is prohibited from engaging in any activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment of the leased premises. All devices or safeguards which are required by the Codes shall be maintained in conformance with the edition of the Codes under which it was installed.

LESSEE shall engage the services of an independent and qualified State of California licensed and registered professional engineer who shall conduct an annual pavement inspection of all paved areas used by aircraft within the Leased Premised in compliance with FAA Advisory Circular 150/5380-6 Guidelines and Procedures for Maintenance of Airport Pavements (“FAA AC 150/5380-6”), as amended from time to time, and ASTM D 5340 Standard Test Method for Airport Pavement Condition Index Surveys (“ASTM D 5340”) as amended from time to time. A detailed report signed, stamped, and sealed by the professional engineer shall be submitted to the COUNTY on each anniversary of the Commencement Date. The report shall meet Airport Director’s requirements, including, as applicable, complete plans, specifications, and schedules for repair or replacement of any found defects or deficiencies in accordance with FAA AC 150/5380-6 and ASTM D 5340.
LESSEE shall immediately notify Airport Director and the Airport Operations Center at 949-252-5000 of any fire, emergency, accident, release, discharge, and/or reportable spill of fuel, lubricants, solvents and/or Hazardous Materials. Reportable spills or releases are those that require notification to a government entity by any fire code or Environmental Law as defined in this Lease. In addition to reimbursing County the costs of all services provided by third parties to mitigate such spills, LESSEE shall pay to County administrative costs in the amount of one thousand dollars ($1,000) per incident.

LESSEE shall further notify the Airport’s Environmental Services Manager within 24 hours of any release, discharge, leak or spill of any fuel, lubricants, solvents and/or Hazardous Materials that LESSEE knows or reasonably should have known about within the Leased Premises.

LESSEE shall report to Airport Director any accidents or incidents for which LESSEE is wholly or partially responsible, which occur on the Leased Premises and are reportable to the FAA or other governmental or regulatory agencies. LESSEE shall pay to COUNTY administrative costs in the amount of one thousand dollars ($1,000) per such reportable accident or incident.

LESSEE further agrees to provide approved containers for trash, garbage, recyclables, and regulated waste and to keep the Leased Premises free and clear of rubbish, litter, and hazardous waste. The Airport Director shall have the right to enter upon and inspect the LESSEE’s Leased Premises and other Airport facilities at any time for cleanliness, safety and maintenance inspections. LESSEE shall designate in writing to Airport Director an on-site representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness and general order.

If LESSEE fails to maintain or make repairs or replacements as required herein, Airport Director shall notify or attempt to notify the LESSEE in writing of said failure. Should LESSEE fail to correct the failure within fifteen (15) days or as otherwise specified in the notice, Airport Director shall have the right, but not the obligation, to enter the Leased Premises to make the necessary correction, repair, and/or replacement, or cause it to be made and the cost thereof, including but not limited to the cost of labor, materials and equipment shall be charged to LESSEE as Additional Rent. Thereafter, an administrative fee equal to fifteen percent (15%) of the sum of such items also shall be paid by LESSEE within ten (10) days of receipt of a statement of said cost from Airport Director as Additional Rent. Airport Director may, at Director's option, choose other remedies available herein, including termination, or as provided by law.

LESSEE expressly waives any and all claims against the COUNTY for compensation for any and all loss or damage to LESSEE's property sustained by reason of any defect, deficiency or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, internet, electrical supply system or electrical apparatus, cable or wires serving the Leased Premises, except to the extent caused by the COUNTY’s negligence or willful misconduct.
SECTION 5.09 PAYMENT OF AND RESPONSIBILITY FOR UTILITIES

LESSEE shall be responsible for and pay, prior to the delinquency date, all charges for utility connections and services supplied to the Leased Premises. COUNTY shall not be liable in damages or otherwise for any failure or interruption of any utility service, and no such failure or interruption shall entitle LESSEE to terminate this lease or abate the rent due hereunder.

SECTION 5.10 REPORTING OF BASED AIRCRAFT

LESSEE shall submit to COUNTY with its monthly payment of rents a listing of all Based Aircraft parked on the Leased Premises. For purposes of this Section, “Based Aircraft” shall mean an aircraft that is operational and airworthy, and which is based at the Airport for a majority of the year. Therefore, LESSEE must track the daily activity of aircraft parked on the Leased Premises and determine, on a rolling basis, which aircraft have been parked on the Leased Premises for at least 183 days out of the prior 365 days. The monthly listing shall be provided to the Airport using a JWA-approved Microsoft Excel template.

ARTICLE VI - ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION

SECTION 6.01 LIABILITY FOR EXISTING ENVIRONMENTAL CONDITIONS

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE understands and agrees that it may be found legally responsible and/or financially liable for existing environmental conditions on, under, and/or emanate from the Leased Premises upon entering into this Lease, including, but not limited to, associated costs and expenses related to Hazardous Materials, fuel storage tanks, including underground storage tanks, and compliance with all Environmental Laws.

SECTION 6.02 HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE

LESSEE shall comply with all Environmental Laws, including laws regulating Hazardous Materials, and shall not engage in any activity on or about the Airport that violates any Environmental Law. In conducting its operations and maintenance on the Airport under this Lease, LESSEE shall comply with such regulations regarding the storage, distribution, processing, handling, release, removal, and/or disposal, including the storm water discharge requirements, of Hazardous Materials including, but not limited to, gasoline, aviation fuel, jet fuel, diesel fuel, lubricants and/or solvents, whether the obligation for such compliance is placed on the owner of the land, owner of the improvements or user of the improvements. Violation by LESSEE or any of its agents, assigns, successors, sublessees, subcontractors, or employees of any Environmental Law are grounds for termination of this Lease in accordance with Article IX of this Lease, and for termination of all operations by LESSEE at or on the Airport.

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE shall at its sole cost and expense investigate, evaluate, assess, remove, and/or remediate any and all Hazardous Materials that may be required or ordered by any governmental agency or Environmental Law. In
conducting a clean-up of a Hazardous Material release under this Lease, LESSEE shall comply with all applicable Environmental Laws. LESSEE shall not use the COUNTY hazardous waste generator ID for waste disposal.

SECTION 6.03 STORM WATER CONTROL AND CONTAMINATION

Storm Water Laws and Regulations. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency (U.S. EPA) (40 CFR Parts 122, 123, and 124). The U.S. EPA, through the NPDES permitting program, regulates discharges of potentially contaminated wastewater and storm water into waters of the United States. California has been delegated NPDES general permitting authority by the U.S. EPA. California's State Water Board has issued NPDES permits to regulate municipal, industrial, and construction storm water discharges under the NPDES permitting program.

Section 402(p) of the Clean Water Act (CWA) requires NPDES permits for storm water discharges from municipal separate storm sewer systems (MS4s). The County of Orange is the principal permittee for Orange County's MS4 Permit Order No. R8-2009-0030 (or currently effective permit) No. CAS 618030 (MS4 Permit). As a facility owned and operated by the County of Orange, the Airport implements requirements in the MS4 permit and is responsible for discharges into the system. One of the MS4 Permit requirements is to establish the legal authority to control discharges. The County's Water Quality Ordinance (OCCO Title 4, Division 13, Sections 4-13-10 et. seq.) regulates non-storm water discharges into the MS4 to reduce the discharge of pollutants into the waters of the State. The CWA and the resulting MS4 permit require the County to take steps to reduce pollutants leaving its systems to the maximum extent practicable. The MS4 permit requires the County to develop and implement a Local Implementation Plan (LIP) describing the programs and procedures required by the MS4 permit.

COUNTY will provide the required annual training for LESSEE as part of the MS4 LIP training program requirements. LESSEE shall have all personnel who may affect discharges to the storm system or who work within the airside portion of John Wayne Airport attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials.

LESSEE shall not have prohibited discharge to the MS4 system or on-site storm drains. Some non-storm water discharges (i.e., fire sprinkler tests) require additional permits with the Regional Water Quality Control Board (RWQCB). LESSEE is responsible for obtaining and implementing monitoring requirements associated with any non-storm water discharge permits. LESSEE shall notify COUNTY prior to any non-storm water discharge.

In the furtherance of these regulations and Section 402 of the Clean Water Act (CWA), the State of California has adopted a General Permit for discharges of Storm Water associated with industrial activities: “State Water Resources Control Board (State Water Board) Water Quality Order No. 2014-0057-DWQ, NPDES General Permit No. CAS 000001 (Industrial General Permit or IGP).” JWA has applied for and received coverage to discharge storm water and authorized non-storm water discharges pursuant to the general permit for industrial activities and are subject to the permit’s requirements, conditions, and penalties. The permit requires the development and
implementation of an effective Industrial Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Implementation Plan (MIP). This plan is developed by COUNTY and covers LESSEE. The airside portion of JWA where industrial activities take place is covered by the IGP. Industrial activities include maintenance, fueling, equipment cleaning, storage areas, and material handling activities.

LESSEE shall comply with applicable storm water discharge requirements for industrial facilities, including numeric effluent limits (NELs) and numeric action levels (NALs), as may be promulgated, updated, or amended from time to time. The current IGP includes NELs for copper, zinc, and lead. LESSEE shall, to the extent possible:

A. Separate industrial storm water flows off their leasehold from the airfield non-industrial flows. The LESSEE drainage system must consolidate storm water flows and allow for monitoring of storm water quality by JWA at the LESSEE discharge location(s) to the JWA storm water drainage system.

B. Install and implement appropriate BMPs to meet the COUNTY’s WQMP requirements and to meet pollutant discharge limits identified in the IGP at their discharge point(s) to the JWA storm drain system. LESSEE shall consider space planning, policies, and practices to reduce storm water flow from industrial activities that would require management and treatment to meet NALs and NELs under the IGP.

C. COUNTY will coordinate design and construction of the Airport’s responsible portion of the industrial storm water system with LESSEE’s phasing plan.

COUNTY will provide the required annual training for LESSEE personnel that work on the airfield as part of the airport-wide IGP SWPPP requirements. LESSEE shall have all personnel working within the airside portion of JWA to attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials. LESSEE shall implement BMPs in accordance with the COUNTY’s IGP SWPPP.

LESSEE shall submit a Water Quality Management Plan (WQMP) for approval for significant redevelopment projects, defined as the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site to address post-construction urban runoff and storm water pollution.

When LESSEE engages in a constructed project with an approved WQMP, LESSEE shall implement post-construction BMPs, including operation and maintenance (O&M) requirements, described in the WQMP. LESSEE shall notify the COUNTY at least five (5) days prior to any O&M conducted for post-construction BMPs. LESSEE shall provide the O&M records to the COUNTY within 30 days of completing the maintenance.

LESSEE activities may require additional separate permits, which LESSEE may be responsible for, and which will be clarified with COUNTY at the time of planning and design. LESSEE shall contact COUNTY prior to new construction activities, operational changes, and/or prior to any
activity that may result in a non-storm water discharge. LESSEE will comply with all applicable NPDES storm water permit requirements for LESSEE activities.

LESSEE shall not allow or cause the entry of any materials, waste, or hazardous materials under its control into the Airport Storm Water Drainage System unless authorized by Environmental Law and the Airport's Storm Water Discharge Permit. LESSEE shall not allow or cause the entry of any Unauthorized Non-Storm Water Discharge that is under its control into the Storm Water Drainage System of the Airport or into the Storm Water Drainage System of any of its surrounding communities, unless such substances are first properly treated by equipment installed with the approval of COUNTY for that purpose, and LESSEE complies with recommendations made by the California and/or U.S. Environmental Protection Agency and the Airport's Storm Water Discharge Permit requirements. LESSEE shall bear all costs and any other expenses related to unauthorized non-storm water discharges.

LESSEE shall assure the protection of storm water from aircraft maintenance and washing activities, including GA self-service activities, through implementation of policies or Best Management Practices. Wet washing of aircraft is only allowed in designated wash rack areas. Only dry wash methods are allowed for cleaning aircraft outside of the designated wash rack areas. Aircraft maintenance can only occur in designated areas; these areas must be protective of storm water through covering or other means.

**Spill Control and Hazardous Materials**

Within 60 days following the Commencement Date of this Lease, LESSEE shall furnish COUNTY with an updated Spill Prevention, Control, and Countermeasures (SPCC) Plan and Hazardous Material Disclosure/Business Emergency Plan for activities that will be performed at the Airport for JWA’s review and approval. LESSEE shall register on the Orange County Health Care Agency/Certified Unified Program Agency (OCHCA/CUPA) E-Submit Business Portal, upload the updated Plans, and show proof of submittal to the COUNTY within 90 days of the Commencement Date. Any modifications to SPCC Plans and/or Hazardous Material Disclosure/Business Emergency Plans shall be submitted as soon as practicable following the change, but no later than 30 days from the correction.

The SPCC Plan shall meet the applicable requirements of 40 CFR Part 112. LESSEE will take necessary steps to prevent spills and, if a spill does occur, will minimize the impacts to human health and the environment. LESSEE shall commit the necessary resources to maintain spill prevention systems, provide appropriate security, respond to spills, inspect storage areas, test storage equipment, make required notifications, maintain records, and provide training for personnel. LESSEE shall meet the General Secondary Containment Requirements for refueling vehicles, §112.7(c), without relying on the Oil Water Separators installed at JWA.

The Hazardous Material Disclosure/Business Emergency Plan shall be updated if there is a substantial change in quantities, storage locations, or material types. LESSEE shall include details on the emergency contacts, training, mitigation, abatement, and evacuation procedures that will be followed in an emergency. Maps and chemical inventories shall be accurate and kept up-to-date.
SECTION 6.04 GENERAL HEALTH AND SAFETY CONDITIONS

Precaution shall be exercised at all times by LESSEE for the health, safety, and welfare of persons, including employees and property. The safety provisions of applicable laws and building and construction codes shall be observed. Work, materials, and equipment used shall comply with the Occupational Safety & Health Administration (OSHA) requirements including but not limited to OSHA Hazard Communication Standard 29 CFR 1910.1200, and federal and State safety orders.

LESSEE shall comply with all material usage limitation, permit record keeping, and reporting requirements imposed by federal, State, and local laws and regulations. LESSEE shall properly post Manufacturer’s Safety Data Sheets as required by law and shall use and dispose of all materials in conformance with all applicable codes, rules, regulations, and manufacturer’s recommendations.

LESSEE shall submit to the Airport’s Environmental Resources Manager, annually on December 31, a report on compliance with and the status of all required permits including, but not limited to, Fire, OSHA, Air Quality Management, and Health Care Agency. The report must summarize all spills, leaks or permit violations for the previous year. The annual report must also contain copies of all reports and annual testing reports (such as fuel tank tightness testing) sent to any regulatory agency and documentation of required maintenance and inspection of fire and safety fixtures and equipment and an updated inventory of all Hazardous Materials used or stored on site.

LESSEE shall provide all notices required pursuant to the Environmental Laws. LESSEE shall provide prompt written notice to COUNTY within five (5) days of receipt of any written notices of violation of any Environmental Law received by LESSEE.

The annual report and all written notices must be submitted to COUNTY by the due date. Liquidated damages of five hundred dollars ($500) will be assessed against LESSEE for each day the annual report or written notice of violation is late.

SECTION 6.05 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the LESSEE shall indemnify, defend, and hold the COUNTY, its officers, directors, agents, and employees and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless for compliance with all Environmental Laws, from and against any and all Environmental Law claims, judgments, damages, penalties, actions, fines, costs, liabilities, losses, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants) arising from the Leased Premises, and/or out of or related to any actions or omissions of LESSEE, the LESSEE’s operations at the Airport or any action arising from and which involve the LESSEE’s officers, agents, successors, assigns, sublessees, subcontractors, and employees (whether or not they are negligent, intentional, willful or unlawful), including defense expenses arising therefrom, including, but not limited to, the following:
(1) The historical environmental conditions at, on, under, and/or emanating from the Leased Premises that LESSEE may be required to pay.

(2) The LESSEE’s placement, disposal, allowing, or releasing of Hazardous Materials upon or within the Airport including any such claims, demands, liabilities, cost, expenses, and/or obligations related to LESSEE's release or threatened release of Hazardous Materials on, at, and/or under the Airport.

(3) The LESSEE’s release or threatened release of Hazardous Materials at, on, under, and/or emanating from the Airport.

(4) The LESSEE’s noncompliance with any Environmental Law, except that LESSEE's obligations under this paragraph shall not extend to remediation conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, sublessee, assignee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE.

(5) The LESSEE’s causing or allowing any prohibited discharge into the Airport Drainage System.

This indemnification includes, without limitation, reasonable fees, costs, and expenses for attorneys, experts, expert consultants, and all other costs incurred by COUNTY in connection with any investigation, evaluation, assessment, and/or monitoring of the environmental conditions at the Leased Premises or any cleanup, remedial, removal, and/or restoration work required by any federal, State, or local governmental or regulatory entity because of any Hazardous Materials being present in the soil, surface water, or groundwater at, on, under, or about the Airport. However, LESSEE’s indemnity obligation shall not apply in the event of any claims for any loss, damage, or expense arising from the sole negligence or willful misconduct of COUNTY or its officers, employees, agents, or contractors.

In the event the indemnitees as described herein are parties in any proceeding (legal, administrative, or otherwise), the LESSEE shall, at the request of the COUNTY, defend the indemnitees with qualified counsel approved in writing by COUNTY, unless the COUNTY, in its sole and absolute discretion, undertakes legal representation, in which event the LESSEE shall reimburse the COUNTY for the expenses incurred by it in defending such proceeding, including reasonable attorneys’ fees, expert and/or consultant fees, and investigative and court costs.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney’s fees in any action to enforce the terms of this Lease.
The rights and obligations set forth in this indemnification shall survive the termination and expiration of this Lease.

SECTION 6.06 CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS

In the event that any of the terms of the environmental requirements codified in this Article conflict with any other terms of this Lease, the environmental requirements contained in Article VI shall apply.

SECTION 6.07 EXISTING ENVIRONMENTAL CONDITIONS AND HISTORICAL ASSESSMENTS

COUNTY and others have conducted environmental assessments on portions of the Leased Premises which provide a historical assessment of the environmental condition on portions of the Leased Premises regarding Hazardous Materials (the “Historical Conditions”). A list of references is provided in Exhibit D.

LESSEE hereby expressly acknowledges that it has reviewed the Historical Conditions and agrees that it shall be responsible for remediation of any and all Hazardous Materials at, on, and/or under the Leased Premises including and in excess of the Historical Conditions. Without releasing any other party that may be legally responsible and/or financially liable for the environmental conditions that exist upon execution of this Lease, LESSEE agrees to be legally responsible and/or financially liable for the environmental conditions related to Hazardous Materials and underground storage. LESSEE further agrees that it shall also be responsible for any release, threatened release, and/or disposal of Hazardous Materials which occur on or off the Leased Premises as a result of LESSEE’s acts or omissions or by those who are affiliated with LESSEE. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, assign, sublessee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE. LESSEE shall not be responsible to remediate conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport.

LESSEE agrees to provide COUNTY and COUNTY’s consultants with complete access to the Leased Premises for the purpose of investigation and remediation of contamination. LESSEE agrees to preserve all existing and future remediation infrastructure including, without limitation, any groundwater monitoring wells, groundwater extraction wells, and related piping.

SECTION 6.08 ANTI-IDLING POLICY

Within six months of LEASE execution, LESSEE must develop, implement and submit to the Airport Director for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling period. LESSEE’s policy shall also include airfield GSE, ground transportation vehicles, and all sublessee and third-party vehicles that enter Airport property at the direction of the LESSEE.
SECTION 6.09   ENVIRONMENTAL STEWARDSHIP

Environmental stewardship is one of the key pillars in JWA’s mission to be a good neighbor. JWA is committed to upholding best practices in environmental responsibility and has been an industry leader in implementing policies that provide both sustainability and cost-effectiveness. JWA has adopted a variety of environmental policies and practices.

LESSEE shall support JWA's Environmental Stewardship program by complying with JWA's Tenant Design Guidelines and shall make reasonable efforts to participate in, help facilitate, and cooperate with JWA's sustainability efforts.

The LESSEE shall support the COUNTY’s Environmental Stewardship program through participation in various efforts or implementation of plans, as amended from time to time, and the following requirements. Full implementation of this program shall be applicable to all GSE effective on January 1, 2023, and will apply to all facilities and capital improvements as they are constructed.

1) Climate Action Plan
2) Waste and Recycling Plan
3) SWPPP
4) Air Quality Improvement Plan and Memorandum of Understanding with the South Coast Air Quality Management District
5) Ground Support Equipment (“GSE”)
   a. LESSEE shall employ Zero Emission Vehicle (“ZEV”) GSE where available (e.g. tugs, water carts, lavatory carts, other ramp service equipment/vehicles) for 90 percent or greater of the GSE operating hours.
   b. Where ZEVs are not available, vehicles shall meet Ultra Low Emission Vehicle (“ULEV”) requirements.
   c. Where ULEVs are not available, and only diesel fuel engine trucks are available, the diesel-fueled truck shall comply with the On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation.
   d. LESSEE shall maintain monthly records regarding GSE type, make, model, year, fuel type, horsepower (if non-electric), and hours in-use. Monthly records are subject to audit and verification by JWA. These records shall be provided to JWA annually in December.

6) Conservation
   a. LESSEE shall use ENERGY STAR and EPA Water Sense appliances.
b. LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.

c. LESSEE shall adopt a Waste and Recycling Plan meeting CALGreen Tier 1 requirements, or better, and acceptable to LESSOR. LESSEE shall provide waste diversion data quarterly and annually to COUNTY Airport Environmental Resources Manager.

d. LESSEE shall install Electric Vehicle chargers in public and employee parking areas, provide preferential parking for vehicles powered by low emission sources, and provide secure bicycle racks.

e. LESSEE shall practice water conservation through design, construction, and ongoing maintenance activities.

f. LESSEE shall include over 50% of solar-ready roof-top on new construction; COUNTY maintains the option to lease any solar-ready areas not covered by owner's solar arrays and to install renewable energy equipment.

g. LESSEE shall implement the following conservation measures:
   i. Use high-efficiency light fixtures and bulbs (including compact fluorescents) when replacing or installing new fixtures and bulbs
   ii. Install sensors in office areas to turn off when unoccupied
   iii. Install energy-efficient heating and cooling equipment when replacing or upgrading
   iv. Purchase and use energy-efficient computers and servers
   v. Select equipment with variable speed motors and fan drives, when possible

7) Environmental Policies

a. LESSEE shall adopt the COUNTY’s Environmentally Preferable Purchasing Policy (2008) or develop a similar policy that addresses the LESSEE’s procurement of goods and services. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

b. LESSEE shall develop an Environmental Sustainability Policy that covers water and power conservation, waste diversion, and pollution prevention. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

c. LESSEE shall provide reports necessary for environmental compliance, regulatory requirements, and airport mitigation measure obligations upon request from COUNTY, including but not limited to GSE data, fuel delivery and usage, spills, and business emergency plans.
ARTICLE VII - CONSTRUCTION AND IMPROVEMENTS

SECTION 7.01 IMPROVEMENTS BY LESSEE

LESSEE shall cause to be designed and constructed, at no cost to COUNTY, those initial improvements shown on the conceptual plans attached hereto as Exhibit F. The development and phasing of said construction shall proceed as described in Exhibit G, and may be subject to reasonable modification or amendment by the Airport Director in consultation with LESSEE. All costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The minimum cost of LESSEE’s Initial Capital Investment shall be $86,508,650, and excludes the cost of any and all refurbishments or improvements made pursuant to Section 7.11. In the event the minimum cost of Initial Capital Investment exceeds the actual construction costs of all LESSEE improvements itemized in accordance with Section 7.06 of this Lease, LESSEE’s savings resulting from lower actual construction costs will be shared equally between LESSEE and COUNTY, and LESSEE shall pay to COUNTY one half (50%) of the difference between the minimum cost of Initial Capital Investment and the actual construction costs within 30 days of LESSEE’s submittal of itemized costs required by Section 7.06.

The term “cost of improvements” shall mean direct construction costs, including costs paid to contractors, architects, engineers, laborers and suppliers, premiums for bonds required by COUNTY, and permit and developer fees required by governmental agencies, but shall exclude indirect costs, such as costs of financing, and administrative and overhead expenses.

LESSEE shall not perform any construction upon the Leased Premises nor shall LESSEE modify, alter or remove any permanent improvements lying within the Leased Premises without prior written approval of COUNTY.

A. COUNTY and Federal Approvals Required. No structures, improvements, or facilities shall be constructed, erected, altered, removed or made within the Leased Premises without prior written consent of COUNTY, which consent may be withheld or conditioned in COUNTY's sole and absolute discretion.

FAA approval of JWA’s Airport Layout Plan (“ALP”) is required prior to any FBO construction activities. The ALP shows the boundaries and proposed additions to all areas of the Airport, the location and nature of existing and proposed Airport facilities and structures, and the location on the Airport of existing and proposed non-aviation areas and improvements thereon, and shall incorporate LESSEE’s development plans, which must be submitted to the FAA for review. LESSEE shall provide CADD/GIS files of the LESSEE’s development plans to JWA. Airport-approved development plans will not be released for permitting until the ALP is approved.

National Environmental Policy Act (“NEPA”) approval by the FAA is required prior to any FBO construction activities. As the Airport Sponsor, JWA will prepare all required NEPA documentation for submission to the FAA. LESSEE shall provide CADD/GIS files
of the LESSEE’s development plans to JWA. Upon receipt of NEPA approval, JWA will invoice LESSEE for JWA’s actual costs associated with NEPA review and approval of LESSEE’s project, and LESSEE shall reimburse such costs within thirty (30) days of such invoice. If a facility for the screening of international general aviation arrivals is part of LESSEE’s project, then such facility may also require additional NEPA approval by U.S. Customs and Border Protection, Department of Homeland Security. Airport-approved development plans will not be released for permitting until the ALP is approved and NEPA approval has been received.

B. Compliance with Plans, Schedule, Design and Construction Standards. LESSEE shall construct (or cause to be constructed) all improvements within the Leased Premises in strict compliance with detailed plans and specifications complying with the Airport’s Tenant Design Guidelines, including all other available John Wayne Airport Design and Construction Standards, and approved in writing by Airport Director. LESSEE shall submit to JWA for review plans and specifications at the 50% complete, 90% complete, and 100% complete milestones, which are prepared by a State of California licensed and registered Architect and Engineer (A/E) firm with qualifying experience for the intended improvements at an airport setting. Submittals shall include all required reports, basis of designs, studies, exhibits, and calculations. Upon completion of JWA’s review of the plans and specifications, and when approved in writing by the Airport Director, the LESSEE shall submit the construction documents to the County of Orange Public Works Department and any other required agencies for approval and permitting.

The plans and specifications shall include detailed phasing and sequencing plans which clearly show the extent of work within each phase of demolition and construction, the area of each phase, and the number and type of aircraft to be located within each completed phase. The plans shall include an operational plan which identifies the number and type of aircraft to be displaced during each phase and to where displaced aircraft will be relocated. The plans shall show the capacity of the relocation site(s).

LESSEE shall begin coordination of the fire-life safety designs with the Orange County Fire Authority as early as practicable.

Along with plans and specifications for proposed improvements, LESSEE shall provide to Airport Director a detailed project critical path method (CPM) schedule (in Primavera P6 format) enumerating, at a minimum, all activities affecting the baseline schedule of work from mobilization through substantial completion of construction. The schedule shall include 90-day transitional plan, design and construction documents preparation, reviews and permits, NEPA processes and approvals, bidding and awards, inspections and occupancy certifications, closeout, commissioning, activations and start-up of operations. The schedule shall match the plans and specifications and shall be organized in a manner that clearly shows the phasing and sequencing of each phase of the development, identifying the beginning and completion dates for each phase of the work. In order to facilitate phasing of construction projects among multiple Airport tenants, said schedule shall be subject to Airport Director’s approval, and work shall not
commence until Airport Director provides a notice to proceed, which notice may be conditioned or delayed at Airport Director’s sole discretion without cost or liability to COUNTY. Upon receipt of the Airport Director’s notice to proceed with the work, LESSEE must maintain compliance with its baseline schedule. Except as otherwise agreed in writing by Airport Director, liquidated damages in the amount of two thousand dollars ($2,000) will be assessed for each day beyond the substantial completion date identified in the schedule that the work has not been substantially completed. At a minimum, LESSEE shall provide to JWA monthly updates of the schedule, including a summary report of any changes.

All construction shall be conducted in a good and workmanlike manner and shall conform to applicable building codes, rules, regulations and Airport’s architectural standards as contained in reference document “John Wayne Airport, Architect and Engineer Guide,” including all other available John Wayne Airport Design and Construction Standards, which can be provided by Airport upon request. All work shall be done in conformity with Airport approved plans, valid building and other necessary permits, and shall be acceptable to COUNTY and the appropriate governmental entity inspecting such work. LESSEE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

All improvements constructed by LESSEE, including the plans and specifications therefor, shall conform in all respects to the applicable statutes, ordinances, building codes, rules and regulations of the COUNTY and such other governmental authority as may have jurisdiction. The Airport Director's approval shall not constitute a representation or warranty as to such conformity, which shall remain LESSEE's responsibility. LESSEE, at its own cost and expense, shall procure all permits necessary for such construction.

As applicable depending on the type of project, all design and construction shall meet CALGreen Tier 1 requirements, or better (at time of permit submittal), include documentation for construction requirements (i.e. waste management, low emissions vehicles, etc.), and meet the most recent applicable Envision Gold certification requirements, or better, at permit submittal. LESSEE shall use the Envision pre-assessment checklist to guide the sustainability efforts early in project planning and strive to achieve a level of Gold; certification shall be required if applicable to the project type.

LESSEE shall participate in the COUNTY’s storm water site development plan, if available, or obtain approval from COUNTY for LESSEE’s water quality management plan as required by COUNTY for significant redevelopment projects. Architectural coatings applied to pavement surfaces shall be marked using low VOC coatings. Specifically, with paint that contains less than 50 grams of VOC emissions per liter of paint. If needed, LESSEE shall use heavy-duty, off-road, diesel-powered construction equipment to meet or exceed the USEPA’s Tier 4 off-road emissions engine standards during Airport construction to reduce construction-related NOx emissions.
C. **Performance of Work.** LESSEE agrees that any improvement being constructed by or under the direction of LESSEE shall be constructed in substantial compliance with COUNTY-approved plans, which requires those improvements to be constructed as if such improvements had been constructed under the direction and supervision, or under the authority, of COUNTY. In satisfaction of the requirements of the COUNTY, LESSEE shall be required to secure the faithful performance of construction and completion of construction of the improvement by appropriate contractor’s bonds and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided by the California Labor Code and California Department of Industrial Relations.

D. **Insurance Requirements.** LESSEE shall be required to carry comprehensive public liability insurance during construction. If the construction is done by an independent contractor, insurance shall be procured by the contractor in LESSEE’s and COUNTY’s name. All insurance shall be in the limits and coverages acceptable to COUNTY’s Risk Management Services in its reasonable discretion. LESSEE shall indemnify COUNTY and hold COUNTY harmless for any and all claims, demands, damages, costs or expenses of any nature, including defense costs by reason of construction or alteration by LESSEE.

E. **Noninterference.** LESSEE warrants that it or its contractor shall in no way delay, cause delays to or interfere with any Airport operations or other contractors working in the Terminal or on the Airport. LESSEE agrees to hold COUNTY harmless from the cost of any time lost by COUNTY or any damages to COUNTY due to the actions or failure to act of LESSEE or its contractor.

F. **Trailers and Modular Structures.** All improvements constructed by LESSEE shall be of a permanent nature. Trailers and modular buildings are prohibited on the Leased Premises. This provision shall not apply to the use of COUNTY approved temporary modulars or trailers during construction. LESSEE shall maintain restroom facilities and provide existing or comparable restrooms to customers, guests, and flight crew personnel throughout the redevelopment of the Leased Premises. Upon completion of construction, all trailers or modulars must be immediately removed from the Leased Premises.

G. **LESSEE's Cost and Expense.** All renovation or construction by LESSEE pursuant to this Section shall be at LESSEE's sole cost and expense. LESSEE shall keep the Leased Premises and the improvements constructed thereon free and clear of all liens, except for construction or take-out financing with respect solely to LESSEE’s improvements, and shall pay all costs for labor and material arising out of such construction and shall hold COUNTY harmless from any liability in respect thereto. Nothing contained herein shall be understood to foreclose the right of contractors, suppliers or laborers to file preliminary notices with respect to the Leased Premises (and not the COUNTY’s underlying fee interest) in connection with construction performed on the Leased Premises and the filing of such preliminary notices shall not constitute a violation of LESSEE's obligations under
this Section, and LESSEE shall also hold COUNTY harmless from any liability based on the filing of such notice.

H. Utilities. LESSEE shall bear sole financial responsibility for all connection fees, design, construction, removal, relocation, and installation of utilities related to the development of its facilities, as well as any costs related to compliance with local governmental or utility provider requirements when utilities are impacted as a result of the development. All impacts to utilities shall be brought to the attention of Airport Director for review and approval. All energy and water utilities to the Leased Premises shall be separately metered. Those utilities not separately metered shall be specified in writing and COUNTY and LESSEE shall reach agreement, either in this Lease or in a separate written agreement, on the proration of utility expenses. Those payments may include, without limitation, restrictions on or special allocation provisions with respect to excess utility usage upon the Leased Premises for exceptional equipment, ventilation or cooling requirements. LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.

I. Damage during Construction. LESSEE shall repair all damage to Airport facilities caused by LESSEE's construction within seven calendar days, unless other arrangements are approved by Airport Director. Damages or conditions which impact safety must be corrected immediately by LESSEE. All Airport roads must be maintained as open and passable by emergency equipment at all times during construction and shall not conflict with normal Airport operation.

J. Ownership of Improvements. All improvements and facilities, exclusive of trade fixtures, constructed or placed within the Leased Premises by LESSEE must, upon completion, be free and clear of all liens, claims, or liability for labor or material and at COUNTY's option shall become the property of COUNTY at the expiration of this Lease or upon earlier termination hereof. COUNTY retains the right to require LESSEE, at LESSEE's cost, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof.

SECTION 7.02 CONSTRUCTION AND/OR ALTERATION BY COUNTY

In the event COUNTY should require any portion of the Leased Premises in connection with construction of improvements, future expansion, and/or alterations by the Airport, Airport Director may, upon sixty (60) days’ written notice (or immediately should Airport Director determine in Director's sole discretion that an emergency exists) make his/her best effort to substitute alternate space for that portion of the Leased Premises necessary to accommodate the construction. Airport Director will make every reasonable effort to provide replacement space during the construction period that will furnish LESSEE the same utility as the space replaced. In the event alternate space is not available, LESSEE will be reimbursed pursuant to Section 7.03.
SECTION 7.03 LESSEE REIMBURSEMENT

In the event COUNTY should require the Leased Premises, or any portion thereof, for any Airport purpose, COUNTY may terminate this Lease as to all or any portion of the Leased Premises. In that event, if this Lease is terminated in its entirety, COUNTY shall reimburse LESSEE for improvements to the Leased Premises completed during the term of this Lease.

Compensation for improvements located on the Leased Premises shall be calculated by means of the following formula:

\[
\text{COMPENSATION} = \frac{B \times A}{C}
\]

A = LESSEE’s actual Leased Premises improvement construction costs submitted in accordance with the Section in this Lease entitled “RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS,” plus any amounts paid to COUNTY by LESSEE in accordance with Section 7.01.

B = Number of full months remaining in the Lease term.

C = Number of full months between the date LESSEE completed construction of Leased Premises improvements and the date the Lease would expire by its terms if COUNTY did not exercise its right to early termination.

LESSEE shall submit to COUNTY within sixty (60) days of completion of construction of any Leased Premises improvement, notifications of completion of construction and submit detailed supporting documentation of construction costs together with “as-built”/record documents as required elsewhere in this Lease. LESSEE acknowledges and agrees if LESSEE fails to submit notifications and supporting documentation for any such Leased Premises improvements in a timely manner, LESSEE waives its right to compensation for such improvements.

SECTION 7.04 LESSEE'S ASSURANCE OF CONSTRUCTION COMPLETION

A. Within nine (9) months of the Commencement Date of this Lease, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE to complete the first phase of Initial Capital Investment as described in Exhibit G. The amount of money available shall be at least $13,905,700, the total estimated construction cost of this first phase. Such evidence may take one of the following forms:

a. Completion Bond issued to COUNTY as obligee.

b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction or until the assurances required by sub-section B, hereafter, have been provided.
c. Any combination of the above to equal total estimated cost of construction for the first phase.

In the event that LESSEE complies with sub-section B, below, within nine (9) months of the full execution of this Lease, LESSEE shall not be required to comply with this sub-section A.

B. Notwithstanding the requirements of Section 7.04(A), above, prior to commencement of demolition of existing facilities and construction of approved facilities, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE and COUNTY to complete the proposed construction. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms:

a. Completion Bond issued to COUNTY as obligee.

b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction.

c. Any combination of the above to equal total estimated cost of construction.

The assurances required by sub-section A, above, shall no longer be required once LESSEE complies with this sub-section B.

All bonds and letters of credit pursuant to this Section must be issued by a surety company, financial institution or advising bank qualified and admitted to do business in the State of California and issued in an approved form approved by the COUNTY. All bonds and letters of credit pursuant to this Section shall insure faithful and full observance and performance by LESSEE of all terms, conditions, covenants and agreements relating to the construction of improvements within the Leased Premises.

It is not the intent of the contracting parties herein to create a third-party beneficiary, and nothing in this Section shall be construed to do so.

SECTION 7.05 MECHANICS LIENS OR STOP NOTICES

LESSEE shall at all times indemnify and hold COUNTY harmless from all Mechanics Liens, Stop Notices, claims, losses, demands, damages, cost, expenses or liability costs for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the Leased Premises undertaken by LESSEE, and from the cost of defending against such claims, including attorneys' fees and costs.

In the event a mechanics lien or stop notice is imposed upon the Leased Premises, LESSEE shall either:
A. Record a valid Release of Lien, or

B. Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the Leased Premises from the claim of the lien or stop notice and from any action brought to foreclose the lien.

Should LESSEE fail to accomplish either of the two optional actions above within fifteen (15) days after the filing of such a lien or stop notice, the Lease shall be in default and shall be subject to immediate termination. LESSEE shall indemnify, defend, and hold COUNTY harmless from and against any and all claims, damages, liabilities, costs and expenses (including attorneys' fees and costs) arising out of or related to any mechanic’s liens recorded against any portion of the Leased Premises caused by LESSEE, or its agents, employees, contractors, sublessees, successors, and/or assigns, and any and all monetary amounts incurred by COUNTY to obtain a lien release shall be due and payable as Additional Rent. This indemnity shall survive the expiration or earlier termination of this Lease.

SECTION 7.06 RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS

Within sixty (60) days following completion of any improvement within the Leased Premises, the LESSEE shall furnish the Airport Director a complete package of “As-Built Documents” and “Record Documents,” which include but are not limited to construction documents, specifications, cost estimates, engineering studies and calculations. The aforementioned information shall be submitted on two (2) thumb drives containing digital copies of the “As-Built Documents” and “Record Documents,” organized in a detailed, logical, and comprehensible folder structure, which is in a form that is usable and accepted by the COUNTY, to the COUNTY's satisfaction, as described below, unless otherwise allowed by the Airport Director.

Drawings and Models:
- All 2-D and 3-D architectural, engineering, design, and/or construction drawing and/or modeling files for the project shall be completed using AutoCAD 2019 and REVIT 2019 or a newer version of either software if approved by John Wayne Airport.
- All geographic data, spatial analysis, geographic information system (GIS) mappings, drawings, exhibits, and/or figures for the project shall be completed using Environmental Systems Research Institute (ESRI) ArcGIS.
- All 2-D and 3-D drawing and/or modeling files created via computer aided design and drafting (CADD), building information modeling (BIM), and/or GIS for the project shall conform to the John Wayne Airport CADD/BIM/GIS standards and specifications.
- In addition to the 2-D and 3-D drawing and/or modeling files indicated above, a PDF format (scaled to ARCH E1 format where applicable) of those drawings, exhibits, figures, etc. shall be generated and submitted digitally.

Documents and Reports:
- All specifications, reports and/or studies (e.g. geotechnical report, etc.), calculations, and other project information (e.g. construction submittals, operations and maintenance (O&M) manuals, warranties, etc.) for the project shall be completed using MS Office suite applications and also generated and submitted digitally in a PDF format.

Note: “Record Documents,” e.g. record drawings, specifications, calculations, etc., shall be prepared, stamped, signed by the Architect and/or Engineer of Record for the project and shall reflect all updates and/or modifications that were approved during design and construction, i.e. separate from the as-built documents, which include contractor redlines, contract changes, etc. Refer to the “John Wayne Airport Construction Standards” for additional information.

In addition, two (2) sets of hard prints of the stamped and signed record drawings for the project, as described above, must be furnished by the LESSEE with the thumb drives containing the “As-Built Documents” and “Record Documents.” Basic specifications, standards, and requirements for BIM, CADD, and/or GIS produced information at the Airport can be located on the www.ocair.com website or provided by the Airport upon request. Additional requirements for digital record files are described in Exhibit E.

Furthermore, within 90 days of the date the LESSEE begins to use such improvements (“Date of Beneficial Occupancy”), the LESSEE shall furnish to the Airport Director an itemized statement of the actual, direct construction costs of any such improvement. All such costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The construction costs may include actual, direct fees paid to contractors, architects, engineers, surveyors, laborers, and suppliers, or permit fees required by governmental agencies to allow construction. Construction costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, bond premiums, or developer fees. The statement of cost shall be sworn to and signed by the LESSEE or its responsible agent under penalty of perjury. The LESSEE must obtain the Airport Director's approval of acceptance of the “As-Built Documents” and “Record Documents” and the form and content of the itemized statement for the release of any construction bond.

SECTION 7.07    DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

In the event of damage to or destruction of LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises or in the event LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, LESSEE shall, within thirty (30) days, commence and diligently pursue to completion the repair, replacement, or reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the Leased Premises for the purposes required by the Lease. Repair, replacement, or reconstruction of improvements within the Leased Premises shall be accomplished in a manner and according to plans approved by Airport Director. Except as otherwise provided herein, termination of this Lease shall not reduce or nullify LESSEE’s obligation under this paragraph. With respect to damage or destruction to be repaired by COUNTY or which COUNTY
elects to repair, LESSEE waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

In the event that (a) such damage or destruction to LESSEE-owned or constructed buildings, facilities or improvements (“improvements”) located within the Leased Premises occurs, or (b) said improvements are declared unsafe or unfit for use and occupancy, within one (1) year of the expiration date of this Lease, COUNTY and LESSEE may mutually agree to terminate this Lease, in which case, COUNTY may, at COUNTY’s sole option, accept monetary consideration from LESSEE in lieu of LESSEE’s reconstruction of improvements located on the Leased Premises, and after such termination, neither party shall have any further obligations under this Lease, except for obligations that expressly survive the termination or expiration of the Lease hereunder.

SECTION 7.08 CONSTRUCTION HEALTH AND SAFETY

LESSEE’s contractor for demolition and/or construction (“the Contractor”) shall have at the work site copies of or suitable exacts of “Construction Safety Orders” and “General Industry Safety Orders” issued by the California State Division of Industrial Safety. The Contractor shall comply with the provisions of these and all other applicable laws, ordinances, and regulations.

Contractor’s Safety Plan. The Contractor shall submit for approval, prior to beginning construction, a comprehensive Safety Plan (“the Safety Plan”) outlining code of safe work practices and procedures as listed in Appendix C: Code of Safe Practices in the Guide to Developing Your Workplace Injury and Illness Prevention Program, CCR Title 8, Section 1509, Industrial and Illness Prevention Program, Subchapter 4, Construction Safety Orders, Article 3, General, for all construction activities including, but not limited to, trenching and shoring, fall protection, confined space entry, hazardous materials, night work, and lockout/block-out. The plan shall provide a list of competent persons for activities for which competent persons are defined and are required by state law. The plan shall also describe Airport security procedures.

The Safety Plan(s) must be site-specific and job task(s) specific. They must identify job/site-specific workplace hazards as part of an Injury and Illness Prevention Program. The plan(s) must outline the site-specific Code of Safe Work Practices and Procedures for all equipment used or work activities performed at the Airport, and for all materials and “HAZARDOUS MATERIALS” used or stored onsite. The plan(s) must include the JWA worksite specific emergency contact lists, and emergency response and personnel training procedures.

The Safety Plan shall contain directions to the closest hospital and provide a map showing the Airport and the location of hospitals. Information regarding spill response and hazardous materials is to be included. The plan shall be reviewed and signed by all personnel entering Airport property. The plan shall identify the projects included in the Safety Plan, describe operational safety during construction, construction activity and aircraft movement, and limitations of construction. It shall list safety considerations to be discussed at the preconstruction conference and safety meetings. The Contractor shall prepare and distribute to JWA three complete bound booklets identified as “SAFETY PLAN.”
SECTION 7.09 CONSTRUCTION STORMWATER PLAN

LESSEE’s Contractor shall submit for Airport approval, prior to beginning construction, its Construction SWPPP or Erosion and Sediment Control Plan (“ESCP”) concerning BMP implementation including how Storm Water run-off will be controlled, how the discharge of unauthorized Non-Storm Water Discharges will be contained and prevented, and how soil erosion and sedimentation of surface run-off will be prevented at the site. Projects disturbing one (1) or more acres of soil or projects that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to develop a SWPPP and obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity – General Permit Order 2009-0009-DWQ (“Construction General Permit”). Projects disturbing less than one acre of soil and not required a Construction SWPPP shall develop an ESCP.

A. The SWPPP or ESCP shall be site-specific and shall be approved by the Airport Director before the start of construction. It shall be incorporated into the design and planning phases of the project.

B. Contractor shall select BMPs for the site-specific SWPPP or ESCP. The plan must cover the construction area, construction lay-down areas, haul routes, and off-site migration or tracking of contaminants such as mud. This includes keeping Aircraft Operating Areas (“AOA”) clear of mud and debris. The plan must minimize potential soil and water quality impacts, including impacts resulting from total suspended solids (“TSS”), oil and grease, total petroleum hydrocarbons (“TPH”), or chemicals or materials used for construction. The plan must also include leak or spill cleanup.

SECTION 7.10 CONSTRUCTION WASTE MANAGEMENT PLAN

LESSEE’s Contractor shall submit for approval, prior to the beginning of construction, its Construction Waste Management (“CWM”) Plan detailed how waste generated during construction activities will be contained, stored, labeled, tracked, and disposed of. The plan should address waste diversion for recyclables and organic waste and meet the requirements of CALGreen Tier 1. CWM forms can be found in the Guide to the 2019 California Green Building Standards Code published by the California Building Standards Commission and the International Code Council.

A. The CWM Plan shall be project-specific and cover all the construction activities.

B. The CWM Plan shall be incorporated into the design and planning phases of the project and shall be approved by the Airport Director before the start of construction.

C. LESSEE’s Contractor shall use the CWM Worksheet and Acknowledgement forms to report waste disposal monthly and at the conclusion of the construction project.
SECTION 7.11 TEN-YEAR REFURBISHMENTS

Every ten (10) years from date LESSEE begins to use its improvements to the Leased Premises (“Date of Beneficial Occupancy”), LESSEE shall make refurbishments to its facilities for the purpose of keeping the FBO contemporary and competitive with current FBO industry standards; provided, however, that no program of refurbishment, renovation or capital improvement shall be mandated or compelled so long as LESSEE maintains its facilities and improvements in good working order and condition. LESSEE shall consult with the Airport Director prior to making any such refurbishments and, in particular, shall consult with the Airport Director on or before the tenth (10th), twentieth (20th) and thirtieth (30th) anniversaries of the Commencement Date to discuss such refurbishment of facilities as may be necessary or appropriate to satisfy the requirements of this Section. LESSEE’s refurbishments must provide for a capital reinvestment in facilities on the Leased Premises meeting the following requirements, where the amount of the reinvestment will be reasonably determined by Airport Director with consideration given to the conditions of the facilities at each reinvestment milestone.

Should the Airport Director and LESSEE disagree on the necessary improvements required, the parties shall engage a third-party, selected and agreed to by COUNTY and LESSEE, at LESSEE’s sole cost and expense, to assess the condition of the premises relative to industry standards and to make a determination as to what improvements shall be required. In no case will the cost of such improvements exceed the amounts specified below relative to each reinvestment milestone.

A. On or before the tenth (10th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

B. On or before the twentieth (20th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

C. At such time that five (5) years remain on the term of this Lease, LESSEE may be required by JWA to make a reinvestment of up to ten percent (10%) of its Initial Capital Investment.

Prior to reaching each reinvestment milestone, and with sufficient time for all required review and approval in accordance with this ARTICLE VII but in no event later than one hundred eighty (180) days prior to the milestone date, LESSEE shall provide to JWA its plans and specifications for the refurbishment project, as well as a breakdown of the costs for design, construction, upgrades, and installations of new fixtures or equipment proposed for the refurbishment project. LESSEE shall complete each refurbishment project within one hundred eighty (180) days from the date of its final approval by JWA unless otherwise approved in writing by Airport Director. Failure to complete the refurbishment within the prescribed time will subject LESSEE to liquidated damages in the amount of two thousand dollars ($2,000) per day until the refurbishment has been completed to the satisfaction of the Airport Director.

Within sixty (60) days following the completion of each refurbishment project, LESSEE shall
provide certified documentation of the capital investment actually expended in the project, together with “as-built”/record documents as required by this ARTICLE VII. In the event of a shortfall between the required reinvestment amount and the actual refurbishment cost, LESSEE shall pay to COUNTY an amount equal to the shortfall as of one hundred eighty (180) days after completion of the refurbishment project. The amount spent for refurbishment shall be exclusive of any amount spent for normal repair and maintenance as reasonably determined by Airport Director.

ARTICLE VIII – ASSIGNMENT, SUBLETTING, AND ENCUMBERING

SECTION 8.01 ASSIGNING, SUBLETTING, AND TRANSFERRING

The provisions of this Section are subject to the limitations of Section 5.01 “USE.”

A. Transfers. Except as provided by this Article, LESSEE shall not voluntarily, involuntarily, or by operation of law transfer, assign, sublet, encumber, or hypothecate (hereinafter referred to as “Transfer”) any interest of the LESSEE in the Leased Premises without the prior written approval of the COUNTY. Occupancy of the Leased Premises by a prospective transferee prior to approval shall constitute a breach of this Lease. LESSEE shall give the COUNTY sixty (60) days’ prior written notice of all proposed Transfers. The LESSEE shall not make any such Transfers for a period longer than the remaining term of the Lease. All subleases of hangar space, ramp parking space, and office/facility space shall be between LESSEE and sublessee; sub-subleases are prohibited and shall constitute a breach of this Lease. LESSEE shall provide Airport Director copies of all subleases within fifteen (15) days following their approval.

If the COUNTY approves any Transfer, such approval does not constitute a waiver of any of the terms of the Lease. LESSEE agrees that a Transfer of this Lease shall not release LESSEE from any of the obligations found in this Lease. All Transfer documents shall be consistent with the terms, covenants, and conditions of the Lease, and in the event of any inconsistency, the provisions of this Lease shall govern. LESSEE must submit all required COUNTY forms with backup documentation, and include payment to COUNTY of a $3,000 administrative charge, for COUNTY to process such request.

If the LESSEE is a corporation, an unincorporated association, or a partnership, Transfers include the acquisition by any person other than the LESSEE of any stock or interest in said corporation, unincorporated association, or partnership in the aggregate amount of fifty-one percent (51%) or more.

Except as provided by this Article, the failure by the LESSEE to obtain the prior written approval by the COUNTY of any Transfer of the Lease or any interest in the Leased Premises shall constitute a material breach of this Lease by, and shall not confer any Leasehold rights upon the transferee. Such failure shall be grounds for termination of this Lease for default per Article IX, Section 9.02.
B. Conditions of COUNTY Approval. COUNTY agrees that it will not arbitrarily withhold consent to any Transfer, but COUNTY and LESSEE expressly agree it shall be reasonable for COUNTY to withhold consent to any Transfer for the following reasons:

(1) LESSEE, its successors or assigns are in default of any term, covenant or condition of this Lease, whether notice of default has or has not been given by COUNTY.

(2) The prospective sublessee, assignee or transferee has not agreed in writing to keep, perform and be bound by all the terms, covenants, and conditions of this Lease.

(3) The prospective sublessee, assignee or transferee is not financially capable or not experienced in performing the Lease obligations, as determined by the Airport Director.

(4) Sublessee's use is in conflict with the terms of this Lease.

(5) All the terms, covenants and conditions of Transfer, including the consideration therefor, of any and every kind, have not been revealed in writing to Airport Director. On the first day of each month, LESSEE shall submit a monthly rent roll of all its existing sublessees indicating the sublessee/customer name, sublessee type, start date, end date, square footage and monthly rent.

(6) Any construction required of LESSEE as a condition of this Lease has not been completed to the satisfaction of COUNTY.

(7) LESSEE has not provided Airport Director with a copy of all documents relating to the Transfer, including, but not limited to, appraisals, notes, trust deeds, title reports, and escrow instructions.

(8) LESSEE attempts to hypothecate the Leasehold for an amount greater than the cost of new improvements to be constructed on the Leased Premises. Hypothecation of the Leasehold shall not be permitted for any reason other than to obtain loan proceeds necessary to construct new improvements on the Leased Premises.

(9) If a release or threatened release of Hazardous Materials is materially increased as a result of a Transfer or if COUNTY does not receive reasonable assurances that a prospective sublessee, assignee or transferee has the experience and/or the financial ability to remedy a violation of Environmental Laws related to Hazardous Materials and/or fulfill all obligations under this Lease.

C. Bankruptcy Transaction. If LESSEE assumes this Lease and proposes to assign the same pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, et seq., then notice of such proposed assignment shall be given to COUNTY.

(1) The name and address of proposed assignee,
(2) All of the terms and conditions of such offer, and

(3) Adequate assurance to COUNTY of the proposed assignee's future performance under the Lease, including, without limitation, the assurance referred to in the United States Bankruptcy Code, 11 U.S.C. §365(b)(3).

Any person or entity to which this Lease is assigned pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §101, et seq., shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to COUNTY an instrument confirming such assumption.

SECTION 8.02 LEASEHOLD MORTGAGES

A. LESSEE’s Right to Encumber Leasehold Estate; No Right to Encumber COUNTY’s Fee Interest. LESSEE may, at any time during the Term of this Lease (with the consent of COUNTY after prior written notice providing evidence that all requirements of this Lease applicable at the time have been complied with) encumber all or any portion of LESSEE’s leasehold estate in and to this Lease, including LESSEE’s rights, title and interest in and to the Leased Premises and Improvements, or any applicable portion thereof or interest therein (“Leasehold Estate”) with one (1) or more mortgage, deed of trust, security deed, conditional deed, deed to secure debt or any other security instrument (including any assignment of leases and rents, security agreement and financing statements) held by an institutional lender by which LESSEE’s Leasehold Estate is mortgaged to secure a debt or other obligation, including a purchase money obligation (“Leasehold Mortgages”); provided, however:

1) Such Leasehold Mortgage(s) (as of the date recorded) shall not exceed 80% of the costs of the improvements and facilities to be constructed by LESSEE prior to completion and 80% of the Leasehold Estate value after completion;

2) That LESSEE shall not have the power to encumber, and no Leasehold Mortgage shall encumber, COUNTY’s fee interest in the property underlying the Leased Premises (“COUNTY’s Fee Interest”);

3) The Leasehold Mortgage and all rights acquired under it shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Lease and to all rights and interests of COUNTY hereunder, except as otherwise provided in this Lease;

4) Nothing in this Lease shall be construed so as to require or result in a subordination in whole or in part in any way of the COUNTY’s Fee Interest to any Leasehold Mortgage; and

5) In the event of any conflict between the provisions of this Lease and the provisions of any such trust Leasehold Mortgage, the provisions of this Lease shall control.
B. **Notification to COUNTY of Leasehold Mortgage.** LESSEE or any Leasehold Mortgagee shall, prior to making any Leasehold Mortgage, provide COUNTY with notice of such Leasehold Mortgage and the name and address of the Leasehold Mortgagee. At the time of notice, LESSEE shall furnish to Airport Director a complete copy of any trust deed and note to be secured thereby, together with the name and address of the holder thereof. Thereafter, LESSEE or any Leasehold Mortgagee shall notify COUNTY of any change in the identity or address of such Leasehold Mortgagee.

**SECTION 8.03 SUCCESSORS IN INTEREST**

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all parties hereto, all of whom shall be jointly and severally liable hereunder.

**ARTICLE IX - TERMINATION AND DEFAULT**

**SECTION 9.01 TERMINATION OF PRIOR AGREEMENTS**

This Lease creates a new Leasehold concerning all or any portion of the Leased Premises. Upon the Commencement Date of this Lease, any prior agreement with relation to the Leased Premises between the parties shall terminate and be of no further force and effect, and shall be superseded and replaced in its entirety by this Lease.

**SECTION 9.02 TERMINATION FOR DEFAULT**

The COUNTY may terminate this Lease and all of its obligations hereunder with or without prior notice to LESSEE and may exercise all rights of entry for default and breach if the LESSEE fails to perform on any of its obligations under this Lease, including but not limited to the following:

A. Payment of all rents, fees, and charges if not cured within ten (10) days following written notice from COUNTY;

B. A general assignment for the benefit of creditors and any Transfer in violation of Article VIII, above;

C. The issuance of any execution or attachment against LESSEE at the Airport which is undischarged within sixty (60) days of levy or seizure or if the Leased Premises are occupied by someone other than LESSEE;

D. The voluntary vacation or abandonment by LESSEE of the conduct of a fixed base operation at the Airport;
E. The violation by LESSEE of any of the terms of any insurance policy referred to in this Lease, the remedies for which are provided in that section of the Lease entitled “INSURANCE”;

F. If LESSEE is found by the FAA, TSA, other government regulatory or successor agency to have violated safety standards in the conduct of LESSEE's business, it being understood that this requirement pertains specifically to a substantial and material breach of the standards and policies established and administered by the FAA’s Office of Safety Standards (to the extent they are applicable to fixed base operations), and/or those standards established by the TSA specifically pertaining to airport safety pursuant to its authority arising under Title 49 Code of Federal Regulations (“CFR”) § 1542. Citations, enforcement actions, and proceedings related to minor violations shall not constitute a breach of this Lease.

G. The violation of any written directions of the Airport Director if not cured within three (3) business days following written notice from Airport Director;

H. The appointment of a receiver to take possession of all, or substantially all, the assets of LESSEE located at the Leased Premises or of LESSEE's Leasehold interest in the Leased Premises where such appointment or seizure is not discharged within sixty (60) days following the appointment of the receiver or seizure of assets; and,

I. All other violations not specified above if not cured within five (5) business days following written notice from COUNTY, provided that if the nature of such failure is such that it can be cured by LESSEE but that more than five (5) business days are reasonably required for its cure (for any reason other than financial inability), then LESSEE shall not be deemed to be in default if LESSEE shall commence such cure within said five (5) business days, and thereafter diligently prosecutes such cure to completion.

SECTION 9.03 COUNTY REMEDIES

In the event of any default by LESSEE, then, in addition to any other remedies available to COUNTY at law or in equity, COUNTY shall have the immediate option to terminate this Lease and all rights of LESSEE hereunder by giving written notice of such termination. In the event that COUNTY shall elect to so terminate this Lease, then COUNTY may recover from LESSEE:

A. The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

B. The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss LESSEE proves reasonably could have been avoided; plus
C. The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that LESSEE proves reasonably could be avoided; plus

D. Any other amount necessary to compensate COUNTY for all detriment proximately caused by LESSEE's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, plus

E. At COUNTY's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California Law.

As used above, the “worth at the time of award” is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1 percent.

SECTION 9.04 TERMINATION FOR NONUSE

COUNTY has entered into this Lease for the express purpose of having LESSEE provide those services and uses to the public at the Airport as authorized in that section of the Lease entitled “USE.” Should such services and uses of the Leased Premises be discontinued for thirty (30) consecutive calendar days or more, the Airport Director may terminate this Lease and all rights, but not the obligations, of LESSEE shall end at time of such termination subject to that section of the Lease entitled “LESSEE REIMBURSEMENT.” Said thirty consecutive calendar day requirement shall not include periods during which LESSEE performs demolition of existing facilities, construction of site improvements, remodeling, renovations, or repairs as approved by Airport Director.

SECTION 9.05 CONDITION OF LEASED PREMISES UPON TERMINATION

Except as otherwise provided by this Lease or approved in writing by COUNTY, upon termination of this Lease, LESSEE shall redeliver possession of the Leased Premises to COUNTY in substantially the same or better condition than existed immediately prior to LESSEE's entry thereon, reasonable wear and tear, flood, earthquakes, war and any act of war, excepted. References to the termination of the Lease in this Lease shall include termination by reason of expiration.

SECTION 9.06 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If LESSEE abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to LESSEE and left on the Leased Premises fifteen (15) days after such event shall be deemed to have been transferred to COUNTY. COUNTY shall have the right to remove and to dispose of such property without liability therefor to LESSEE or to any person claiming under LESSEE, and shall have no need to account therefor. Personal property left on the Leased Premises after termination, expiration, or abandonment of the Lease shall not be construed as giving LESSEE possession of the Leased Premises during the fifteen (15) days after termination, expiration, or abandonment of the Lease.
SECTION 9.07 QUITCLAIM OF LESSEE'S INTEREST UPON TERMINATION OR DEFAULT

Upon termination of this Lease for any reason, including, but not limited to, termination because of default by LESSEE, LESSEE shall execute, acknowledge, and deliver to COUNTY, within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title, and interest of LESSEE in the Leased Premises is quitclaimed to COUNTY. Should LESSEE fail or refuse to deliver the required deed to COUNTY, COUNTY may prepare and record a notice reciting the failure of LESSEE to execute, acknowledge and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all right of LESSEE or those claiming under LESSEE in and to the Leased Premises.

SECTION 9.08 COUNTY’S RIGHT TO RE-ENTER

LESSEE agrees to yield and peaceably deliver possession of the Lease Premises to COUNTY on the date of termination or default of this Lease, whatsoever the reason for such termination or default.

Upon giving written notice of termination or default to LESSEE, COUNTY shall have the right to re-enter and take possession of the Leased Premises on the date such termination or default becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination or default of the Lease and re-entry of the Leased Premises by COUNTY shall in no way alter or diminish any obligation of LESSEE under the Lease terms and shall not constitute an acceptance or surrender.

LESSEE waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Leased Premises for any lawful reason or in the event COUNTY re-enters and takes possession of the Leased Premises in a lawful manner.

ARTICLE X - SECURITY

SECTION 10.01 AIRPORT SECURITY

In addition to FAA safety regulations, the LESSEE must also comply with all Airport security rules, regulations and plans, Department of Homeland Security-Transportation Security Administration (TSA) regulations, United States Customs and Border Protection (USCBP) regulations, and all other applicable federal, State and local regulations regarding security during the term of this Lease. LESSEE is responsible for fines imposed by any regulatory agency as a result of LESSEE’s failure to comply with applicable rules and regulations regarding airport security.

LESSEE shall be required to obtain airport security clearance in order to operate on the Leased Premises pursuant this Lease. LESSEE must designate one or more Authorized Signatories to attend training by the Airport, and to be the primary point(s) of contact for Airport Issued I.D. security badge related correspondence and records management. LESSEE, its employees and
contractors must complete a background clearance, and a Security Identification Display Area (SIDA) class in order to obtain an Airport issued I.D. security badge for access to secure areas. All Airport Operations Area (AOA) drivers must also complete training to receive driver’s authorization to drive on the airfield.

A. Authorized Signatory

Authorized Signatories are individuals or designated representatives authorized to sponsor badge applicants and request Airport issued I.D. security badges on behalf of their organization. They are responsible for initiating and understanding the security I.D. badge application process, and certify applicant employment. Authorized Signatories are also the primary points of contact for the Airport I.D. Badge Office correspondence related to audits, changes to employee access authority, if an employee is arrested or convicted of a disqualifying criminal offense, and if an employee is terminated.

B. Airport Issued I.D. Security Badge Acquisition

Prior to issuance of I.D. security badge(s), LESSEE’s personnel must successfully complete the Airport issued I.D. security badge acquisition process. LESSEE personnel who will be working onsite, and engaged in the performance of work under this Lease, must be sponsored by a Lessee identified Authorized Signatory, pass Airport’s screening requirements, which includes, but may not be limited to, an F.B.I. Criminal History Records Check and a Security Threat Assessment, and shall pay any applicable fees. Upon successful completion of the background checks, LESSEE personnel will be required to attend a 3-hour SIDA class and pass a written test. Those personnel who may be permitted by the Airport to drive on the Airport Operations Area (AOA) perimeter road must also complete a Driver’s Training class and written test. The physical Airport issued I.D. security badges are not issued until LESSEE personnel have: 1) completed appropriate application forms and submitted proof of identity and employment eligibility, 2) passed all required background checks, 3) completed and passed appropriate classroom training and 4) paid an I.D. badge fee for each badged person. LESSEE should anticipate a minimum of five (5) business days to complete the Airport issued I.D. security badge process if all requirements listed above are fulfilled by individual applicants in a timely manner. LESSEE shall be responsible for all applicable fees and costs associated with the background checks and I.D. security badging process. The amount of such fees is subject to change without notice.

C. Airport Issued I.D. Security Badge Holder Requirements and Responsibilities

The Airport Security Plan (ASP) requires that each person issued an Airport issued I.D. security badge be made aware of his/her responsibilities regarding the privilege of access to SIDA, Secure, Sterile, and AOA areas of the Airport.

LESSEE and all its personnel within access controlled areas (AOA, SIDA, secured area or sterile area) are required to display on their person an Airport issued I.D. security badge,
unless they are escorted by a properly badged individual with escort privileges. When working in a SIDA, AOA, Sterile or Secure area, each badged person is responsible for challenging any individual who is not properly displaying an Airport issued or approved and valid I.D. badge. Any person who is not properly displaying or who cannot produce a valid Airport issued I.D. security badge must immediately be referred to the Sheriff’s Department – Airport Police Services Office for proper handling.

The Airport issued I.D. security badge is the property of the County of Orange and must be returned upon termination of employment and/or termination of the Lease. The loss of a badge shall be reported within 24 hours to the Sheriff’s Department–Airport Police Services by calling (949) 252-5000. LESSEE or its personnel who lose their badges shall be required to pay a fee before receiving a replacement badge. The charge for lost badge replacement will be posted in the Airport Administration Office and is subject to change without notice. A report shall be made before a replacement badge will be issued.

The Airport security badge is nontransferable. In the event that the LESSEE’s badge is not returned to the Airport upon termination of employment and/or termination of the Lease, the LESSEE and/or LESSEE personnel shall be liable to the County of Orange for a fine in the amount of $250 per unreturned badge. The amount of the fine is subject to change without notice. LESSEE’s security deposit may be applied to cover the cost of the fine.

**ARTICLE XI - INSURANCE AND INDEMNITY**

**SECTION 11.01 INSURANCE**

LESSEE agrees to purchase all required insurance at LESSEE’s expense and to deposit with the COUNTY certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this Lease have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY during the entire term of this Lease.

LESSEE agrees that LESSEE shall not operate on the Lease Premises at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Airport Director. In no cases shall assurances by LESSEE, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Airport Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. LESSEE also agrees that upon cancellation, termination, or expiration of LESSEE's insurance, COUNTY may take whatever steps are necessary to interrupt any operation from or on the Lease Premises until such time as the Airport Director reinstates the Lease.

If LESSEE fails to provide Airport Director with a valid certificate of insurance and endorsements, or binder at any time during the term of the Lease, COUNTY and LESSEE agree that this shall constitute a material breach of the Lease. Whether or not a notice of default has or has not been sent to LESSEE, said material breach shall permit COUNTY to take whatever steps necessary to
interrupt any operation from or on the Lease Premises, and to prevent any persons, including, but not limited to, members of the general public, and LESSEE's employees and agents, from entering the Lease Premises until such time as Airport Director is provided with adequate evidence of insurance required herein. LESSEE further agrees to hold COUNTY harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the COUNTY'S action.

LESSEE may occupy the Leased Premises only upon providing to COUNTY the required insurance stated herein and maintain such insurance for the entire term of this Lease. COUNTY reserves the right to terminate this Lease at any time LESSEE’s insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. LESSEE shall pay COUNTY a fee of $300.00 for processing the reinstatement of the Lease. LESSEE shall provide to COUNTY immediate notice of said insurance cancellation or termination.

LESSEE shall ensure that all contractors performing work on behalf of LESSEE pursuant to this Lease and all tenants operating within the Lease Premises shall carry appropriate lines of insurance subject to the same terms and conditions as set forth herein for LESSEE. LESSEE shall not allow contractors or tenants to operate within the Lease Premises if they have less than an appropriate level of coverage required by the LESSEE under this Lease. It is the obligation of the LESSEE to provide written notice of the insurance requirements to every contractor and tenant and to receive proof of insurance prior to allowing any contractor or tenant to begin operations within the Lease Premises. Such proof of insurance must be maintained by LESSEE through the entirety of this Lease and be available for inspection by a COUNTY representative at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of LESSEE’s current audited financial report. If LESSEE’s SIR is approved, LESSEE, in addition to, and without limitation of, any other indemnity provision(s) in this Lease, agrees to all of the following:

1) In addition to the duty to indemnify and hold the COUNTY harmless against any and all liability, claim, demand or suit resulting from LESSEE’s, its agents, employee’s or subcontractor’s performance of this Agreement, LESSEE shall defend the COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and

2) LESSEE’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the LESSEE’s SIR provision shall be interpreted as though the LESSEE was an insurer and the COUNTY was the insured.
Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the LESSEE shall provide the minimum limits and coverage as set forth below:

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<td>Aviation General Liability</td>
<td>$10,000,000 per occurrence</td>
</tr>
<tr>
<td>(Including but not limited to General Liability, Contractual, Premises,</td>
<td>$10,000,000 aggregate</td>
</tr>
<tr>
<td>Products/Completed Operations, Hangarkeepers and Vehicles/Mobile</td>
<td></td>
</tr>
<tr>
<td>Equipment operated on restricted airport premises)</td>
<td></td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers' Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Pollution Liability</td>
<td>$5,000,000 per claims-made or per occurrence</td>
</tr>
<tr>
<td>Commercial Property Insurance on an “All Risk” or “Special Causes of</td>
<td>100% of the Replacement Cost Value and no coinsurance provision.</td>
</tr>
<tr>
<td>Loss” basis covering all, contents and any tenant improvements including</td>
<td></td>
</tr>
<tr>
<td>Business Interruption/Loss of Rents with a 12 month limit. Property</td>
<td></td>
</tr>
<tr>
<td>Schedule to include all assigned fuel storage tanks, piping, fittings,</td>
<td></td>
</tr>
<tr>
<td>associated equipment, vaults and clarifiers.</td>
<td></td>
</tr>
</tbody>
</table>
**Required Endorsements**

The following endorsements must be submitted with the Certificate of Insurance:

1. The Aviation General Liability and Pollution Liability policies shall contain an Additional Insured endorsement providing coverage at least as broad as ISO forms CG 2010 or CG 2033 naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds. Blanket coverage may also be provided which will state - *As Required by Written Agreement.*

2. The Aviation General Liability and Pollution Liability policies shall contain a primary non-contributing endorsement evidencing that the LESSEE's insurance is primary and any insurance or self-insurance maintained by County of Orange shall be excess and non-contributing.

3. The Workers' Compensation policy shall contain a Waiver of Subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees. Blanket coverage may also be provided which will state - *As Required by Written Agreement.*

4. The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the COUNTY’S financial interest when applicable.

All insurance policies required by this lease shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Aviation General Liability policy shall contain a severability of interests clause, also known as a “separation of insureds” clause (standard in the ISO CG 001 policy).

If LESSEE’s Pollution Liability policy is a claims-made policy, LESSEE shall agree to maintain coverage for two (2) years following termination of the Lease.

Insurance certificates should be forwarded to the COUNTY address provided in the Clause (NOTICES) below or to an address provided by Airport Director. LESSEE has ten (10) business days to provide adequate evidence of insurance or this Lease may be cancelled.

COUNTY expressly retains the right to require LESSEE to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

COUNTY shall notify LESSEE in writing of changes in the insurance requirements. If LESSEE does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this Lease may be in breach without further notice to LESSEE, and COUNTY shall be entitled to all legal remedies.
The procuring of such required policy or policies of insurance shall not be construed to limit LESSEE's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer.

SECTION 11.02 INDEMNITY

To the fullest extent authorized by law, the LESSEE shall indemnify, defend with counsel approved in writing by COUNTY, and hold the COUNTY, its officers, directors, employees, agents and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless from any and all claims, demands, or liability of any kind or nature arising out of or related to the LESSEE's operations at the Airport, including the cost of defense arising therefrom. LESSEE's indemnity obligations stated herein also apply to those actions arising out of or related to LESSEE's officers, agents, successors, assigns, sublessees, subcontractors, and employees. LESSEE's indemnity obligations stated herein shall not apply in the event of any loss, damage, or expense arising from the sole negligence and/or willful misconduct of the COUNTY or of the COUNTY's officers, employees, agents, servants, or independent contractors. The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this Lease.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorneys' fees in any action to enforce the terms of this Lease. The rights and obligations set forth in this paragraph shall survive the termination of this Lease.

ARTICLE XII - FEDERAL GRANT ASSURANCES AND REQUIREMENTS

SECTION 12.01 CIVIL RIGHTS AND NONDISCRIMINATION

A. LESSEE agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If LESSEE transfers its obligation to another, the transferee is obligated in the same manner as LESSEE.

B. LESSEE, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:

1) LESSEE will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2) LESSEE, with regard to the work performed by it during the Lease, will not discriminate on the grounds of race, color, or national origin, in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

3) In all solicitations, either by competitive bidding or negotiation made by LESSEE for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential subcontractor or supplier will be notified by LESSEE of the LESSEE’s obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4) LESSEE will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, LESSEE will so certify to the COUNTY or the FAA, as appropriate, and will set forth what efforts it has made to obtain this information.

5) In the event of LESSEE’s noncompliance with the non-discrimination provisions of this Lease, COUNTY will impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to: withholding payments under the contract until LESSEE complies, and/or cancelling, terminating, or suspending a contract, in whole or in part.

6) LESSEE will include the provisions of paragraphs one through six in every sublease or subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. LESSEE will take action with respect to any sublease, subcontract or procurement as the COUNTY or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if LESSEE becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, LESSEE may request the COUNTY to enter into any litigation to protect the interests of the COUNTY. In addition, LESSEE may request the United States to enter into the litigation to protect the interests of the United States.

C. LESSEE, for itself, personal representatives, 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) In the event facilities are constructed, maintained or otherwise operated on the Leased Premises for a purpose for which a FAA activity, facility, or program is
extended or for another purpose involving the provision of similar services or benefits, LESSEE will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2) No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

3) In the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.

4) LESSEE will use the Leased Premises in compliance with all other requirements imposed by or pursuant to List of discrimination Acts and Authorities.

D. LESSEE shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service.

E. LESSEE, for itself, its assignees, and successors in interest agrees to comply with the following Nondiscrimination Acts and Authorities, including without limitation:

(1) Title VI of the Civil Rights Acts of 1964, 42 U.S.C. § 2000d et seq. (prohibiting discrimination on the basis of race, color, national origin);

(2) 49 Code of Federal Regulations part 21, Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964;

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 (prohibiting unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects);

(4) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. (prohibiting discrimination on the basis of disability), and 49 CFR part 27;

(5) The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq. (prohibiting discrimination on the basis of age);
Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47123 (prohibiting discrimination based on race, creed, color, national origin, or sex);

The Civil Rights Restoration Act of 1987, Pub.L 100-209, (broadening the scope, coverage, and applicability of Title VI of the Civil Acts Right of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients, and contractors, whether such programs or activities are federally funded or not;

Titles II and III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12189, as implemented by 28 CFR parts 35 and 36, and 49 CFR parts 37 and 38 (prohibiting discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities);

The FAA’s Nondiscrimination statute, 49 U.S.C. § 47123 (prohibiting discrimination on the basis of race, color, national origin, and sex);

Executive Order 12898, Federal Actions to Address Environmental Justice in the Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 70 Fed. Reg. at 74087 – 74100 (defining national origin discrimination to include discrimination because of limited English proficiency); and

Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (prohibiting discrimination because of sex in education programs or activities).

In the event of breach of any of the above nondiscrimination covenants, COUNTY shall have the right to terminate the Lease in accordance with the provisions of Section 9.02, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

SECTION 12.02 DEVELOPMENT/MAINTENANCE OF AIRPORT

COUNTY reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or view of LESSEE, and without interference or hindrance. COUNTY reserves 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 of the Airport, together with the right to direct and control all activities of LESSEE in this regard.
SECTION 12.03  LEASE SUBORDINATE TO AGREEMENT WITH U.S.A.

This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between COUNTY and the United States or any lawful requirement of the United States relative to the development, operation or maintenance of the Airport. In the event the FAA, or its successors, request modifications or changes to this Lease which may or may not be condition precedent to obtaining funds for the improvement of the Airport, LESSEE hereby consents to any and all such modifications and changes as may be requested and without further consideration, and LESSEE agrees to immediately execute an amendment to this lease to reflect the requested modifications or changes.

SECTION 12.04  USE TO CONFORM WITH FEDERAL AVIATION REGULATIONS

LESSEE agrees that LESSEE's use of the Leased Premises, including all construction thereon, shall conform to applicable Federal Aviation Regulations.

LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or such other regulation replacing Part 77 as may be adopted by Federal authority) prior to the construction of the improvements described herein and prior to the construction of any future structure or building upon the Leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

SECTION 12.05  NONEXCLUSIVE RIGHT

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to conduct aeronautical activities or provide aeronautical services to the public as prohibited by 49 U.S.C. § 40103(e) and 47107(a)(4), as amended from time to time, and the COUNTY reserves the right to grant others the privilege and right of conducting any or all activities of an aeronautical nature.

SECTION 12.06  RESERVATION OF AVIGATION EASEMENT

COUNTY hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the air space above the surface of the Leased Premises, together with the right to cause in said air space such noise, vibration, fumes, and soot as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport.

SECTION 12.07  HEIGHT LIMITATION OF STRUCTURES

LESSEE by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land Leased hereunder (if any) which would penetrate the imaginary surfaces as defined in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or as such
regulation replacing Part 77 may be adopted by Federal authority) or such other lesser altitude as may be required by COUNTY. In the event the aforesaid covenants are breached, COUNTY reserves the right to enter upon the land Leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of LESSEE. LESSEE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

LESSEE acknowledges that it accepts the Leased Premises in “as is” condition and by entering into this Lease accepts liability, and agrees to indemnify COUNTY pursuant to Section 11.02 for all existing conditions whether known or unknown on the Commencement Date.

SECTION 12.08 NONINTERFERENCE WITH AIRCRAFT

LESSEE by accepting this Lease agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, COUNTY reserves the right to enter upon the Leased premises and hereby cause the abatement of such interference at the expense of LESSEE.

SECTION 12.09 WAR OR NATIONAL EMERGENCY

This Lease 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 Airport or the exclusive or nonexclusive use of Airport by the United States during the time of war or national emergency.

SECTION 12.10 DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

It is the policy of the Department of Transportation that disadvantaged business enterprises (DBE) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Lease. To the extent applicable to LESSEE’s operations at the Airport, LESSEE agrees to comply with all DBE requirements.

SECTION 12.11 RESERVATION OF RIGHT OF ENTRY AND EASEMENT FOR NAVIGATIONAL AIDS

COUNTY reserves the right to enter the Leased Premises for the installation and maintenance of Airport navigational aids. Said navigational aids may be installed on land or improvements within the Leased Premises. Said installation and any required maintenance shall be coordinated with LESSEE so as to cause the least interference with LESSEE’s use of the Leased Premises. All installation and maintenance costs will be paid by COUNTY.

COUNTY also reserves the right to grant easements to provide utilities to serve the navigational aids. All utility costs for the operation of navigational aids shall be the responsibility of COUNTY.
SECTION 12.12 ACCESS TO LEASED PREMISES

The COUNTY has exclusive access and control over the perimeter gates to the airfield. LESSEE shall not unlock, tamper or open any Airport perimeter gate on the Leased Premises unless specifically authorized by the COUNTY in writing. In order to meet reasonable requirements for Airport operation and traffic safety and control, COUNTY, at COUNTY’s sole discretion, shall determine and may from time to time change the location of ingress and egress connecting the Leased Premises to public road right-of-way or Airport on-site roads and taxiways. Access locations to the Leased Premises from public road right-of-ways shall be limited to a single location unless an additional access point is approved by COUNTY. Should it be necessary for COUNTY to change the location of said access point LESSEE shall be given sixty (60) days prior written notice.

SECTION 12.13 AIRPORT MAINTENANCE AND CONSTRUCTION BY COUNTY

COUNTY may, from time to time, need to perform construction, maintenance, repairs or installations on, near or under the Leased Premises. Such work may include, but is not limited to, construction and maintenance of Airport aprons, taxiways and access roads; repair or installation of utilities; and improvement or repair of Airport drainage. Should such work by COUNTY adversely affect LESSEE’s operations within or from the Leased Premises, LESSEE shall only be entitled to a reduction in rent payable to COUNTY during the period of interference which shall be reduced in proportion to the interference with LESSEE's use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation, payment or damages.

SECTION 12.14 AMERICANS WITH DISABILITIES ACT

LESSEE shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 (“ADA”) in connection with: (a) the Leased Premises or any portion thereof and its operations thereon, LESSEE’s furnishings, trade fixtures and equipment; (b) removing physical barriers; (c) providing auxiliary aids and services for use of the LESSEE’s furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. LESSEE shall develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of disability complaints. LESSEE shall deliver to the COUNTY, upon the COUNTY’s request, a copy of each report and work plan. The COUNTY’s approval of or acceptance of any aspect of the LESSEE’s activities under this Lease shall not be deemed or construed in any way as a representation that such item, activity of practice complies with the ADA. LESSEE agrees to indemnify, defend, and hold the COUNTY harmless from and against any and all costs incurred by the COUNTY with respect to the LESSEE’s failure to comply with the ADA.
ARTICLE XIII - MISCELLANEOUS PROVISIONS

SECTION 13.01 TIME

Time is of the essence in this Lease.

SECTION 13.02 LEASE ORGANIZATION

The various headings and numbers herein, the grouping of provisions of this Lease into separate sections and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.

SECTION 13.03 AMENDMENTS

This Lease sets forth all of the agreements and understandings of the parties with regard to its subject matter and any modification must be written and properly executed by both parties.

SECTION 13.04 SIGNS

LESSEE agrees not to construct, maintain or allow any sign upon the Leased Premises except as approved by Airport Director. Unapproved signs, banners, flags, etc., may be removed by Airport Director without prior notice to LESSEE.

SECTION 13.05 PERMITS AND LICENSES

LESSEE shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with the operation of the Leased Premises as set forth herein. No permit approval or consent given hereunder by COUNTY in its governmental capacity shall affect or limit LESSEE's obligations hereunder, nor shall any approvals or consents given by COUNTY as a party to this Lease, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

LESSEE’s obligation under this section includes the responsibility to pay any and all fees associated with permitting, including any development fees due to the Transportation Corridor Agency which may be assessed at the time of permitting.

SECTION 13.06 TAXES AND ASSESSMENTS

This Lease may create a possessory interest which is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to possessory interest tax, personal property taxes, and taxes and fees associated with permitting, including without limitation any development fees due to the Transportation Corridor Agency) which become due and payable upon the Leased Premises or upon fixtures, equipment, or other
property installed or constructed thereon, shall be the full responsibility of LESSEE, and LESSEE shall cause said taxes and assessments to be paid promptly.

SECTION 13.07  CIRCUMSTANCES WHICH EXCUSE PERFORMANCE

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Section shall excuse LESSEE from the prompt payment of any rental or other charge required of LESSEE except as may be expressly provided elsewhere in this Lease.

SECTION 13.08  PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 13.09  WAIVER OF RIGHTS

The failure of COUNTY or LESSEE to insist upon strict performance of any of the terms, covenants or conditions of this Lease shall not be deemed a waiver of any right or remedy that COUNTY or LESSEE may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants and conditions of the Lease thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of this Lease. Any waiver, in order to be effective, must be signed by the party whose right or remedy is being waived.

SECTION 13.10  RESERVATIONS TO COUNTY

The Leased Premises are accepted “as is” by LESSEE subject to any and all existing easements and encumbrances. COUNTY reserves the right to install, lay, construct, maintain, repair and operate sanitary sewers, drains, storm water sewers, pipelines, manholes and connections; water, oil and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under and along the Leased Premises or any part thereof; and to enter the Leased Premises for any and all such purposes. COUNTY also reserves the right to grant franchises, easements, rights of way and permits in, over, upon, through, across, under and along any and all portions of the Leased Premises. No right reserved by COUNTY in this Section shall be so exercised as to interfere unreasonably with LESSEE’s operations hereunder or to impair the security of any secured creditor of LESSEE.

COUNTY agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original
condition upon the completion of any construction. COUNTY further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Leased Premises by LESSEE, LESSEE shall only be entitled to a reduction in the rent payable to COUNTY during the period of interference, which shall be reduced in proportion to the interference with LESSEE’s use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation.

SECTION 13.11 AUTHORITY OF LESSEE

If LESSEE is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with the by-laws of said corporation, and that this Lease is binding upon said corporation.

LESSEE has had access to legal advice from an attorney with respect to the advisability of entering into this Lease. COUNTY has made no statement or representation to LESSEE regarding any fact relied upon in entering into this Lease; and LESSEE did not rely upon any statement, representation, or promise of COUNTY in executing this Lease. LESSEE has made its own independent investigation of all facts pertaining to this Lease and the Lease Premises, and of all the matters pertaining thereto, as LESSEE deemed necessary. LESSEE expressly acknowledges it has read and understood the terms and conditions set forth in this Lease and has authority to execute this Lease.

SECTION 13.12 COUNTY REPRESENTATIVE

The Board of Supervisors hereby designates the Airport Director to be its designated representative for purposes of contact between the COUNTY and LESSEE in connection with this Lease, including, without limitation, the giving of consents and approvals in a timely manner and in accordance with the terms hereof. The Board of Supervisors may at any time, by notice given to LESSEE, remove the Director as the COUNTY’s representative and appoint another individual to act as the County’s representative.

SECTION 13.13 PUBLIC RECORDS

LESSEE understands that written information submitted to and/or obtained by COUNTY from LESSEE related to this Lease and/or the Leased Premises, either pursuant to this Lease or otherwise, may be open to inspection by the public as required by the California Public Records Act (Government Code § 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof.

SECTION 13.14 NATIONAL SECURITY

LESSEE agrees to follow all laws, rules, regulations, and/or executive orders of the United States promulgated to protect national security, including, without limitation, the following: (1) the Trading with the Enemy Act of 1917, 50 U.S.C. App. § 1, et seq., as amended; (2) the International Emergency Economic Powers Act of 1976, 50 U.S.C. § 1701, et seq., as amended; (3) the Anti-
Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405W, as amended; (4) Executive Order No. 13224 on Terrorist Financing (effective, September 24, 2001, as may be amended or supplemented); (5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56, as amended); and (6) the regulations of the United States Department of the Treasury Office of Foreign Assets Control (including the prohibitions against doing business with persons or entities named on the list of “Specially Designated Nationals and Blocked Persons,” as modified from time to time).

SECTION 13.15 RELATIONSHIP OF PARTIES

The relationship of the parties hereto is that of COUNTY and LESSEE, and it is expressly understood and agreed that COUNTY does not in any way or for any purpose become a partner of LESSEE in the conduct of LESSEE's business or otherwise, or a joint venturer with LESSEE; and the provisions of this Lease and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method by which rental payments are to be measured and ascertained. This Lease is intended for the sole benefit of the parties hereto and their successors, and, unless otherwise provided herein, or by law, no rights are created, or are intended to be created, for the benefit of, or enforceable by, any third parties.

SECTION 13.16 ATTORNEYS’ FEES

In any action or proceeding to enforce or interpret any provision of this Lease, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorneys’ fees, costs and expenses.

SECTION 13.17 PORT OF ENTRY DESIGNATION

LESSEE acknowledges the Airport’s desire to be granted USCBP Port of Entry status by the federal government, and will support Airport in any efforts to that end. LESSEE shall refrain from undertaking any action to diminish the likelihood of the Airport receiving a Port of Entry designation.

SECTION 13.18 TRAINING AND CUSTOMER SERVICE PLANS

LESSEE will implement a customer service plan and training plan as provided for in Training and Customer Service Plan, Exhibit I, attached hereto, which plans may be amended, updated, or superseded from time to time, with the concurrence of the Airport Director.

SECTION 13.19 LESSEE’S SERVICE OF ALCOHOL

LESSEE shall comply with all applicable federal, State, and local laws and regulations for the service of alcohol. LESSEE agrees to adhere to the guidelines of 14 CFR Part 91.17 in serving alcohol to aircraft crewmembers. LESSEE shall maintain appropriate insurance coverage for the
service of alcohol.

SECTION 13.20 NOTICES

All notices pursuant to this Lease shall be addressed to either party as set forth below and shall be sent through the United States Mail, in the State of California, duly registered or certified, return receipt requested with postage prepaid or by an overnight carrier service. If any notice is sent by an overnight carrier service, the same shall be deemed to have been served or delivered twenty-four (24) hours after mailing. Notwithstanding the above, COUNTY may also provide notices to LESSEE by personal delivery or by regular mail postage prepaid and any such notice so given shall be deemed to have been given upon the date of personal delivery or three (3) days after the date of deposit in the United States Mail, respectively.

TO: COUNTY

John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA  92626

TO: LESSEE

William R. Borgsmiller
President and Chief Executive Officer
ACI Jet
945 Airport Drive
San Luis Obispo, California  93401

With a copy (which shall not constitute notice) to:

Stephen R. Hofer
Aerlex Law Group
11900 West Olympic Boulevard
Suite 450
Los Angeles, California  90064-1171

Either party hereto may from time to time, by written notice to the other in the method described above, designate a different address which shall be substituted for the one above specified.

[Signature Page Follows.]
JOHN WAYNE AIRPORT
FBO LEASE

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

LESSEE, Aviation Consultants, Inc., doing business as ACI Jet

By: [Signature]

By: [Signature]

APPROVED AS TO FORM:
County Counsel
By: [Signature]

APPROVED AS TO AUDIT AND ACCOUNTING:
Auditor-Controller
By: [Signature]

RECOMMENDED FOR APPROVAL:
John Wayne Airport
By: [Signature]

Barry A. Rondinella
Airport Director

Signed and certified that a copy of this
document has been delivered to the Chair
of the Board per G.C. Sec. 25103, Reso 79-1535
Attest:

COUNTY
COUNTY OF ORANGE

Robin Stieler
Clerk of the Board of Supervisors
County of Orange

Chairwoman, Board of Supervisors

PM 1121-0223-0031
Northeast FBO Lease
EXHIBIT A

Leased Premises Description
LEGAL DESCRIPTION

JOHN WAYNE AIRPORT
FBO LEASE NE-01
(SHEET 1 OF 2)

PARCEL NE-01:

THAT PORTION OF LOT 140, IN BLOCK 6 OF IRVINE SUBDIVISION, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAPRecordedinBook1, Page 88 of MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 140, SAID CORNER BEING AT THE INTERSECTION OF THE CENTERLINES OF CAMPUS DRIVE AND DOVE STREET AS SHOWN ON RECORD OF SURVEY NO. 87-1008, FILED IN BOOK 117, PAGES 5 THROUGH 9, INCLUSIVE, OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID CENTERLINE OF CAMPUS DRIVE, N40°39'20"E 69.93 FEET; THENCE LEAVING SAID CENTERLINE, N49°20'40"W 72.00 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND DISTANT 72.00 FEET NORTHWESTERLY FROM SAID CENTERLINE OF CAMPUS DRIVE; THENCE ALONG SAID PARALLEL LINE, N40°39'20"E 822.87 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID PARALLEL LINE, N49°20'40"W 388.77 FEET; THENCE N41°39'16"E 908.78 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1695.99 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°24'08"; AN ARC LENGTH OF 278.31 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 232.98 FEET, A RADIAL LINE TO SAID POINT BEARS N57°54'44"E; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08°57'45", AN ARC LENGTH OF 36.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 220.83 FEET, A RADIAL LINE TO SAID POINT BEARS S48°56'47"E; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°43'26", AN ARC LENGTH OF 45.19 FEET; THENCE N29°19'48"E 11.10 FEET; THENCE S61°12'12"E 324.28 FEET; THENCE S17°01'43"W 92.14 FEET; THENCE S44°13'54"W 8.21 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 189.01 FEET, A RADIAL LINE TO SAID POINT BEARS N12°59'14"W; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 112°59'02", AN ARC LENGTH OF 372.71 FEET; THENCE S16°29'44"W 30.12 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1524.89 FEET, A RADIAL LINE TO SAID POINT BEARS N31°20'32"W; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 06°46'19", AN ARC LENGTH OF 180.23 FEET; THENCE N49°20'39"W 9.55 FEET; THENCE S40°39'20"W 11.00 FEET; THENCE S38°36'24"E 7.28 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1524.89 FEET, A RADIAL LINE TO SAID POINT BEARS N38°35'13"W; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°45'27", AN ARC LENGTH OF 286.30 FEET TO SAID LINE THAT IS PARALLEL WITH AND DISTANT 72.00 FEET NORTHWESTERLY FROM SAID CENTERLINE OF CAMPUS DRIVE; THENCE ALONG SAID PARALLEL LINE, S40°39'20"W 457.52 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 494,568 SQUARE FEET, MORE OR LESS.
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NE-01
(SHEET 2 OF 2)

NOTE:
THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

STEFANIE A. WAGNER, F.L.S. 5752
September 09, 2020
DATE:
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NE-02

PARCEL NE-02:

THAT PORTION OF LOT 140, IN BLOCK 6 OF IRVINE SUBDIVISION, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAPRecorded IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 140, SAID CORNER BEING AT THE INTERSECTION OF THE CENTERLINES OF CAMPUS DRIVE AND DOVE STREET AS SHOWN ON RECORD OF SURVEY NO. 87-1008, FILED IN BOOK 117, PAGES 5 THROUGH 9, INCLUSIVE OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID CENTERLINE OF CAMPUS DRIVE, N40°39'20"E 69.93 FEET; THENCE LEAVING SAID CENTERLINE, N49°20'40"W 72.00 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND DISTANT 72.00 FEET NORTHWESTERLY FROM SAID CENTERLINE OF CAMPUS DRIVE, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID PARALLEL LINE, N40°39'20"E 822.87 FEET; THENCE LEAVING SAID PARALLEL LINE, N49°20'40"W 388.77 FEET; THENCE S41°39'16"W 133.64 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 2586.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°49'15"E, AN ARC LENGTH OF 262.72 FEET; THENCE S35°50'01"W 461.59 FEET; THENCE S49°09'48"E 189.64 FEET; THENCE N40°39'30"E 18.11 FEET; THENCE S49°09'48"E 20.67 FEET; THENCE S40°39'30"W 17.73 FEET; THENCE S49°09'48"E 35.12 FEET; THENCE N40°50'12"E 46.36 FEET; THENCE S49°09'48"E 59.96 FEET; THENCE S40°35'12"W 46.36 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 24.50 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°01'03"E, AN ARC LENGTH OF 38.49 FEET; THENCE N40°25'03"E 9.24 FEET; THENCE S49°24'26"E 13.69 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 317,510 SQUARE FEET, MORE OR LESS.

NOTE:
THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

[Signature]
STEPHANIE A. WAGNER, P.L.S. 5752

September 09, 2020
DATE:
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NE-03
(SHEET 1 OF 2)

PARCEL NE-03:

THAT PORTION OF LOT 143, IN BLOCK 6 OF IRVINE SUBDIVISION, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EASTERLY CORNER OF SAID LOT 143, SAID CORNER BEING AT THE INTERSECTION OF THE CENTERLINES OF CAMPUS DRIVE AND DOVE STREET AS SHOWN ON RECORD OF SURVEY NO. 87-1008, FILED IN BOOK 117, PAGES 5 THROUGH 9, INCLUSIVE OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID CENTERLINE OF CAMPUS DRIVE, S40°39'20"W 66.88 FEET; THENCE LEAVING SAID CENTERLINE, N49°20'40"W 72.00 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND DISTANT 72.00 FEET NORTHWESTERLY FROM SAID CENTERLINE OF CAMPUS DRIVE, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG SAID PARALLEL LINE, S40°39'20"W 1460.30 FEET; THENCE LEAVING SAID PARALLEL LINE, N49°20'40"W 11.60 FEET; THENCE S40°25'03"W 9.24 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 24.50 FEET, A RADIAL LINE TO SAID POINT BEARS S49°21'33"E; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°01'03", AN ARC LENGTH OF 38.49 FEET; THENCE N40°39'30"E 46.54 FEET; THENCE N49°20'30"W 59.96 FEET; THENCE S40°39'30"W 46.36 FEET; THENCE N49°09'48"W 35.12 FEET; THENCE N40°39'30"E 17.73 FEET; THENCE N49°09'48"W 20.67 FEET; THENCE S40°39'30"W 18.11 FEET; THENCE N49°09'48"W 186.82 FEET; THENCE N28°48'42"E 601.28 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 171.00 FEET, A RADIAL LINE TO SAID POINT BEARS N13°27'53"W; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°05'58", AN ARC LENGTH OF 33.13 FEET; THENCE N87°38'05"E 68.24 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 302.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°48'04", AN ARC LENGTH OF 273.04 FEET; THENCE N35°50'01"E 623.70 FEET; THENCE S49°09'48"E 193.89 FEET; THENCE S40°39'30"W 11.26 FEET; THENCE S49°20'30"W 20.67 FEET; THENCE N40°39'30"E 11.60 FEET; THENCE S49°09'48"E 95.38 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 24.50 FEET, A RADIAL LINE TO SAID POINT BEARS N40°39'30"E; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°01'03", AN ARC LENGTH OF 38.49 FEET; THENCE S40°40'33"W 8.85 FEET; THENCE S48°55'13"E 13.36 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS: 540,483 SQUARE FEET, MORE OR LESS.
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NE-03
(SHEET 2 OF 2)

NOTE:
THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

Stephanie A. Wagner, P.L.S. 5752

September 09, 2020
DATE:
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE FL-02

PARCEL FL-02:

THAT PORTION OF LOT 143, BLOCK 6 OF IRVINE SUBDIVISION, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 143, SAID CORNER BEING ALSO THE INTERSECTION OF THE CENTERLINES OF CAMPUS DRIVE AND BRISTOL STREET AS SHOWN ON RECORD OF SURVEY NO. 87-1008 FILED IN BOOK 117, PAGES 5 THROUGH 9, INCLUSIVE OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID CENTERLINE OF CAMPUS DRIVE, N40°39'20"E 520.00 FEET; THENCE LEAVING SAID CENTERLINE OF CAMPUS DRIVE, N49°20'40"W 165.67 FEET; THENCE N28°47'53"E 249.51 FEET; THENCE S61°12'07"E 15.00 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND DISTANT 15.00 FEET SOUTHEASTERLY FROM SAID LINE DESCRIBED ABOVE AS HAVING A BEARING AND DISTANCE OF “N28°47’53”E 249.51 FEET”, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING S61°12’07”E 75.00 FEET; THENCE N28°47’53”E 100.00 FEET; THENCE N61°12’07”W 75.00 FEET TO SAID PARALLEL LINE; THENCE ALONG SAID PARALLEL LINE, S28°47’53”W 100.00 FEET TO THE TRUE POINT OF BEGINNING

CONTAINS: 7,500 SQUARE FEET, MORE OR LESS.

NOTE:
THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

STEPHANIE A. WAGNER, P.L.S. 5752

September 09, 2020
DATE:
EXHIBIT B

Map of Leased Premises
LINE TABLE

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<td>69.93'</td>
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<tr>
<td>L2</td>
<td>N49°20'40&quot;W</td>
<td>72.00'</td>
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<tr>
<td>L3</td>
<td>N40°39'20&quot;E</td>
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<td>N29°19'48&quot;E</td>
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<td>S4°13'54&quot;W</td>
<td>8.21'</td>
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<td>N49°20'39&quot;W</td>
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<td>L9</td>
<td>S40°39'20&quot;W</td>
<td>11.00'</td>
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<td>L10</td>
<td>S38°36'24&quot;E</td>
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CURVE TABLE

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<td>45.19'</td>
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<td>C4</td>
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<td>1524.89'</td>
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<td>C5</td>
<td>286.30'</td>
<td>1524.89'</td>
<td>10°45'27&quot;</td>
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ABBREVIATIONS:
POC .... POINT OF COMMENCEMENT
TPOB .... TRUE POINT OF BEGINNING
<table>
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<td>S49°24'26&quot;E</td>
<td>13.69'</td>
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**CURVE TABLE**

<table>
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<th>CURVE</th>
<th>LENGTH</th>
<th>RADIUS</th>
<th>DELTA</th>
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</thead>
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<td>24.50'</td>
<td>90°01'03&quot;</td>
</tr>
<tr>
<td>C2</td>
<td>262.72'</td>
<td>2586.00'</td>
<td>5°49'15&quot;</td>
</tr>
</tbody>
</table>

**ABBREVIATIONS:**

POC……POINT OF COMMENCEMENT
TPOB……TRUE POINT OF BEGINNING

**STATE OF CALIFORNIA**

**LICENSED LAND SURVEYOR**

Stephanie A. Wagner
No. 5752

0 75' 150' 300'

1" = 150'
EXHIBIT C

Proposed Project Map Depicting Mixed Use and Small GA Areas
EXHIBIT C

LEGEND

- MIXED USE
- SMALL GA
- AIRPORT PROPERTY LINE

NOTE: ACREAGE IS APPROXIMATE. FINAL ACREAGE TO BE DETERMINED BY A PROFESSIONAL LAND SURVEYOR.
EXHIBIT D
LISTING OF EXISTING ENVIRONMENTAL CONDITIONS AND HISTORICAL ASSESSMENTS

Parcel 1 Northeast Full Service FBO


m. Orange County Health Care Agency Notification to JWA “Completion of Corrective Action for Fire Station 27”, dated April 1995.


Parcels FA (Northeast Full Service FBO)


EXHIBIT E

REQUIREMENTS FOR DIGITAL RECORD FILES

Development plans shall be submitted in accordance with the following standards:

1. PDF Requirements
   • Full scale complete set (All sheets and disciplines combined)
   • Pages labeled and bookmarked according to sheet name

2. CADD Requirements
   • Files must be submitted in the latest editions of AutoCAD or Civil 3D
   • Files must meet the latest edition of the JWA CADD Standards

3. GIS Requirements
   • Files must be submitted in the latest edition of ArcGIS Pro
   • Files must meet the latest edition of the JWA GIS Standards

4. BIM Requirements
   • Files must be submitted in the latest edition of Autodesk Revit
   • Files must meet the latest edition of the JWA BIM Standards
EXHIBIT F

Conceptual Plans
TOTAL = 319,555 SF

John Wayne Airport = 287,480 SF

TOTAL OCCUPANCY = 99,790 sf

Small GA Hangars = 187,690 sf

S-1 Moderate-Hazard Storage = 32,075 SF

TOTAL B OCCUPANCY = 8,580 sf

Flight School

AREA CALCULATIONS - BY OCCUPANCY

<table>
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<tr>
<th>Occupancy</th>
<th>Area (sq ft)</th>
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<td>Flight School</td>
<td>70,500</td>
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<td>S-1 Moderate-Hazard Storage</td>
<td>57,300</td>
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<tr>
<td>Total B Occupancy</td>
<td>38,100</td>
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PROJECT DIRECTORY

General Contractor

Full Service FBO

Northeast

Full Service FBO

Concept Design for John Wayne Airport
Santa Ana, CA
Attachment A

ZONING CODE COMPLIANCE

SECTION 412 AIRCRAFT-RELATED OCCUPANCIES

CHAPTER 7 FIRE RESISTANCE RATED CONSTRUCTION

OCCUPANCY B:
Exit Enclosures: Class B-Flame Spread Index 26-75, Smoke Developed Index 0-450
Corridors: Class C-Flame Spread Index 76-200, Smoke Developed Index 0-450
Rooms: Class C-Flame Spread Index 76-200, Smoke Developed Index 0-450

Provide per NFPA 409 and per Table 412.4.6
412.4.6.2 Maximum single fire areas shall be established in accordance with
hangar classification and construction type in Table 412.4.6 shall be separated
by 2 hour fire walls constructed in accordance with Section 706.
In determining the the maximum single fire area, ancillary uses which are
separated from aircraft servicing areas by a fire barrier of not less than one
hour, constructed in accordance with Section 707 shall not be included in the
area.

SECTION 705.3 Buildings on the same lot. For the purposes of determining the
required wall and opening protection, buildings on the same lot shall be assumed to
have an imaginary line between them.
705.5 Structural Stability. The wall shall have sufficient structural stability such that it
will remain in place for the duration of time indicated by the required fire resistance
rating. Where exterior walls have a minimum fire separation distance less than 30
feet, interior structural elements which brace the exterior wall but which are not
located within the plane of the exterior wall shall have the minimum fire resistance
rating required in in Table 601 for that structural element (IIB : all elements to be
non-rated per table 601 - The brace(s) for the exterior wall are proposed in the
structural plane inside of the exterior wall).
TABLE 705.8 MAXIMUM AREA OF EXTERIOR WALL OPENINGS
10' to 15' = Unprotected / Sprinklered = 45% Allowable Area.
30' or Greater = Allowable Area - No Limit.
705.8.3 Unprotected Openings. Where unprotected openings are permitted, windows
and doors shall be constructed of any approved materials. Glazing shall conform to
the requirements of Chapters 24 (Glass and Glazing) and 26 (Plastic).

TABLE 412.4.6 HANGAR FIRE SUPPRESSION REQUIREMENTS
NFPA Group I - Hangar
Construction Type IIB per Table 601
Maximum single fire area > 40,000 SQ FT
Hangar door > 28 FT

705.11 Parapets. Parapets shall be provided on exterior walls of buildings.
Exceptions: A parapet need not be provided on an exterior wall where any of the
following conditions exist:
1. The wall is not required to be fire-resistance rated in accordance with
Table 602 because of fire separation distance.
6. Where the wall is permitted to have at least 25% of the exterior wall
areas containing unprotected openings based on fire separation distance
as determined in accordance with Section 705.8.

NFPA Group II - Hangar
Construction Type IIB per Table 601
Maximum single fire area = 40,000 SQ FT
Hangar door < or = 28 FT
NFPA Group III - Hangar
Construction Type IIB per Table 601
Maximum single fire area = 12,000 SQ FT
Hangar door < or = 28 FT

SECTION 707 FIRE BARRIERS
707.3 Fire Resistance Rating. The fire resistance rating of fire barriers shall comply
with this section.
707.3.1 Shaft Enclosures. Per Section 713.4.
707.3.2 Interior Exit Stairway Enclosures. Per Section 1022.1.

CHAPTER 5 GENERAL BUILDING HEIGHTS AND AREAS
SECTION 503 GENERAL BUILDING HEIGHT AND AREA LIMITATIONS
503.1 General.
TABLE 503 ALLOWABLE BUILDING HEIGHTS AND AREAS
GROUP B
Type IIB
3 Story
23,000 SQ FT / Floor
GROUP S-1
Type IIB
2 Story
17,500 SQ FT / Floor

SECTION 705 EXTERIOR WALLS

707.5 Continuity. Fire barriers shall extend from the top of the foundation or floor
below to the underside of the floor or roof sheathing, slab or deck above and shall be
securely attached thereto.
55' Hgt
55' Hgt

707.5.1 Supporting construction. The supporting construction of a fire barrier shall be
protected to afford the required fire resistance rating of the fire barrier supported.

SECTION 504 BUILDING HEIGHT

used for the manufacturing of aircraft shall not be limited if the building is provided

SECTION 506 BUILDING AREA MODIFICATIONS
506.1 General.
Equation 5-1:
Allowable Area per Story:
Aa = {At + [At x If] + [At x Is]}
Aa = Allowable Area per story
At = Area / story per Table 503 17,500 SQ FT
If = Area increase due to frontage
(see 506.2) 75%
Is = Area increase due to sprinkler protection
(see 506.3) 200%
506.2 Frontage Increase.
Equation 5-2:
If = [F/P - 0.25] W/20
If = Area Increase
F = Building Perimeter that fronts on public way or Open Space
P = Perimeter of entire building
W = Width of Public Way > 20'
(see 506.2.1 Width Limits)
506.3 Automatic Sprinkler System Increase. Where equipped with sprinkler system,
more than one story; 200%.
SECTION 508 MIXED USE AND OCCUPANCY
508.4 Separated occupancies.
TABLE 508.4 REQUIRED SEPARATION OF OCCUPANCIES.
Occupancy B and S-1 = None Required.
CHAPTER 6 TYPES OF CONSTRUCTION
TABLE 601 FIRE-RESISTANCE
Type-IIB
Structural Frame
Bearing Walls (exterior)
Bearing Walls (interior)
Non-bearing Walls (exterior)
Non-bearing Walls (interior)
Floor Construction
Roof Construction

RATING REQUIREMENTS FOR BUILDING ELEMENTS
0
0
0
0
0
0
0

hours
hours
hours
hours
hours
hours
hours

903.3 Installation requirements.
903.3.1 Standards.
903.3.1.1 NFPA 13 sprinkler systems. Sprinklers shall be installed per NFPA 13
except as provided in this section.
SECTION 906 PORTABLE FIRE EXTINGUISHERS
906.1 Where required. Shall be installed in the following locations.
1. In new and existing Group B and S Occupancies.
2. Within 30' of commercial kitchen equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor under construction.
5. Where required by the IFC, Table 906.1
6. Special hazard areas, including aircraft fuel dispensing stations (per IFC 2005.6),
generator rooms / and / or where required by the Fire Marshal.
SECTION 907 FIRE ALARM AND DETECTION SYSTEMS
Provide and install per NFPA 72.
907.2 Where required - new buildings and structures.
907.2.2 Group B: A manual fire alarm system shall be installed in group B
occupancies where one of the following conditions exist:
2. The combined occupant load is more than 100 persons above or below the
lowest level of discharge. (Therefore a manual fire alarm system is NOT required
for this project.)
SECTION 910 SMOKE AND HEAT VENTS
910.2 Where required.
910.2.1 Group F-1 or S-1. Buildings having more than 50,000 sf. (therefore not
reqd).

1013.7 Roof Access. Guards shall be provided where the roof hatch opening is located
within 10 feet of a roof edge or open side of a walking surface and such edge is
located 30 inches above the floor, roof or grade below. The guard shall be constructed
so as to prevent the passage of a sphere 21 inches in diameter.
SECTION 1014 EXIT ACCESS
1014.2 Egress through intervening spaces.
1. Egress through an intervening room or space shall not pass through adjoining
rooms or areas, except where such adjoining rooms or areas are accessory to the
area served, are not high hazard occupancy and provide a discernible path of egress
travel to an exit.
TABLE 1014.3 Common Path of Egress Travel. The common path of egress travel
shall not exceed 75'.
Exceptions:
1. Group B and S shall not be more than 100' provided that the building is
equipped throughout with a sprinkler system.
SECTION 1015 EXIT AND EXIT ACCESS DOORWAYS
1015.1 Exits or exit access doorways from spaces. Two exits or exit access doorways
shall be provided where one of the following conditions exists:
1. The occupant load of the space exceeds one of the values in Table 1015.1
2. The common path of egress travel exceeds one of the limitations of Section 1014.3
TABLE 1015.1 SPACES WITH ONE EXIT OR EXIT ACCESS DOORWAY
Occupancy
Maximum Occupant Load
A, B & E
49
S
29
SECTION 1016 EXIT ACCESS TRAVEL DISTANCE
1016.1 Travel distance limitations. Exits shall be so located such that the maximum
length of exit access travel, measured from the most remote point within a story along
the path of egress travel, shall not exceed the distances given in table 1016.1.
TABLE 1016.2 EXIT ACCESS TRAVEL DISTANCE
Occupancy
With Sprinkler System
A, E & S-1
250'
B
300'
SECTION 1018 CORRIDORS

712.1.12 Unenclosed stairs and ramps. Vertical floor openings created by unenclosed
stairs in accordance with Sections 1009.2 and 1009.3 shall be permitted.

713.2 Construction. Shaft enclosures shall be constructed as fire barriers in
accordance with Section 707.
713.4 Fire Resistance Rating. Shaft enclosures shall have a fire resistance rating of
not less than 2 hours where connecting four or more stories, and not less than 1 hour
where connection less than four stories. The number of stories connected by the shaft
shall not include mezzanines.
713.14 Elevator, dumbwaiter and other hoistways. Elevator enclosures shall be
constructed in accordance with Section 713 and Chapter 30.

716.2 Fire-resistance-rated glazing. Fire resistance rated glazing tested in accordance
with ASTM E 119 or UL 263 and labeled in accordance with Section 703.5 shall be
permitted in fire doors and fire window assemblies where tested and installed in
accordance with their listings and shall not otherwise be required to comply with this
section.
716.5 Fire Door and Shutter Assemblies. Approved fire door and fire shutter
assemblies shall be constructed of any materials that conforms to the test
requirements of Sections 716.5.1, 716.5.2 or 716.5.3. Fire door assemblies shall be
installed in accordance with the provisions of this Section and NFPA 80.

CHAPTER 10 MEANS OF EGRESS

TABLE 1018.1 CORRIDOR FIRE RESISTANCE RATING

SECTION 1004 OCCUPANT LOAD
1004.1 Design occupant load.
1004.1.1 Areas without fixed seating.

Occupancy Occupant Load Served By Corridor

TABLE 1004.1.2 MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT
Accessory storage areas, mechanical equipment room
300 gross
Aircraft Hangars
500 gross
Assembly without fixed seats
Concentrated (chairs only-not fixed)
7 net
Standing Space
5 net
Un-concentrated (tables and chairs)
15 net
Business areas
100 gross
Educational
Classroom areas
20 net
Industrial areas
100 gross

1018.4 Dead ends. Where more than one exit is required they shall be arranged so
that there are no dead ends in corridors more than 20 feet in length.

SECTION 1005 EGRESS WIDTH
1005.1 Minimum required egress width.
Stairways
total occupant load x 0.3" per occupant
Other Egress Components
total occupant load x 0.2" per occupant
SECTION 1006 MEANS OF EGRESS ILLUMINATION
1006.1 Illumination required. The means of egress, including exit discharge, shall be
illuminated at all times the building space served by the means of egress is being
occupied.
1006.2 Illumination level. The means of egress illumination level shall not be less than
1 footcandle at the walking surface.

A, B, S

Greater than 30

Required Fire-Resistance rating
with sprinkler system (hours)
0

Exceptions:
2. In occupancies of B and S, where the building is equipped throughout with a
sprinkler system, the length of the dead-end corridors shall not exceed 50 feet.
SECTION 1020 EXITS
1020.1 General. Exits shall comply with Sections 1020 through 1026 and the
applicable requirements of Sections 1003 through 1013.
SECTION 1021 NUMBER OF EXITS AND CONTINUITY
1021.1 each story and occupied roof shall have the minimum number of exits as
specified in this section.
TABLE 1021.2 STORIES WITH ONE EXIT. two exits or exit access stairways from any
story shall be provided where one of the following exists.
2. the exit access travel distance exceeds that specified in Table 1021.2(1) or
1021.2(2) as determined in accordance with the provisions of Section 1016.1
Story
Second Story

Occupancy
B, S

Maximum Occupants per Story
29 Occupants

Max. Distance
75'

SECTION 1022 EXIT ENCLOSURE
1022.1 Enclosures required. Interior exit stairways shall be enclosed with fire barriers
per Section 706 – the rating shall be 1 hour where connecting less than four stories.
Exit enclosures shall lead directly to the exterior of the building or shall be extended to
the exterior of the building with an exit passageway conforming to the requirements of
Section 1023.

716.5.1 Side hinged or pivoted swinging doors. Fire doors shall be tested in
accordance with NFPA 252 or UL 10C.

SECTION 1007 ACCESSIBLE MEANS OF EGRESS
1007.1 Accessible Means of egress required. Accessible spaces shall be provided with
not less than one accessible means of egress. Provide 2 accessible means of egress
as required by 1015.1 and 1021.1.

716.5.2 Other types of Assemblies. Fire door assemblies w/ other types of doors
including fire shutter assemblies shall be tested in accord. w/ NFPA 252 or UL 10B.

1007.3 Stairways. Stairs shall be 48" wide between handrails and shall incorporate an
area of refuge.

1022.2 Construction. Enclosures for interior exit stairways shall be one hour fire rated
where connecting less than four stories. The number of stories connected by the
interior stairways shall not include any mezzanines .

716.5.3.1 Smoke and draft control. Fire door assemblies shall also meet the
requirements for smoke and draft control tested in accordance with UL 1784.

Exceptions:
Neither the 48" width nor the area of refuge is required in buildings equipped
throughout with an automatic sprinkler system.

CHAPTER 11

TABLE 716.5
OPENING FIRE PROTECTION ASSEMBLIES, RATINGS AND MARKINGS.
TYPE OF ASSEMBLY:
Other Fire Barriers
REQUIRED WALL ASSEMBLY RATING:
1 Hour.
MINIMUM FIRE DOOR AND SHUTTER RATING:
3/4 Hour
FIRE RATED GLAZING MARKING DOOR VISION PANEL:
D-H-NT-45
MINIMUM SIDELIGHT/TRANSOM ASSEMBLY RATING:
3/4 Hour
FIRE RATED GLAZING MARKING SIDELITE TRANSOM PANEL: D-H-NT-45
716.6 Fire-Protection-Rated-Glazing. Glazing in fire window assemblies shall be fire
protection rated in accordance with this section and Table 716.6 Fire protection rated
glazing in fire window assemblies shall be tested in accordance with and shall meet
the acceptance criteria of NFPA 257 or UL9
TABLE 716.6
FIRE WINDOW ASSEMBLY FIRE PROTECTION RATINGS
TYPE OF WALL ASSEMBLY:
Mixed occupancy separations (707.3.8)
REQUIRED WALL ASSEMBLY RATING:
1 Hour
MINIMUM FIRE WINDOW ASSEMBLY RATING:
3/4 Hour
FIRE-RATED-GLAZING MARKING:
OH-45 or W-60
SECTION 718 CONCEALED SPACES
718.1 General. Fireblocking and draftstopping shall be installed in combustible
concealed locations per this section.
SECTION 720 THERMAL AND SOUND INSULATING MATERIALS
720.2 Concealed installation.
Insulating materials, where concealed, shall have a flame spread index less than 25

SECTION 1009 STAIRWAYS
1009.3 Exit Access Stairways. Floor openings between stories created by an exit
access stairways shall be enclosed.
Exceptions:
1. In other than Group I-2 and I-3 occupancies, exit access stairways that
serve, or atmospherically communicate between only two stories are not
required to be enclosed.
1009.4 Stairway Width. The width of the stairway shall be determined as specified in
Section 1005.1, but shall not be less than 44".
Exceptions:
1. Stairways serving an occupant load of less than 50.
1009.5 Headroom. 80".
1009.7 Stair treads and risers. Riser = 7" max., 4" min. Treads = 11" min.
1009.4.4 Dimensional uniformity: < 3/8" variance.
1009.8 Stairway landings. Minimum length in the direction of travel should equal the
width but need not exceed 48".
1009.15 Handrails. Comply with Section 1012.
SECTION 1011 EXIT SIGNS
1011.1 Where required. Exits shall be marked by an approved exit sign. Exit sign
placement shall be such that no paint is more than 100' from the nearest visible exit
sign.
SECTION 1012 HANDRAILS
Provide handrails at all stairs, 1-1/2" diameter, Type 1, 36" above the finish floor, that
do not project into the required stair width more than 4-1/2", have a clear space of at
least 1-1/2" from the wall, extend horizontally 12" beyond the top riser and continue to
slope for the depth of one tread beyond the bottom riser.

ACCESSIBILITY

SECTION 1104 ACCESSIBLE ROUTE
1104.4 Multilevel Buildings and Facilities. At least one accessible route shall connect
each accessible level including mezzanines, in multilevel buildings and facilities.
Exceptions:
1. An Accessible route is not required to stories and mezzanines that have an
aggregate area of not more than 3,000 s.f. located above and below accessible levels.
2. Levels that do not contain accessible elements are not required to be served by an
accessible route.
SECTION 1106 PARKING AND PASSENGER LOADING FACILITIES
1106.1 Required.
SECTION 1109 OTHER FEATURES AND FACILITIES
1109.2
Toilet and bathing facilities.
1109.2.2 Water closet compartment.
1109.2.3 Lavatories.
1109.3 Sinks.
1109.4 Kitchens and kitchenettes.
1109.5 Drinking fountains.
1109.6 Elevators.
1109.8 Storage.
1109.11 Service facilities.
1109.11.1 Dressing, fitting and locker rooms.
1109.12 Controls, operating mechanism and hardware.
CHAPTER 24 GLASS AND GLAZING
All glazing to comply with Section 2403.
Safety glazing to comply with Section 2406.

Building setbacks - Sec. 7-9-55.8(d)
Per section 7-9-127 (below), 128 and 137
Sec. 7-9-128 'Exceptions' do not apply
Sec. 7-9-137 'Accessory uses and structures' is not applicable
Building setbacks -Sec. 7-9-127
Main buildings and structures, and attached accessory buildings may be constructed or placed on any portion of a
building site except within the following areas:
(e) Within the setback area designated by the Building Lines Chart, section 7-9-127.1 (A1 Agricultural)
Front = 20'; Side = 5'; Rear = 25'
Off-street parking requirements - Sec 7-9-145.4
Size of spaces - Sec 7-9-145.4 (a)
(1) All covered or uncovered off-street parking spaces, except as noted below, shall be a minimum clear unobstructed
nine (9) feet in width and eighteen (18) feet in length.
(2) Parking spaces parallel to a curb may be eight (8) feet in width and eighteen (18) feet in length, with a minimum of
eight (8) feet separating each pair of such parking spaces.
(3) When a side of any space abuts a building, fence, support column or other obstruction which interferes in any way
with access to a motor vehicle, the space shall be a minimum of two (2) feet wider than the standard required width.
Facility design - Sec 7-9-145.4 (b)
(1) Off-street parking facilities shall be designed so that a car within a facility will not have to enter a street to move from
one location to any other location within that parking facility. On industrial or office sites, separate noncontiguous parking
facilities may be provided with independent entrances for employee and visitor parking, provided the designated use is
clearly identified on all plot plans or site plans submitted for permits.
(2) Parking and maneuvering areas shall be arranged so that any vehicle can leave the parking area and enter into an
adjoining vehicular right-of-way traveling in a forward direction.
(3) No dead-end parking aisles serving more than five (5) consecutive stalls will be permitted unless said aisle is
provided with a turnaround area constructed in a manner meeting the approval of the Director, EMA.
(4) Bumpers or tire stops shall be provided along any abutment to a pedestrian walkway, access or driveway, street or
alley, except where screening is positioned, to ensure that the motor vehicle will not extend into these areas.
(5) The point of exit or entry from any off-street parking space shall not be closer than 20' from the curb face of the
ultimate curbline at a street opening.
(6) All paved parking stalls, except parallel spaces which may be single line, shall be clearly outlined with double or
hairpin lines or special paving techniques on the surface of the parking facility. (See diagram in section 7-9-145.5.)
Accessways - Sec 7-9-145.4 (c)
Parking accessways are those driveways that provide ingress or egress from a street to the parking aisles, and those
driveways providing interior circulation between parking aisles. No parking is permitted on an accessway.
(1) All parking facilities taking access from an arterial highway shall have a parking accessway between the highway and
the parking aisles.
(2) Parking accessways from arterial highways shall not have parking spaces taking direct access therefrom and shall not
be intersected by a parking aisle or another parking accessway for a minimum distance of 30' for projects with 0--200
parking spaces, 50' for 201--350 spaces, 70' for 351--450 spaces, and 90' for 451 spaces or more. All distances shall be
measured from the curb face of the ultimate curbline of the adjacent street.
(3) Parking accessways from nonarterial highways shall be not less than 20' in length from the ultimate curbline of the
adjacent street.
(4) One-way accessways shall have a minimum width of 15' feet unless it is a fire lane, which requires a minimum of 20'.
(5)Two-way accessways shall have a minimum width of 28'.

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Aisles - Sec 7-9-145.4 (d)
Parking aisles are driveways which provide direct access to parking spaces. Parking aisles shall have a minimum width
of 14' as provided in section 7-9-145.5. In no case shall the parking aisles for two-way traffic be less than 24' in width.

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712.1.10 Mezzanine. Vertical openings between a mezzanine complying with Section
505 and floor below shall be permitted.

SECTION 716 OPENING PROTECTIVES
Exception:
2. A mezzanine having two or more means of egress are not required to be open if at
least one of the means of egress provides direct access to an exit from the mezzanine
level.

Per NFPA 409 (2016): Chapter 7; Protection of Group II Aircraft Hangars
7.2 Closed-Head Water Sprinkler System for Aircarft Storage and Servicing Areas.
7.2.1 Sprinkler system shall be either wet pipe or pre-action designed in
accordance with NFPA 13 and the provisions of this chapter.
7.2.3 Sprinkler spacing shall be as specified in 6.2.2.3 (The largest aircraft to
stored in this hangar will have a wing area far less than the minimum 3,000 square
foot area requiring supplemental protection systems).
7.2.5 the design density of water sprinkler systems shall be a min. 0.17 gpm/sf.
over any 5,000 square foot area.
7.2.6 Sprinklers will be nominal K-5.6 or K-8.0 sprinklers.
7.2.7 Sprinklers shall have a temperature rating of 325 ° F to 375 ° F.
7.2.8 Sprinklers shall be flushed and tested per NFPA 13.

1013.6 Mechanical Equipment. Guards shall be provided where appliances,
equipment, fans, roof hatch openings or other components that require service are
located within 10 feet of a roof edge or open side of a walking surface and such edge
is located 30" above the floor, roof or grade below. The guard shall extend not less
than 30" beyond each end of such appliance, equipment, fan or component.

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505.4 Openness. A mezzanine shall be open and unobstructed to the room in which
such mezzanine is located.

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS
903.2 Where required.
903.2.9 Group S-1 (Defer to NFPA 409 per Section 412.4.6).
An automatic sprinkler system shall be provided.

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505.3 Egress. Each occupant of a mezzanine shall have access to at least two means
of egress. The maximum travel distance to an exit shall include the travel distance on
the stair (where unenclosed). Coordinate with Section 1016 Exit Access Travel
distance.

CHAPTER 9 FIRE PROTECTION SYSTEMS

SECTION 712 VERTICAL OPENINGS

SECTION 713 SHAFT ENCLOSURES
505.2 Area Limitation. The aggregate area of the mezzanine or mezzanines shall not
exceed one-third of the floor are of the room or space in which it is located. The
enclosed portion of a room shall not be included in a determination of the floor area of
the room in which the mezzanine is located.

1013.4 Opening Limitations. Required guards shall not have openings which allow
passage of a sphere 4 inched (102 mm) in diameter from the walking surface to the
required guard height.

Building height - Sec. 7-9-55.8(c)
35' max. except per section 7-9-126.1
REMARK: PER 10.17.19 TELCON W/ ILENE LUNDFELT (PLANNER, COUNTY OF ORANGE) & CORY HARRIS
(ROHLEDER BORGES ARCHITECTURE):
- COUNTY PROPERTY (JWA) IS EXEMPT FROM THE REQMTS OF THE O.C. ZONING CODE, INCLUDING
HEIGHT LIMITS
- SEE LEASE AGREEMENT AND/OR FAA REGULATIONS FOR HEIGHT LIMIT.

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SECTION 505 MEZZANINES
505.1 General. A mezzanine shall be considered a portion of the story in which it is
contained.

1013.3 Height. Required guards shall not be less than 42 inches (1067 mm) high,
measured vertically as follows:
1. From the adjacent walking surfaces;
2. On stairs, from the line connecting the leading edges of the tread nosings; and
3. On ramps, from the ramp surface at the guard.

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504.2 Automatic Sprinkler Increase. Where equipped with an automatic sprinkler
system; Can Increase height by 20' and number of maximum stories by one (1).
GROUP B
3 +1 = 4 Story
75' Hgt
GROUP S-1
2 +1 = 3 Story
75' Hgt

707.6 Openings. Openings in a fire barrier shall be protected in accordance with
Section 716. Openings shall be limited to a maximum aggregate width of 25% of the
length of the wall and a maximum area of any single opening shall not exceed 156
square feet.
Exceptions:
3. Openings shall not be limited to 156 square feet or an aggregate width
of 25% of the length of the wall where the opening protective has been
tested in accordance with ASTM E119 or UL 263 and has a minimum fire
resistance rating not less than that of the wall.

OCCUPANCY S:
Exit Enclosures: Class C-Flame Spread Index 76-200, Smoke Developed Index 0-450
Corridors: Class C-Flame Spread Index 76-200, Smoke Developed Index 0-450
Rooms: Class C-Flame Spread Index 76-200, Smoke Developed Index 0-450

1013.2.1 Glazing. Where glass is used to provide a guard or as a portion of the guard
system, the guard shall also comply with Section 2407. Where the glazing provided
does not meet the strength and attachment requirements of Section 1607.8, complying
guards shall also be located along glazed sides of open-sided walking surfaces.

Site development standards (A1)- Sec. 7-9-55.8
(a) Building Site Area: 4 acres minimum except per section 7-9-126.1.
(b) Building Site Width: 70' minimum except per section 7-9-126.1.
(c) Building Height: (see below)
(d) Building Setbacks: (see below)
(e) Off-Street Parking: Per section 7-9-145 (see below)
(f) Lights: All lights shall be designed and located so that direct light rays shall be confined to the premises.
(g) Waste Management: Compliance with section 7-9-146.4, "Waste management and hazardous materials
disclosure."

IA

Interior wall and ceiling finish shall have a flame spread index not greater than that
specified in Table 803.9:

CHAPTER 8 INTERIOR FINISHES

Principal Uses (A1) - Sec. 7-9-55.4(a)(1)
Airports and heliports are permitted subject to the approval of a use permit by the Zoning Admin per
section 7-9-150.

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CHAPTER 4 SPECIAL DETAILED REQUIREMENTS BASED ON USE & OCCUPANCY

602.2 Type II. Building to be constructed of materials that are non-combustible except
as permitted in Section 603 and elsewhere in this code.

SECTION 1013 GUARDS
1013.2 Where required. Guards shall be located along open-sided walking surfaces,
including mezzanines, equipment platforms, stairs, ramps and landings that are
located more than 30 inches (762 mm) measured vertically to the floor or grade below
at any point within 36 inches (914 mm) horizontally to the edge of the open side.
Guards shall be adequate in strength and attachment in accordance with Sec. 1607.8.

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719.3 Exposed installation.
Insulating materials, where exposed, shall have a flame spread index less than 25 and
a smoke-developed index of less than 450.

412.4.3 Floor Surface. Floors shall be graded and drained to prevent water or fuel
from remaining on the floor. Floor drains shall discharge through an oil separator
to the sewer or to an outside vented sump.
412.4.6 Fire suppression systems. Aircraft Hangars shall be provided with a fire
suppression system designed in accordance with NFPA409, based on the
classification for the hangar given in Table 412.4.6
Exception: Where a fixed base operator has separate repair facilities on site,
Group II hangars operated by a fixed based operator used for storage of transient
aircraft only shall have a fire suppression system, but the system is exempt from
foam requirements.

and a smoke-developed index of less than 450.

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TABLE 602 FIRE-RESISTANCE RATING REQUIREMENTS FOR EXTERIOR WALLS
BASED ON FIRE SEPARATION DISTANCE
Type-IIB
S-1
B
X < 5'
2 hour
1 hour
1 hour
1 hour
5' ≤ X < 10'
10' X < 30'
0 hour
0 hour
X ≤ 30'
0 hour
0 hour

CHAPTER 3 USE AND OCCUPANCY

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BUILDING CODE COMPLIANCE

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Number of req'd spaces - Sec 7-9-145.4 (e)(1)
Per Sec. 7-9-145.1 and Sec. 7-9-145.6 (below)
(38) Warehouses, storage building or structures used exclusively for storage = 1 for each 1,000 square feet of gross floor
area for storage purposes.
(26a) Office, general and administrative = 1 for each 250 square feet of gross floor area.
REMARK: PER 10.17.19 TELCON W/ ILENE LUNDFELT (PLANNER, COUNTY OF ORANGE) & CORY HARRIS
(ROHLEDER BORGES ARCHITECTURE):
COUNTY PROPERTY IS EXEMPT FROM THE REQMTS OF THE COUNTY ZONING CODE. (AIRPORT IS OWNED BY
COUNTY)
PARKING REQMTS ARE TYP. OUTLINED IN THE COUNTY/AIRPORT LEASE AGREEMENT (REVIEWED BY
COUNTY'S REAL ESTATE DIVISION.)
REASONABLE TO ASSUME (1) T-HANGAR CAN BE COUNTED AS (1) OFF-STREET PARKING SPACE.
APPLICANT SHOULD PROVIDE ENOUGH PARKING SUCH THAT EMPLOYEES/STAFF/VISITORS DON'T HAVE TO
PARKING ON PUBLIC STREETS
REQUIRED PARKING CALCULATION SHOULD BE BASED ON USAGE OR PARKING STUDY NOT TOTAL SQUARE
FOOTAGE OF BUILT AREA.
General Reqmts - Sec 7-9-145.2
(k) Parking Facilities for the Physically Handicapped:
Stalls provided: 301--400
ADA stalls reqd: 6
Landscaping (of parking areas) - Sec 7-9-145.4 (f)
(f) Landscaping of parking areas shall be provided in accordance with the provisions of the applicable land use district
regulations. In all cases, space within the off-street parking area not utilized for driveways, maneuvering areas, parking
stalls or walkways shall be landscaped. Landscaped areas shall be separated from paved driveway, parking space and
maneuvering areas by a minimum six-inch-high barrier
Landscaping - Sec 7-9-132.2
Landscaping, consisting of trees, shrubs, vines, ground cover, turf, or any combination thereof, shall be installed and
maintained subject to the following standards:
(a) Boundary landscaping is required for a minimum depth equal to the required setback distance or ten (10) feet
(whichever is less) along all property lines abutting streets except for the required street openings.
(b) Landscaping along all streets and boundaries shall be in compliance with section 7-9-137.5, "Fences and walls."
(c) Any landscaped area shall be separated from an adjacent parking or vehicular area by a wall or curb at least six (6)
inches higher than the adjacent parking or vehicular area.
Fences and walls - Sec 7-9-137.5
Subsections (d) and (e) only shall also apply to hedges, or thick growth of shrubs, bushes or trees.
(d) Access intersection area: Notwithstanding "b" above, the maximum height shall be three and one-half (3 ½) feet
within 5' of the point of intersection.
(e) Street intersection areas: Notwithstanding "b" above, the maximum height shall be three and one-half (3 ½) feet
within the triangular area formed by drawing a straight line between two (2) points located on, and 15' distant from, the
point of intersection of two (2) ultimate street or highway right-of-way lines extended.
Screening - Sec 7-9-145.4 (g)
Open parking spaces and parking structures shall be screened in accordance with section 7-9-145.3, whenever such
parking is adjacent to a street right-of-way and when the street separates such parking from any district zoned for
residential or agricultural uses. Screening shall be located adjacent to the inside edge of any required boundary
landscaping and to the outside edge of the paved parking area when there is no landscaping.
Site development standards - Bicycle parking - Sec. 7-9-143.4.(c).1
Bicycle parking facilities shall be provided within the worksite at the minimum rate of one bicycle parking space for every
twenty-five (25) employees. Number of bicycle stalls provided = 5
Design requirements - Sec. 7-9-145.5
(a) Off-Street Parking Stall and Access Stds - See diagrams.
(c) Minimum Parking Aisle Width for Two-Way Traffic: For two-way traffic, aisle widths and maneuvering areas shall be a
minimum of 24 feet wide.
Alternatives to off-street parking regulations - Sec. 7-9-145.7
(a) Alternative provisions to any of the off-street parking regulations may be permitted subject to the approval of a use
permit application approved in compliance with the provisions of section 7-9-150. Any such application may be approved
provided the approving authority finds:
(1) Applicable off-street parking requirements are excessive or inappropriate due to the nature of the specific use
involved or because of special circumstances applicable to the property; and
(2) The proposed off-street parking facilities comply with the intent of these regulations as specified by section 7-9-145.1.

Northeast
Full Service FBO
Concept Design for
John Wayne Airport
Santa Ana, CA

Code Information

scale:

not to scale

date:

12.19.2019

sheet:

G-002
Page 101 of 195


ACI JET FLIGHT SUPPORT BUILDING

VEHICLE ENTRANCE

TAXI RESTROOM

EXECUTIVE HANGARS LLC #19315

EXECUTIVE HANGARS LLC #19321

EXECUTIVE HANGARS LLC #19341

ASDEREMOTEUNIT RU1-RU7

TAXIWAY ACAMPUS DRIVE

STOP

STOP

YIELD

YIELD

DELIVERIES ONLY

2" WATER LINE

6" SEWER LINE

WATER CONNECTION

6" SEWER LINE

2" WATER LINE

NEW UTILITIES PLAN

Drawing Title A-###

As Noted

Architect: ROHLEDER BORGES

A-###

C-601

John Wayne Airport
Santa Ana, CA

06.01.2020

Scale: 1" = 100' 0""}

Northeast Full Service FBO
SELF SERVE AVGAS FACILITY 12,000 GAL ABV GROUND TANK ON CONC. PAD WITH BOLLARDS

CONNECT NEW AOA FENCE TO EXISTING 75'-0" FUEL AISLE

TIE DOWN ROW BRAVO (6) 40'

TIE DOWN ROW DELTA (10) 40'

FLIGHT SCHOOL APRON 142,490 sf

TRANSFORMER, CONC. PAD W/ BOLLARDS, TYP. OF (2) THIS ZONE

PROPOSED AOA FENCE 50'-0" - 50'-0"

WASH RACK CONC. 45' x 60'

FIRE HYDRANT W/ BOLLARDS, TYP. OF (4) THIS ZONE

20' SETBACK / LANDSCAPE BUFFER, TYP.

FH-K
FH-L
FH-M
FH-O

PROJECT NORTH TRUE NORTH

OFA - OBJECT FREE AREA

NEW TRANSFORMER ON CONCRETE PAD W/ BOLLARDS
NEW AIRSIDE FIRE HYDRANT ON CONCRETE PAD W/ BOLLARDS
EXISTING STREET SIDE FIRE HYDRANT (TO REMAIN)
NEW AOA FENCE

KEY MAP NOT TO SCALE

SCALE: 1 INCH = 50 FEET (FULL SCALE DRAW SHEET)

Northeast Full Service FBO Concept Design for John Wayne Airport Santa Ana, CA

ROHLEDER BORGES ARCHITECTURE

C 38932

RENEWAL DATE:

TIMOTHY ROHLEDER
01.31.2021
1. Contractor shall coordinate with the airport operations for the exact location of low profile barricades, temporary fences, and other traffic control devices and for removal and relocation of barricades as needed prior to the start of each phase/subphase.

2. Contractor shall coordinate with the airport operations for closure of taxi lanes, aircraft parking positions and relocation of aircrafts prior to the start of the work.

3. All work within the movement areas (taxiways) shall be coordinated with airport operations and air traffic control tower.

**Phasing Plan**

- Phase 13: (1.5 months)
  - Tango Ramp
  - Quebec Ramp
  - Hangar Quebec
  - Hangar Tango
  - Parking Lot

- Phase 13A: (12 months)
  - Quebec Taxiway Improvement

- Phase 13B: (1.5 months)
  - Sweat Taxiway Improvement

- Phase 14A: (Duration TBD)
  - Taxiway Improvement

- Phase 14B: (Duration TBD)
  - Taxiway Improvement

- Phase 14E: (Duration TBD)
  - Taxiway Improvement

- Phase 14F: (Duration TBD)
  - Taxiway Improvement

**General Notes**

1. Contractor shall coordinate with the airport operations for the exact location of low profile barricades, temporary fences, and other traffic control devices and for removal and relocation of barricades as needed prior to the start of each phase/subphase.

2. Contractor shall coordinate with the airport operations for closure of taxi lanes, aircraft parking positions and relocation of aircrafts prior to the start of the work.

3. All work within the movement areas (taxiways) shall be coordinated with airport operations and air traffic control tower.
1. CONTRACTOR SHALL COORDINATE WITH THE AIRPORT OPERATIONS FOR THE EXACT LOCATION OF LOW PROFILE BARRICADES, TEMPORARY FENCES AND OTHER TRAFFIC CONTROL DEVICES, AND FOR REMOVAL AND RELOCATION OF BARRICADES AS NEEDED PRIOR TO THE START OF EACH PHASE/SUBPHASE.

2. CONTRACTOR SHALL COORDINATE WITH THE AIRPORT OPERATIONS FOR CLOSURE OF TAXILANES, AIRCRAFT PARKING POSITIONS AND RELOCATION OF AIRCRAFTS PRIOR TO THE START OF THE WORK.

3. ALL WORK WITHIN THE MOVEMENT AREAS (TAXIWAYS) SHALL BE COORDINATED WITH AIRPORT OPERATIONS AND AIR TRAFFIC CONTROL TOWER.

GENERAL NOTES
1. CONTRACTOR SHALL COORDINATE WITH THE AIRPORT OPERATIONS FOR THE EXACT LOCATION OF LOW PROFILE BARRICADES, TEMPORARY FENCES AND OTHER TRAFFIC CONTROL DEVICES, AND FOR REMOVAL AND RELOCATION OF BARRICADES AS NEEDED PRIOR TO THE START OF EACH PHASE/SUBPHASE.
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3. All work within the movement areas (taxiways) shall be coordinated with airport operations and air traffic control tower.

**General Notes**

1. Contractor shall coordinate with the airport operations for the exact location of low profile barricades, temporary fences, and other traffic control devices, and for removal and relocation of barricades as needed prior to the start of each phase/subphase.

2. Contractor shall coordinate with the airport operations for closure of taxiways, aircraft parking positions, and relocation of aircrafts prior to the start of the work.

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3. ALL WORK WITHIN THE MOVEMENT AREAS (TAXIWAYS) SHALL BE COORDINATED WITH AIRPORT OPERATIONS AND AIR TRAFFIC CONTROL TOWER.

GENERAL NOTES

LIMIT OF PHASE (E) STRUCTURE TO BE DEMOLISHED
NEW STRUCTURE
TEMPORARY CONSTRUCTION FENCE

Northeast
Full Service FBO
Concept Design for
John Wayne Airport
Santa Ana, CA

Phasing Plan
Phases 7, 8, 9A & 9B

scale: 1” = 50’
date: 06.01.2020

A-110d

Page 131 of 195
01 – Floor Plan: Hangar TANGO & Office TANGO

Northeast Full Service FBO

Concept Design for
John Wayne Airport
Santa Ana, CA

Floor Plan - Hangar TANGO

scale: as noted
date: 04/13/2020

A-200
Roof Plan - Hangar TANGO

01 - Roof Plan - Hangar TANGO
MATCH LINE 'B' 

1/16" = 1'-0" 

Parking 01 

SEE SHEET A-204

Northeast Full Service FBO 
Concept Design for 
John Wayne Airport 
Santa Ana, CA

1. DIMENSIONS TO FACE OF CONCRETE, CENTERLINE STEEL, OR FACE OF FRAMING UNLESS NOTED OTHERWISE

2. ALL ITEMS SPECIFIED ARE SUBJECT TO REVIEW AND APPROVAL BY SNA AND AHJ

3. FINISHED FLOOR ELEVATIONS ARE APPROXIMATED BASED ON PUBLICALLY AVAILABLE INFORMATION, TO BE CONFIRMED WITH SURVEYED TOPOGRAPHY.

SIDING 1: 42"W INSULATED METAL PANEL, KINGSPAN SNOWDRIFT WHITE (W81), VERTICAL

SIDING 2: 8" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY

SIDING 3: 4" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY

SIDING 4: 30"W INSULATED METAL PANEL, KINGSPAN METALLIC SILVER (K7), VERTICAL

SIDING 5: 6x30 STONE PLANK VENEER, POLISHED NORSTONE PLANC, GRAPHITE LAVASTONE

SIDING 6: WOOD SIDING, IPE, CLEAR UV PROTECTANT SEALANT

SIDING 7: CORRUGATED METAL PANEL, 26GA GALVANIZED STEEL, A-36 PROFILE, GRAY

COLUMN WRAP: MOZ DESIGNS, STARLIGHT EMBOSSED STAINLESS STEEL

ENTRANCE DOOR, THERMAL SLIDING ALUMINUM / GLASS; KAWNEER AA3200 OXXO, CLEAR FINISH

STAINLESS STEEL CABLE RAIL, STAINLESS STEEL POSTS & TOP RAIL

ALUMINUM FASCIA

ALUMINUM TRIM, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)

ACCORDION FOLD DOORS, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)

WINDOW 1: STOREFRONT WINDOW SYSTEM, ALUMINUM, KAWNEER TRIFAB 451T, CLEAR FINISH

WINDOW 2: CURTAINWALL WINDOW SYSTEM, ALUMINUM, KAWNEER 1600, CLEAR FINISH

WINDOW 3: TRANSLUCENT WALL, POLYCARBONATE, KINGSPAN/CPI QUADWALL, CLEAR EXTERIOR - ICE WHITE INTERIOR

COILING OVERHEAD DOOR: MCKEON OR SIM; COLOR TO MATCH ADJACENT WALL.

PASSAGE DOOR, HOLLOW METAL: CURRIES 777E-TRIO-E AT EXTERIOR, STANDARD FRAME; COLOR TO MATCH ADJACENT WALL

HANGAR DOOR, BI-FOLD WITH PASSAGE HOLLOWMETAL DOOR (SEE NOTE 14)

HVAC SCREEN; PERFORATED METAL PANELS, METALLIC SILVER (K7)

FLOORING 1: WHITE EPOXY FLOOR COATING

FLOORING 2: HARD TROWELLED STRUCTURAL CONCRETE SLAB WITH SEALER

FLOORING 3: POLISHED CONCRETE STRUCTURAL SLAB WITH SATIN FINISH SEALER

FLOORING 4: GLUE DOWN CARPET TILE OVER STRUCTURAL SLAB

PROVIDE DISTRIBUTED COMPRESSED AIR THROUGHOUT HANGAR

HIGH VOLUME HOT-AIR PURGE EXHAUST FAN ABOVE, (2) PER HANGAR BAY

12' BIG A** FAN   POWERFOIL OR EQUAL DESTRATIFICATION FAN, (2) PER HANGAR BAY

NON-COMBUSTIBLE DRAFT CURTAIN ABOVE, SUBDIVIDE HANGAR SO THAT NO AREA > 7,500SF

4' X 8' LAMINATED SAFETY GLASS SKYLIGHT

FIRE RATED WINDOW

GROUND POWER UNIT RECEPTACLE

HOSE REEL (HOT AND COLD WATER)

REHABILITATION; COMPRESSORS AIR PALACEH HANGAR

DESTRATIFICATION AIR HANDLER

NON-COMBUSTIBLE DRAFT CURTAIN

SCREENED ROOFTOP MECHANICAL SYSTEM

SCREENED VAV UNITS IN OFFICE SPACES BELOW

(NOT USED)  

(NOT USED)  

(NOT USED)
02 - Roof Plan - FBO COMPLEX

- Structural Slab

- HVAC Screen; Perforated Metal Panels, Glass; Kawneer AA3200 OXXO, Clear Finish

- Entrance Door, Thermal Sliding Aluminum / Hardwood Wood Grain Finish

- Siding 1: 42" W Insulated Metal Panel, Burnished, Running Bond Pattern, Medium Gray

- Siding 2: 8" Concrete Masonry Unit (CMU), 12" Big A** Fan, Powerfoil or Equal

- Siding 3: 4" Concrete Masonry Unit (CMU), Burnished, Running Bond Pattern, Medium Gray

- Siding 4: 30" W Insulated Metal Panel, Norstone Planc, Graphite Lavastone

- Siding 5: 6x30 Stone Plank Veneer, Polished

- Siding 6: 26GA Corrugated Metal Panel

- Flooring 1: White Epoxy Floor Coating

- Flooring 2: Hard Troweled Structural Slab

- Flooring 3: Polished Concrete Structural Slab

- KingSPAN/CPI QuadWall, Clear Exterior - Ice Blue

- KingSPAN METALLIC SILVER (K7), Vertical

- Window 1: Storefront Window System

- Window 2: Curtainwall Window System

- Window 3: Translucent Wall, Polycarbonate

- Girders 18"-21" WF @ 8'-0" O.C.

- Walls 12'-6" WF Beams

- Walls 10"-16" WF Beams

- Walls 22'-0" Steel WF Beams

- Walls 20 GA. Type "B" Metal Deck (With Concrete Topping as noted)

- Walls Seismic Joint

- Walls Steel Cables

- Walls Steel Columns

- Walls Concrete Columns

- Composition: Bridge Roof, Metal Deck, 20 GA. Type "B" Metal Deck (With Concrete Topping as noted)

- Composition: Metal Deck (With Concrete Topping as noted)

- Composition: Subgrade/Foundat'N per Future Geotech Report

- Composition: Steel Trusses

- Composition: Steel WF Beams

- Composition: Steel Columns

- Composition: Metal Deck (With Concrete Topping as noted)

- Composition: Concrete Columns

- Composition: Concrete Beams

- Composition: Concrete Slab

- Composition: Steel Joists

- Composition: Thermal Sliding Aluminum / Glass}

- Subdivides Hangar so that no area > 7,500SF

- Provides distributed compressed air

- Screened rooftop mechanical systems (see note 11)

- False work to be confirmed with survey to topography.

- All items specified are subject to review and approval by SNA and AHJ.

- True North

- Starlight Embossed Stainless Steel

- Hose Reel (Hot and Cold Water)

- DESTRATIFICATION FAN, (2) per Hangar Bay

- 4' x 8' Laminated Safety Glass Skylight

- 12' Big A** Fan, Powerfoil or Equal

- 2.00.2020

- Concept Design for John Wayne Airport, Santa Ana, CA

- Full Service FBO

- Northeast

- 1 Inch = 1 Foot
1. Dimensions to face of concrete, centerline steel, or face of framing unless noted otherwise.

2. All items specified are subject to review and approval by SNA and AHJ.

3. Finished floor elevations are approximated based on publicly available information, to be confirmed with surveyed topography.

**PLAN GENERAL NOTES**

- 1 INCH = 16 FEET (FULL SCALE 24x36 SHEET)
- PRE-ENGINEERED BUILDING. SEE A-212 FOR TYPICAL PLAN KEY NOTES.
Pre-Engineered Building. See A-212 for Typical Plan Key Notes.

1. Dimensions to face of concrete, centerline steel, or face of framing unless otherwise noted.

2. All items specified are subject to review and approval by SNA and AHJ.

3. Finished floor elevations are approximated based on publicly available information, to be confirmed with surveyed topography.

PLAN GENERAL NOTES
PRE-ENGINEERED BUILDING. SEE A-212 FOR TYPICAL PLAN KEY NOTES.

1. DIMENSIONS TO FACE OF CONCRETE, CENTERLINE STEEL, OR FACE OF FRAMING UNLESS NOTED OTHERWISE.
2. ALL ITEMS SPECIFIED ARE SUBJECT TO REVIEW AND APPROVAL BY SNA AND AHJ.
3. FINISHED FLOOR ELEVATIONS ARE APPROXIMATED BASED ON PUBLICALLY AVAILABLE INFORMATION, TO BE CONFIRMED WITH SURVEYED TOPOGRAPHY.

PLAN GENERAL NOTES

A-211

Northeast Full Service FBO
Concept Design for John Wayne Airport
Santa Ana, CA

© ROHLEDER BORGES ARCHITECTURE

Moffatt & Nichol

Full Service FBO
Light GA Hangars

scale: 1/16 = 1'-0" (FULL SCALE 24x36 SHEET)

PLAN NOT TO SCALE

01 - Floor Plan - Hangar KILO
02 - Floor Plan - Hangar LIMA
03 - Floor Plan - Hangar MIKE
CAMPUS AVENUE
SEE A-100b FOR PROPOSED ENTRY AND DROPOFF

ROLLING AOA ACCESS GATE A-306

SEE A-100b FOR PROPOSED PARKING

Northeast Full Service FBO
Concept Design for John Wayne Airport
Santa Ana, CA

ROHLEDER BORGES
ARCHITECTURE

RENEWAL DATE
T C T I
H CR
A
DESNECIL STATE
LT I M O T H Y
R O H L E D E R
01.31.2021

1 INCH = 16 FEET
(FULL SCALE 24x36 SHEET)

A-214
01-South Elevation: TANGO

02-North Elevation: TANGO

03-East Elevation: TANGO

04-West Elevation: TANGO

Exterior Elevations Hangar TANGO

Hangar TANGO

1/16" = 1'-0"

Hangar TANGO

1/16" = 1'-0"

Hangar TANGO

1/16" = 1'-0"

Hangar TANGO

1/16" = 1'-0"

1 INCH = 16 FEET

FULL SCALE 24x36 SHEET

Newest Full Service FBO
Concept Design for John Wayne Airport
Santa Ana, CA

ROHLEDER BORGES
ARCHITECTURE

Northeast
Full Service FBO

Concept Design for John Wayne Airport
Santa Ana, CA

ROHLEDER BORGES
ARCHITECTURE

Centrevex
Buildings, Commercial, Industrial

Exterior Elevations Hangar TANGO

Hangar TANGO

1/16" = 1'-0"

FULL SCALE 24x36 SHEET

Scale: As noted

Date: 06.01.2020

Sheet: A-301
1/16" = 1'-0" West Elevation: PAPA04
1/16" = 1'-0" West Elevation: QUEBEC

MATCH LINE 'A'

16
16
16
1
16
12
11
TYP. OF 8 AT HANGAR QUEBEC
15
11
TYP. OF 8 AT HANGAR PAPA
15

SEE 5/A-304 FOR ELEVATION AT FBO COMPLEX

Northeast Full Service FBO Concept Design for John Wayne Airport Santa Ana, CA

ROHLEDER BORGES ARCHITECTURE

C 28832
RENEWAL DATE

T IM O T H Y R O H L E D E R 01.31.2021

Exterior Elevations
Hangars QUEBEC to PAPA as noted

1 INCH = 16 FEET (FULL SCALE 24x36 SHEET)

SIDING 1: 42"W INSULATED METAL PANEL, KINGSPAN SNOWDRIFT WHITE (W81), VERTICAL
SIDING 2: 8" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY
SIDING 3: 4" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY
SIDING 4: 30"W INSULATED METAL PANEL, KINGSPAN METALLIC SILVER (K7), VERTICAL
SIDING 5: 6x30 STONE PLANK VENEER, POLISHED NORSTONE PLANC, GRAPHITE LAVASTONE
SIDING 6: WOOD SIDING, IPE, CLEAR UV PROTECTANT SEALANT
SIDING 7: CORRUGATED METAL PANEL, 26GA GALVANIZED STEEL, A-36 PROFILE, GRAY
COLUMN WRAP: MOZ DESIGNS, STARLIGHT EMBOSSED STAINLESS STEEL

ENTRANCE DOOR, THERMAL SLIDING ALUMINUM / GLASS; KAWNEER AA3200 OXXO, CLEAR FINISH
STAINLESS STEEL CABLE RAIL, STAINLESS STEEL POSTS & TOP RAIL
ALUMINUM FASCIA
ALUMINUM TRIM, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)
ACCORDION FOLD DOORS, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)

WINDOW 1: STOREFRONT WINDOW SYSTEM, ALUMINUM, KAWNEER TRIFAB 451T, CLEAR FINISH
WINDOW 2: CURTAINWALL WINDOW SYSTEM, ALUMINUM, KAWNEER 1600, CLEAR FINISH
WINDOW 3: TRANSLUCENT WALL, POLYCARBONATE, KINGSPAN/CPI QUADWALL, CLEAR EXTERIOR - ICE WHITE INTERIOR

COILING OVERHEAD DOOR: MCKEON OR SIM; COLOR TO MATCH ADJACENT WALL.
PASSENGER DOOR, HOLLOW METAL: CURRIE'S 777E-TRIO-E AT EXTERIOR, STANDARD FRAME; COLOR TO MATCH ADJACENT WALL
HANGAR DOOR, ROLLING
HANGAR DOOR, ROLLING WITH PASSAGE STOREFRONT DOOR (SEE NOTE 10)
HANGAR DOOR, BI-FOLD WITH PASSAGE HOLLOWMETAL DOOR (SEE NOTE 14)

HVAC SCREEN; PERFORATED METAL PANELS, METALLIC SILVER (K7) EXPOSED CONCRETE STRUCTURE
Exterior Elevations
Hangars QUEBEC to PAPA

1 INCH = 16 FEET
(FULL SCALE 24x36 SHEET)

23. ACCORDION FOLD DOORS, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)

24. STAINLESS STEEL CABLE RAIL, STAINLESS STEEL POSTS & TOP RAIL

25. ALUMINUM FASCIA

26. ALUMINUM TRIM, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)

21. WINDOW 1: STOREFRONT WINDOW SYSTEM, ALUMINUM, KAWNEER TRIFAB 451T, CLEAR FINISH

22. WINDOW 2: CURTAINWALL WINDOW SYSTEM, ALUMINUM, KAWNEER 1600, CLEAR FINISH

20. WINDOW 3: TRANSLUCENT WALL, POLYCARBONATE, KINGSPAN/CPI QUADWALL, CLEAR EXTERIOR - ICE WHITE INTERIOR

19. STAINLESS STEEL CABLE RAIL, STAINLESS STEEL POSTS & TOP RAIL

18. ALUMINUM TRIM, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)

17. ACCORDION FOLD DOORS, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)

16. HANGAR DOOR, ROLLING WITH PASSAGE STOREFRONT DOOR (SEE NOTE 10)

15. HANGAR DOOR, ROLLING

14. HANGAR DOOR, BI-FOLD WITH PASSAGE HOLLOW METAL DOOR (SEE NOTE 14)

13. COILING OVERHEAD DOOR: MCKEON OR SIM; COLOR TO MATCH ADJACENT WALL.

12. PASSAGE DOOR, HOLLOW METAL: CURRIES 777E-TRIO-E AT EXTERIOR, STANDARD FRAME; COLOR TO MATCH ADJACENT WALL

11. HANGAR DOOR, ROLLING WITH PASSAGE STOREFRONT DOOR (SEE NOTE 10)

10. HANGAR DOOR, ROLLING

9. HANGAR DOOR, ROLLING WITH PASSAGE HOLLOW METAL DOOR (SEE NOTE 14)

8. HVAC SCREEN; PERFORATED METAL PANELS, METALLIC SILVER (K7)

7. EXPOSED CONCRETE STRUCTURE

6. SIDING 6: WOOD SIDING, IPE, CLEAR UV PROTECTANT SEALANT

5. SIDING 5: 6x30 STONE PLANK VENEER, POLISHED NORSTONE PLANC, GRAPHITE LAVASTONE

4. SIDING 4: 30"W INSULATED METAL PANEL, KINGSPAN METALLIC SILVER (K7), VERTICAL

3. SIDING 3: 4" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY

2. SIDING 2: 8" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY

1. SIDING 1: 42"W INSULATED METAL PANEL, KINGSPAN SNOWDRIFT WHITE (W81), VERTICAL

Northeast
Full Service FBO
Concept Design for
John Wayne Airport
Santa Ana, CA

ROHLEDER BORGES
ARCHITECTURE

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John Wayne Airport
Santa Ana, CA

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John Wayne Airport
Santa Ana, CA

ROHLEDER BORGES
ARCHITECTURE
Northeast Full Service FBO
Concept Design for
John Wayne Airport
Santa Ana, CA

1/16" = 1'-0"
Northeast
Full Service FBO
Concept Design for
John Wayne Airport
Santa Ana, CA

1 INCH = 16 FEET
(FULL SCALE 24x36 SHEET)
1. SIDING 1: 42"W INSULATED METAL PANEL, KINGSPAN SNOWDRIFT WHITE (W81), VERTICAL
2. SIDING 2: 8" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY
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5. SIDING 5: 6x30 STONE PLANK VENEER, POLISHED NORSTONE PLANC, GRAPHITE LAVASTONE
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7. SIDING 7: CORRUGATED METAL PANEL, 26GA GALVANIZED STEEL, A-36 PROFILE, GRAY
8. COLUMN WRAP: MOZ DESIGNS, STARLIGHT EMBOSSED STAINLESS STEEL
9. ENTRANCE DOOR, THERMAL SLIDING ALUMINUM/GLASS; KAWNEER AA3200 OXXO, CLEAR FINISH
10. STAINLESS STEEL CABLE RAIL, STAINLESS STEEL POSTS & TOP RAIL
11. ALUMINUM FASCIA
12. ALUMINUM TRIM, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)
13. ACCORDION FOLD DOORS, COORD. WITH CURTAIN WALL SYSTEM (SEE NOTE 11)
14. WINDOW 1: STOREFRONT WINDOW SYSTEM, ALUMINUM, KAWNEER TRIFAB 451T, CLEAR FINISH
15. WINDOW 2: CURTAINWALL WINDOW SYSTEM, ALUMINUM, KAWNEER 1600, CLEAR FINISH
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19. HANGAR DOOR, ROLLING
20. HANGAR DOOR, ROLLING WITH PASSAGE STOREFRONT DOOR (SEE NOTE 10)
21. HANGAR DOOR, BI-FOLD WITH PASSAGE HOLLOWMETAL DOOR (SEE NOTE 14)
22. HVAC SCREEN; PERFORATED METAL PANELS, METALLIC SILVER (K7)
23. EXPOSED CONCRETE STRUCTURE

Northeast Full Service FBO
Concept Design for John Wayne Airport
Santa Ana, CA
Rohleder Borges Architecture

15'-6" BUILDING LENGTH
PER FLOOR PLANS
TYPICAL
Exterior Rendering 1: Birds Eye View Looking Southeast

Exterior Rendering 2: Birds Eye View Looking Northeast
Exterior Rendering 3: FBO Complex Approach From Campus Drive

Exterior Rendering 4: FBO Complex Street-Face Overview
SIDING 1: 42" W INSULATED METAL PANEL, KINGSPAN SNOWDRIFT WHITE (W81), VERTICAL

SIDING 2: 8" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY

SIDING 3: 4" CONCRETE MASONRY UNIT (CMU), BURNISHED, RUNNING BOND PATTERN, MED. GRAY

SIDING 4: 30" W INSULATED METAL PANEL, KINGSPAN METALLIC SILVER (K7), VERTICAL

SIDING 5: 6x30 STONE PLANK VENEER, POLISHED NORSTONE PLANC, GRAPHITE LAVASTONE

SIDING 6: WOOD SIDING, IPE @ WALL CLEAR UV PROTECTANT SEALANT BLEACHED OAK @ SOFFIT

SIDING 7: CORRUGATED METAL PANEL, 26GA GALVANIZED STEEL, A-36 PROFILE, GRAY

COLUMN WRAP: MOZ DESIGNS, STARLIGHT EMBOSSED STAINLESS STEEL

ENTRANCE DOOR, THERMAL SLIDING ALUMINUM / GLASS; KAWNEER AA3200 OXXO, CLEAR FINISH

WINDOW 1: STOREFRONT WINDOW SYSTEM, ALUMINUM, KAWNEER TRIFAB 451T, CLEAR FINISH

WINDOW 2: CURTAINWALL WINDOW SYSTEM, ALUMINUM, KAWNEER 1600, CLEAR FINISH

WINDOW 3: TRANSLUCENT WALL, POLYCARBONATE, KINGSPAN/CPI QUADWALL, CLEAR EXTERIOR - ICE WHITE INTERIOR

HVAC SCREEN; PERFORATED METAL PANELS, METALLIC SILVER (K7)
Material Board 2 - Interior: FBO Complex and Community Hangars

MATERIAL KEY NOTES

- WALNUT RECEPTION DESK
- MAPLE CABINETRY TYP.
- BASIC PAINTED GLASS TOP @ CONF. TABLES
- SPECIAL INTERIOR GLASS WALL
- 18X18 PORCELAIN TILE @ WET FLOORS
- 4X4 GLOSSY WHITE TILE, RUNNING BOND @ WET FLOORS

WALL COLOR: TYPICAL, WET, CONF.
PUBLIC AREA FLOOR: POLISHED CONCRETE
RECESSED WALK-OFF CARPET

INTERIOR GLASS FRAMING
INTERIOR SOFFIT @ PUBLIC SPACES
STAINLESS STEEL HARDWARE, TYP.

TYPICAL CARPET TILE
WALL BASE 4"H MAPLE @ PUBLIC AREAS, 4" BLACK RUBBER, TYP.
TYPICAL COUNTER TOP, "CLAMSHELL" CAESARSTONE

PUBLIC SPACE UPHOLSTERY

Northeast Full Service FBO
John Wayne Airport
Sarasota, FL
EXHIBIT G

Development and Phasing Plan and Schedule
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
SW LIMITED-SERVICE FBO (SW L-FBO)

CLAY LACY

INCLUDES OCSD OPERATIONS

AIRWAY AVE

MARTIN

ACIJET

CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
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**Attachment A**
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EXHIBIT H

Maintenance Plan
6. Proposed Development, Phasing Plan, and Quality of Proposed Facilities

**Ninety (90) Day Plan**
There are no operational changes anticipated by ACI Jet except for the aforementioned relocation of westside subtenants to the former Atlantic Aviation facility within the first 72-hours following lease commencement. There are no anticipated staffing changes within the first 90-days following Lease Commencement.

**Operational Plan for Existing Tie-down and Hangar Spaces**
i. Operational plan for existing tie-down and hangar spaces until demolition and construction commencement. Existing tie-down, sunshade, and hangar licenses will be assigned as-is to the FBO for each Parcel. The preconstruction operational period may vary greatly in lengths of time based on the overall phasing plan and which site a Respondent is awarded. Building Rent will be adjusted on a pro-rata basis per square foot to account for the usable building space of existing facilities available to each FBO during demolition and redevelopment activities.

**Overview**
Consistent with the 90-Day Initial Business Transition Plan and Phasing Plan as described in this Section 6, no existing direct tenants of JWA on ACI Jet’s preferred leasehold, the Northeast Full Service FBO parcel, will be displaced either during the transition plan, or during phasing of the Proposed Development. Notwithstanding the foregoing, new hangars and tie-down spaces will be provided as part of ACI Jet’s development. With respect to Tie Downs, ACI Jet intends to add new, temporary Tie Downs to the leasehold to ensure adequate Tie Downs at all times during the 70-month construction period.

Consistent with the 90-Day Initial Business Transition Plan and Phasing Plan as described in this Section 6, no existing direct tenants of JWA on ACI Jet’s preferred leasehold, the Northeast Full Service FBO parcel, will be displaced during the 90-Day transition plan. For the time period prior to commencement of demolition, the following assumptions are made with respect to the Operational Plan that follows:

- ACI Jet is the Successful Respondent to and awarded the Northeast Full Service FBO parcel.
- JWA will provide ACI Jet a list of its Tie Down and Hangar customers presently leasing space from Orange County on the Northeast Full Service FBO parcel following award.

**Operational Plan**
As most if not all Tie Down and T-Hangar customers of JWA are Small GA piston-engine aircraft which require Avgas, and by market share ACI Jet fuels three out of every four Avgas customers at JWA it is reasonable to assume most of these customers already have an existing vendor relationship with ACI Jet. As a result, ACI Jet likely already has the contact and billing information of most of these customers. Regardless of the fuel type however, the following process remains unchanged.

Upon receipt of the list of customers and related-billing information, ACI Jet will contact each customer directly to advise them of the transition from JWA to the ACI Jet billing system for the rental of hangar or tie down space. In cases where a former-direct tenant of JWA is found to be illegally subleasing hangar space, ACI Jet shall contact the direct tenant, the individual or entity listed on the list transmitted from JWA to ACI Jet (as opposed to an unknown sublessee). In such cases, and consistent with the Model Lease, Article VII, Section 8.01 (A), ACI Jet shall inform the lessee of the violation and provide a thirty (30) day notice to correct or vacate. In the event of non-compliance, ACI Jet will terminate the tenant, remove the illegal sublessee and contact those on the transmitted hangar wait list* transmitted by JWA to ACI Jet.

In instances in which the aircraft and owning or operating entity match the list provided by JWA, ACI Jet will provide a welcome packet, offer regular meetings about the construction Phasing Plan and how subtenants are affected, and add the newly-inherited subtenant to ACI Jet’s accounting billing system.

**Maintenance Plan**
6.j. Maintenance Plan must include a minimum budget and expenditure for maintenance of 3-5% of total site construction costs, increasing annually at the rate of CPI or greater.

ACI Jet continually invests in FBO facilities as recently demonstrated at JWA since award of the Interim FBO Lease in 2017. Over $1,000,000 has already been spent at JWA to voluntarily address deferred maintenance and modernize the neglected FBO facility it inherited from the previous FBO. This was done shortly after the RFQ award and without hesitation despite the short-term nature of the ACI Lease.

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1As a measure of market share, ACI Jet provides 74.9% of the Avgas required by customers of JWA, 2019.
2See Section 6.k, this Response, Page 118.

Bid PM 1121-223-0030
ACI Jet’s budget and expenditure consistent with this RFP requirement is more thoroughly described in Section 7.k, entitled FBO 10-Year Refurbishment and Maintenance Plan and in Section 7.g as Exhibit M, 10-Year Pro Forma.

**Operational Plan | County Wait List for Hangar Spaces**

k. Applicable only to Respondents for the Northeast Full Service FBO Parcel: please provide an operational plan on managing existing County wait list for County Hangar spaces.

**Overview**

According to responses via BidSync³, JWA confirms there are presently 43 aircraft on the County wait list for County Hangar spaces. The following operational plan for managing existing county wait list for hangars is based upon the following assumptions:

- There are approximately 43 aircraft on the county wait list when said list provided to the Successful Respondent
- ACI Jet is the Successful Respondent to and awarded the Northeast Full Service FBO parcel.

**Operational Plan**

As described in the both the Proposed Development and the accompanying Phasing Plan, ACI Jet’s plan for the Northeast Full Service FBO parcel calls for the phased demolition of all existing improvements on leasehold, and replacement with all-new improvements, including new hangars on both the Corporate GA and Small GA portions of the leasehold. The proposed Phasing Plan ensures no existing hangar subtenants are displaced during construction. This includes current ACI Jet subtenants on both the eastside and westside ACI Jet leaseholds, as well as the current, existing tenants of county hangars on the Northeast Full Service FBO parcel. Because of ACI Jet’s proposed phasing plan, the operational plan to maintain the County wait list of hangar tenants is in no way affected by the need to accommodate existing tenants on leasehold.

Upon receipt of the county wait list, ACI Jet will proactively reach out to each individual or entity listed, and confirm their contact information is accurate, up-to-date, and their request for hangar space is still valid. After confirmation of prospective tenants, ACI Jet’s plan will enter them into an online, self-serve user portal on the ACI Jet website specifically for JWA hangar wait list customers. In brief, wait list customers will receive a customer logon and password to the ACI Jet website, create and maintain their aircraft profile and user profile, and select their preferred hangar type: Community aircraft storage, 40’, 50’ or 60’ T-Hangar, Box Hangar, No Preference, or First Available. Upon registration, a fully refundable, one-time $25.00 wait list fee is collected- which is held in a separate account for the customer and applied towards the first month of hangar rent when a hangar opening occurs. In the substantial experience of ACI Jet managing multiple hangar properties across multiple airports, the registration requirement of a nominal, fully-refundable wait list fee ensures a request is credible, valid and current. Finally, by the creation of the ACI Jet self-serve hangar waitlist portal, customers are automatically informed their wait status, and can update their needs as conditions change.

**Management and Operations Plan for Transient Parking**

l. For both Full Service FBOs: provide management and operations plan for maintaining required transient parking for the general aviation community.

**Overview**

ACI Jet has set aside 716,500 square feet, or approximately 33% of all available leasehold space—less required zoning setbacks, entrances, sidewalks, landscaping and surface-level vehicle parking—to maintain required transient parking for the General Aviation community. As one of two Full Service FBOs presently operating from the Northeast Full Service FBO parcel, ACI Jet is more prepared than most to understand the complexities of managing sufficient transient parking on leasehold. By virtue of size alone, ACI Jet anticipates the newly-constituted offered leaseholds will correct the present operational deficiency both existing FBOs experience due to the current, insufficient leasehold space and inadequate placement of the (inherited) improvements upon it.

³BidSync, Answer to Question 5, September 23, 2019.
EXHIBIT I

Training and Customer Service Plans
b. Training plan - that includes plan for monitoring of training records and recurrent training, and for maintenance programs, include quality control plan and processes/testing of such programs.

**Overview**

As a current Full Service FBO at John Wayne Airport (JWA), ACI Jet currently has an established training plan in place. As such, an assumption is made that the current training plan in use by ACI Jet meets or exceeds the requirements of JWA. Under this assumption, the current training plan detailed in this section – meaning, the same plan currently in use today by ACI Jet – will continue to be the training plan that ACI Jet adheres to if selected as a Successful Respondent. Far from static however, the ACI Jet training plan continuously evolves as safety requirements change, as local, state, and federal regulations change, as industry “best practices” evolve, as new aircraft are certified, and as new technologies emerge. These are just some of the many potential factors that contribute to continuous updates to the ACI Jet training plan.

The ACI Jet training plan incorporates repeatable processes that have been time-tested. The result is a group of very informed, safety-conscious, and customer-focused team members. Recognized as an industry leader, in January of 2019 ACI Jet’s JWA location earned the International Standard for Business Aircraft Handling (IS-BAH) Stage 1 certification from the International Business Aviation Council (IBAC). In short, IS-BAH aligns an FBO’s operational policies, procedures and practices with a robust Safety Management System (SMS). Simply put, there is no other global standard that ensures an FBO is operating properly from a safety and training perspective. Of the two incumbent FBOs at JWA, only ACI Jet is IS-BAH certified.

In addition to IS-BAH certification, and as a testament to the quality of the ACI Jet training plan, the current Standard Operating Procedure (SOP) used by the John Wayne Airport (JWA) Fire Department for Lektro aircraft tug movements is in fact, the procedure developed by ACI Jet JWA. As a tenant of the airport, ACI Jet is honored to work closely with John Wayne Airport Fire Department to support their operations.

**Training Plan | Initial**

ACI Jet’s internally-developed, proprietary training plan is in use at all ACI Jet FBO locations and oversight is provided by the FBO Safety and Compliance Manager, who in turn has designated trainers at each location. A major role of the FBO Safety and Compliance Manager is to ensure that all employees are trained in accordance with ACI Jet policies and procedures. This individual ensures records are maintained, current and accurate, and that recurrent training is conducted within the appropriate designated time frames.

At JWA two Aircraft Ground Support (AGS) Leads are designated as trainers for line service operations, while a Hospitality and Experience (H&E) Lead is the customer service trainer. Leads/Trainers have a dual reporting structure to both the JWA location and the FBO Safety and Compliance Manager in San Luis Obispo. The training is designed to conform with IS-BAH standards, and local, state, and federal requirements. The training plan incorporates elements of employee onboarding, initial safety training, JWA training requirements, classroom/web-based instruction, fuel safety modules developed by ACI Jet’s aviation fuel supplier (Avfuel), internally developed training modules for job-specific duties, and practical application. The department trainers teach and sign off employees for job-specific modules. Leads and Trainers can be the same or separate individuals as they are different roles, though both are appointed by management.

Regardless of position - whether an AGS, H&E, or Valet- all new employees of ACI Jet’s JWA location receive a welcome/employee orientation package, commence the badging process, receive their schedule and are enrolled in Paylocity (a payroll and employee management system). As a California-based company – and with locations only in California – ACI Jet is extremely familiar with the requirements and regulations of California labor and employment law.

**Orientation**

After the first day of employment (orientation) of a new hire, the ACI Jet training plan commences in earnest. During training all employees receive safety training from the ACI Jet Safety and Compliance Representative (the FBO Safety and Compliance Manager) in the areas of the Safety and Quality Management System (SQMS), Security Training, Cal-OSHA Injury and Illness Prevention & Human Factors Training, the Emergency Response Plan (ERP), and Dangerous Goods and Hazardous Materials. Additionally, AGS new hires are trained on Spill Prevention Control and Countermeasures (SPCC). These safety and security-focused items are foundational elements of the Training Plan and are critical for the safety and security of employees and clients alike. As such, special emphasis is placed upon these elements of the plan.

Employees also receive JWA-specific clearances and training as mandated for FBO operators, which is a
part of the ACI Jet Training Plan. Each employee follows airport badging process requirements to be granted unescorted access to the Airport Operations Area (AOA). Employees required to drive on the AOA also are further required to take a driving test administered by the airport. That course familiarizes employees with airport markings, movement and non-movement areas (areas where aircraft are/are not under control of Air Traffic Control), and other JWA-specific training elements. However, ACI Jet builds upon the JWA driver training program and conducts an internal driving course that highlights specific safety-focused initiatives such as distances to drive from aircraft, brake safety checks before approaching an aircraft with a piece of equipment, and the proper path to drive on the aircraft parking area (down the rows and not between wingtips) to name just a few.

**Training Plan | Training Records**

Once a new hire starts, a profile for that individual is entered into the ACI Jet training system tracker. This electronic shared tracker can be viewed at both the corporate office and at the local level. A profile includes all the training elements relevant to the role for which the employee is hired. Upon completion of each training element, the trainer enters the date of completion into the electronic tracking system. At JWA the onsite ACI Jet local trainers are responsible for monitoring the training of the team, with oversight and support from the FBO Safety and Compliance Manager in San Luis Obispo.

**Training Plan | Recurrent**

The aviation industry is just like many other industries which require recurrent training. Simply put, just because an employee has been trained in their role does not mean they no longer need to be retrained on safety and other critical elements of their role. Additionally, improved processes, new technologies and lessons learned/improved best practices all provide learning opportunities for employees. Several of the elements of the ACI Jet training program require recurrent training.

The following training areas require annual recurrent training for all ACI Jet employees:

- Safety and Quality Management System
- Fire Department Training
- Security Training
- Cal-OSHA/Injury & Illness Prevention & Human Factors
- Emergency Response Plan
- Spill Prevention Control and Countermeasures
- Dangerous Goods and Hazardous Material Training (Every Two Years)

The need for recurrent training and associated deadlines for such is also tracked in each employee’s training profile. Job specific recurrent training varies by module and the shared electronic tracking system alerts both the local level trainers and the FBO Safety and Compliance Manager 90 days before a relevant due date. If the recurrent training has not occurred by 30 days prior, another alert will inform the same group of the impending recurrent date. In many instances – depending on the specific type of recurrent training (such as training conducted by the JWA Fire Department) – those may only be offered on certain dates and/or it makes more sense to train multiple employees at the same time. Thus, the 90-day initial alert allows both the local trainers and the FBO Safety and Compliance Manager flexibility to accommodate multiple schedules.

**Training Plan | Five Year Horizon**

Over the next five years, it is anticipated that one of the biggest changes at JWA that will necessitate inclusion in the ACI Jet training plan is the arrival and handling of international aircraft. Typically, employees tasked with handling international arrivals will require additional background checks (based on precedent from other airports in the US), and the development of proper policies and procedures for handling international arrivals will be required. As part of that training, employees will also be trained on the proper procedures for handling and disposing of Regulated International Garbage from guidelines set forth by the United States Department of Agriculture (USDA) and Animal and Plant Health Inspection Service (APHIS). Further, while over the next five years construction of the Proposed Development commences, and the series of Phases renders certain areas of the leasehold intermittently usable, only day-to-day operational changes would necessitate a major change to the training plan. For example, while in certain phases the number of movements from aircraft towing would increase, the fundamental methodology of how to properly and safely tow an aircraft will not change.

In addition, changes that may occur which would require updates include new modules provided by the Avfuel Training System (the line service training program used by AGS staff), new aircraft entry into the
market (such as the new Gulfstream G700), and new equipment acquired by the FBO. In such cases, ACI Jet will incorporate those into the training process, educate existing employees on the new procedures and include it as a part of new employee training procedures.

**Training Plan | Position-Specific Training**

The ACI Jet Training Plan encompasses all employees and elements that are specific to the employee’s role. Job specific training is completed in levels that build upon the previous level. ACI Jet’s training plan for AGS and H&E positions incentivizes employees to learn and grow in their positions by having three different levels or rank, before becoming a candidate for a Lead position. With the increasing levels of knowledge, experience, and demonstrated skills, employees also receive additional compensation. The path for advancement within a position requires an employee demonstrate competence of specific job requirements within pre-established timeframes for each of the levels within a role, either AGS or H&E. While an employee can learn skills for the next level, employees do not earn the next level or rank, until they have successfully passed all the requirements at each level.

Following this section, the training plan for key positions are highlighted, including Aircraft Ground Support (AGS), Hospitality & Experience (H&E), Valet and Maintenance.

**Aircraft Ground Support (AGS) Training**

Aircraft Ground Support (AGS) employees primarily work on the aircraft ramp and fulfill aircraft service requests made by flight crews. These services include but are not limited to aircraft marshalling, fueling, towing, water and lavatory servicing, and assistance with baggage. An AGS is a very skilled technician. Not everyone has the skillset, spatial awareness and aptitude to support aircraft and the right demeanor and soft skills required to serve passengers and crew.

Fuel safety and the proper procedures for distribution of fuel is of paramount importance. ACI Jet uses the highest industry standards for fuel training, and quality control. ACI Jet training manuals incorporate best practices from fuel suppliers, FAA Advisory Circular 150/5230-4B, and NFPA 407, among others. AGSs learn about proper fuel training procedures through a series of modules developed by ACI Jet’s fuel supplier – Avfuel. Additionally, these modules ensure all Avfuel distributors follow the most stringent fuel quality control requirements and assure “clear and bright” fuel from delivery to storage to delivery of the product into the aircraft. Reinforcement of these modules is then conducted with “hands-on” training provided to the employee. Onsite training – both the Avfuel fuel quality training and practical application training is conducted by the designated local ACI Jet trainers following established training procedures. At JWA and San Luis Obispo (SBP), AGSs attend FAR 139.321 training, which governs the Handling and Storing of Hazardous Substances. Further, employees are required to attend – on an annual basis – Fire Department Refueler Training conducted by the John Wayne Airport Fire Department.

Beyond fuel, there are many other facets of supporting aircraft operations that an AGS is trained on. In house, ACI Jet has developed training presentations and modules to instruct team members on the proper procedures for servicing aircraft. Some examples of these presentations and modules include skills including, but not limited to:

- Proper hand signals to marshall an aircraft
- The proper placement of wheel chocks on an aircraft
- How to connect a ground power unit to an aircraft
- How to operate a belt loader
- Procedures specific to NetJets operations
- Daily Fuel Truck Procedures

Regardless of the skill that is taught however, the process is a “Tell, Show, Do, Review” training strategy conducted by the trainers. Accepted in many industries as a beneficial way of training, this has proven to be successful for training ACI Jet team members. The following highlights how the process works:

- The first part of the training is to “tell” the employee how to execute the required skill properly. The trainers instruct on the reasoning behind it, and the proper procedures are illustrated in an ACI developed presentation or learning module with the AGS.
- The second step involves the trainer (and/or at times a lead or supervisor) paired with a new employee to “show” the proper way to execute the task. The trainer will demonstrate the skill following the procedure that has just been taught.
- Once the demonstration has been performed multiple times (varies by the skill being taught), the new employee will then “do” that skill in the presence of a mentor or peer until the employee is comfortable.
performing the task on their own.

Lastly, the employee reaches that stage where he/she is comfortable with the skill and they will then “review” what they have learned with the supervisor or lead (whomever has designated sign-off authority) and if they successfully demonstrate competence in the skill, they are then approved to perform that task on their own.

The following information shares the type of skills that ACI Jet AGSs are trained on and who has the designated authority to “sign-off” mastery of the skill. Additionally, these are displayed by the AGS levels to show the increasing responsibility and skill at each stage of training.

Within the first 30 days of employment, an Aircraft Ground Support (AGS) personnel must meet the following requirements to meet AGS Level 1 and be signed off by the ACI Jet Safety and Compliance Representative: Safety and Quality Management System Training, Security Training, Cal-OSHA/Injury & Illness Prevention (IIP) & Human Factors, Emergency Response Plan, Spill Prevention Control & Countermeasures (SPCC) and Dangerous Goods & Hazardous Materials. An AGS Supervisor signs off for Online Training (Avfuel and Customer Service Training. Finally, two AGS Leads (or one AGS Lead and one Approved Trainer) must sign off on Aircraft Wing Walking, Escorting in the Airport Operations Area (AOA), Spill Cart Procedures, Potable Water Cart Procedures, Lavatory Cart Procedures, Radio Communications, Vehicle Familiarization, Towing Ground Support Equipment, Avgas Fueling Procedures, Ground Power Unit Training (GPU), Ramp Greeting and Communication, Ground Support Equipment Training, and Misfueling Prevention.

Within 30 days from the Completion of Level 1 and to become a Level 2, the AGS must be signed off by the AGS Supervisor for Fire Department Refueler Course Training. Additionally, the AGS must be complete training and be signed off by two AGS Leads (or one AGS Lead and one Approved Trainer) for the following requirements: “Follow Me” vehicle procedures (aircraft lead-in vehicle), Aircraft Marshaling Hand Signal Procedures, Belt Loader Procedures, Underground Storage Tank Training, Avgas and JetA Fuel Farm Daily Checks, Avgas and JetA Fuel Truck Daily Checks, Helicopter Procedures, JetA Fueling Procedures, Refilling Avgas and JetA Fuel Trucks, Oil Procedures, Opening and Closing Procedures, Receiving Fuel Farm Deliveries, and TKS (Anti-icing) Procedures.

Within 60 days from the Completion of Level 2 and to become a Level 3, the AGS must be signed off by two AGS Leads (or one AGS Lead and one Approved Trainer) in Lektro Aircraft Tug Procedures for the Model 8600, 8700, and 8800.

Hospitality and Experience (H&E) Training

The H&E team provides concierge services within the FBO terminal, assists flight crews and guests, and ensures both have a positive experience at ACI Jet. While the delivery of world-class customer service is the primary responsibility of the H&E position, additional training includes concierge, flight tracking, and customer billing systems, as well as aviation terminology and procedures. Likewise, the advent of the “Quarterback” position (described in the Staffing Plan), a role assigned to more experienced H&E personnel, ensures the timely and accurate dispatch of aircraft service requests to the AGS team. Like the AGS position, the H&E team follows the “Tell, Show, Do, Review” training strategy for job-specific functions.

The following information shares the type of skills that ACI Jet H&Es are trained on and who has the designated authority to “sign-off” mastery of the skill. Additionally, these are displayed by the H&E levels to show the increasing responsibility and skill at each stage of training.

Within the first 30 days of employment, an H&E Trainee must be signed off by the ACI Jet Safety and Compliance Representative for the following requirements: Safety and Quality Management System Training, Security Training, Cal-OSHA/Injury & Illness Prevention (IIP) & Human Factors, Emergency Response Plan, and Dangerous Goods & Hazardous Materials. Two Leads (or one Lead and one Approved Trainer) must sign off the Trainee for: Driving Skills (airside and landside), Aircraft Supplies (coffee, ice, papers), Kitchen Orientation (How to make cookies for guests and coffee for aircraft), Phonetic Alphabet, Avgas and JetA Familiarization, Aircraft Ramp Familiarization, Restocking snacks and supplies for guests, Aircraft Flight Tracking Software Training (FlightAware, TRAQPak, etc.), Avfuel Training Modules, Misfueling Prevention, and Customer Service Training Class.

Within 30 days from completing the Trainee Level and to become a H&E Level 1, the H&E must be signed off by two leads (or one Lead and one Approved Trainer) in Lektro Aircraft Tug Procedures for the Model 8600, 8700, and 8800.

8. Five-Year Business and Management Plan with Development Team Qualifications and Experience

With 60 days from completing H&E Level 1, to become a Level 2, the H&E must be signed off by two Leads (or one Lead and an Approved Trainer) in the following requirements: Archival of FlightBridge Records, Reconcile and Balance Fuel Truck Sheets, Perform Shift Closing Paperwork, Balance Cash Drawer and Signatory, and Customer Service Training. The Supervisor must sign off the H&E Level 2 in NetJets Training and the Utilization of Gmail Functionality. Finally, within 60 days after reaching Level 2, and to become a Level 3, the H&E must be signed off by a Supervisor in Zingle Messaging System (text-based system to receive and confirm customer request), Aircraft Identification, and the “Quarterback” position training.

**Valet Training**

ACI Jet is one of the few FBOs in the country to offer a dedicated valet service for clients. The level of clientele who frequent ACI Jet make this service a requirement for a successful JWA operation. However, a Valet is more than someone who just meets a guest at the front door, smiles, helps with baggage, and parks their car. This position also serves many concierge responsibilities and as such, much of the training received is like that of the H&E team.

The following information shares the type of skills that ACI Jet Valets are trained on and who has the designated authority to “sign-off” mastery of the skill. Additionally, these are displayed by the Valet levels to show the increasing responsibility and skill at each stage of training.

Within the first 30 days of employment, a Valet Trainee must be signed off by the ACI Jet Safety and Compliance Representative for the following requirements: Safety and Quality Management System Training, Cal-OSHA/Injury & Illness Prevention (IIP) & Human Factors, Emergency Response Plan, Dangerous Goods & Hazardous Materials, and Security Training. Two Leads (or one Lead and one Approved Trainer) must sign off the Valet Trainee for Driving Skills (airside and landside), Aircraft Supplies (coffee, ice, papers), Kitchen Orientation (How to make cookies for guests and coffee for aircraft), Phonetic Alphabet, Avgas and JetA Familiarization, Aircraft Ramp Familiarization, Restocking snacks and supplies for guests, Aircraft Flight Tracking Software Training (FlightAware, TRAQPak, etc.), Avfuel Training Modules, and Customer Service Training Class.

Within 30 days from completing the Valet Trainee Level and to become a Valet, the H&E must be signed off by two leads (or one Lead and one Approved Trainer) in the following requirements: Inventory Log, Crew Car/Courtesy Shuttle Inspection, Vehicle Hang Tags, JSX Parking Payment, Use of Reservation Forms, Car Inspections, Rental Car reservations and check in and out procedures, Phone System Training, Phone Etiquette and Client Assistance, Radio Communications Training, Radio Etiquette, FlightBridge Concierge Training, Airline Terminal Pickups, ACI Jet Pricing for services, AGS Roles and Responsibilities Familiarizations Training, Courtesy Crew Car Dispatch, NetJets Training, Shift Closing Paperwork, Utilization of Gmail Functionality, Zingle Messaging System (text-based system to receive and confirm customer requests), and Aircraft Identification.

**Maintenance Training**

The FAA stringently regulates aircraft maintenance and its associated training requirements. Compliance requires a dedicated team, authority shared amongst multiple individuals and a quality control process, precluding any one individual from full maintenance authority. ACI Jet has a long-established reputation for providing superior service and high-quality aircraft maintenance. As a symbol of this quality, Bombardier – one of the largest aircraft manufacturers - recently selected ACI Jet as one of its Authorized Service Facilities. This designation was the first that Bombardier awarded in the last five years and authorizes ACI Jet to perform Bombardier-approved maintenance on Global Express and Challenger aircraft.

Maintenance conducted by ACI Jet at JWA focuses on critical Aircraft on Ground (AOG) maintenance needs via a Mobile Service Unit (MSU) - a dedicated maintenance vehicle stocked with more common aircraft parts and supplies. The MSU allows ACI Jet to serve aircraft maintenance customers 24 hours, seven days a week. The MSU is also capable of providing support at any airport in the western US in which assistance is needed. ACI Jet’s AOG maintenance service and MSU is operated under the same guidelines, safety policies and procedures as its Part 145 Repair Station based in San Luis Obispo.

The ACI Jet Maintenance Technicians (AMTs) that support JWA all hold Airframe and Powerplant (A&P) Certificates. As a point of note – ACI Jet has a “Sprout Program” that provides anyone who works for ACI Jet – regardless of position - the opportunity to earn their A&P certificate and start a career as an Aircraft
Maintenance Technician. AMTs achieve different levels within the company through a combination of experience, company tenure, aircraft model-specific training, signatory authority, ability to lead teams, and run-qualifications on various aircraft types.

Generally, Maintenance, Repair, and Overhaul (MRO) training is up to the discretion of the organization that performs maintenance. The FAA approves the training program but does not approve the content of the training. The regulations only require that the person or persons performing maintenance are qualified to perform that maintenance. As the FAA is very strict in terms of what a company or an A&P is able to work on (i.e. – can only work on what the certificate holder possesses), it is up to the MRO to develop its own business specific topics.

Like the FBO employees, all ACI Jet AMTs must complete indoctrination, safety, and all general training requirements. For additional training that is not specific to aircraft maintenance, ACI Jet develops its own content and is used to familiarize employees with company policy and regulatory requirements. This is all conducted through the in-house learning management system.

Specific to the work performed on the aircraft, ACI Jet uses Original Equipment Manufacturer (OEM) Factory Training. OEMs are the manufacturers of aircraft such as Bombardier and Cessna. For OEM aircraft-specific training, ACI Jet uses internationally renowned aviation companies Flight Safety and CAE. All training for ACI Jet AMTs is monitored through a third-party company, Convergence Training (www.convergencetraining.com). This company tracks training, issues training requirements to employees, and houses training materials. The platform also has proprietary content for regulatory, and common industrial topics such as hazmat handling, OSHA and general safety topics. From this system, it is determined when recurrent training is required, and the AMT is scheduled to complete it before the expiration date.

For work performed by AMTs at JWA, ACI Jet executes its quality control plan by complying with the FAA Repair Station In-Process Inspections. Following are the methods that are used during this process:

- Verify proper access for inspection scope. Verify any required special tooling is available. Verify the inspection was properly performed, verify proper access close up.
- Inspect work area and verify no tooling or materials are left behind.
- Verify any required parameter checks are accomplished, recorded, and within given limits.
- Tasks accomplished in accordance with applicable air-carriers manual.
- Verify all data required for performance of repair or alteration is available and repair or alteration conforms to data.
- Administrative check for proper sign-off, required parts and labor are reflected on work order.

AMTs at JWA sign off and ensure quality on the work that they perform by either using their A&P certificate number or ACI Jet’s FAR 145 Certification. Regardless of the signoff method used, all work is performed in accordance with the Repair Station processes as close as practical and applicable. The quality department from the Repair Station MRO tests the program by reviewing every work order from JWA to ensure compliance with policy/regulation. Any issues discovered are corrected prior to closure of the work order or are submitted to the company SMS system for processing, root cause analysis, and corrective action.

c) Marketing and customer service plan that identifies how the Respondent will attract and retain general aviation business at the FBO location, and its approach to providing customer service, as well as its experience with such programs at its current FBO locations.

Overview

ACI Jet has a proven track record of both attracting and retaining General Aviation business to JWA. Prior to the commencement of ACI Jet operations in early 2017, General Aviation was in a steady state of decline at JWA. To be sure, as the Aircraft Owners and Pilots Association (AOPA), who represents more GA pilots than any other organization, quantified that decline nationally, noting “piston operations at all airports over the past 10 years have fallen by 34 percent and turboprop operations by 7 percent.” Yet, since ACI Jet’s arrival at John Wayne Airport, that trend has reversed. In an article entitled California Comeback, which lauds ACI Jet’s efforts at JWA, AOPA noted “Although a commercial service airport, the bulk of John Wayne Airport’s aircraft operations lie with GA, and nearly 500 private aircraft call it home. According to FAA data, GA activity accounted for 68 percent of the total aircraft operations in January 2018, an increase of 40 percent when compared to January 2017.”
Since January 2018, those numbers have only grown. In the years between 2016 and 2018, total Avgas fuel sales increased 43% at JWA. Yet, during that same time period, the competing FBO’s Avgas fuel sales at JWA have declined 46%. This disparity is explained simply: ACI Jet is pumping 242% more Avgas- from the same leasehold- as the FBO competitor they replaced at JWA.

This growth is not exclusive to Avgas sales to Small GA customers. Per the fuel volume listed in the RFP, which correlates to the commencement of ACI Jet’s JWA operation in 2017, Jet A fuel sales have grown by more than 26% since year end in 2016. Through a direct engagement with the local general aviation pilots and flight schools at the airport and in the area, plus the implementation of their fair and transparent pricing policies at JWA, ACI Jet has reversed the decline of GA at JWA.

While this is but one example of ACI Jet’s successful attraction, retention and growth of general aviation business at JWA, ACI Jet’s marketing and customer service plan focuses on three key areas to create these results: Campaign Development and Advertising; Trade Event Exhibitions, Attendance and Sponsorships; and Customer and Community Outreach, and Support.

Campaign Development and Advertising
ACI Jet’s marketing plan ensures a regular presence in national trade publications, local media, and national lifestyle magazines, plus complementary online content in each. The continuous theme of ACI Jet’s messaging focuses on the company’s four brand promises: “Aviators Doing Aviation™, Safety From Technology, An Entire Aviation Ecosystem, and Built by Californians. Committed to California”. The nature of these articles and press releases focus on new offerings at ACI Jet, growth at the airport, community events, and other announcements of a similar nature. Nationally, ACI Jet places native content and advertisements in JetSet Magazine– an affluent lifestyle magazine published quarterly. Locally, ACI Jet regularly advertises in and places native content in the Orange County Business Journal, as well as local pilot group newsletters. Active on social media and various digital platforms, ACI Jet’s website (www.acijet.com) is modern, content rich, and constantly updated. In September of this year, an engaging, two-minute documentary-style video about the rapid growth of ACI Jet was added.

In addition, ACI Jet advertises with two of the largest flight planning websites (www.airnav.com and www.flightplan.com). These online resources drive business to an FBO by providing users current fuel pricing, service offerings, and relevant airport information. Note: Since February of 2017, ACI Jet has authored over 20 press releases, seven articles for the SoCal Pilots Association Newsletter, and nine articles for Jetset Magazine.

Trade Event Exhibitions, Attendance, and Sponsorships
ACI Jet is a member of the National Business Aviation Association (NBAA), the National Air Transportation Association (NATA), and the Aircraft Owners and Pilots Association (AOPA). As a member of these associations, ACI Jet actively exhibits and attends these associations’ events. On an annual basis, ACI Jet exhibits at the NBAA Business Aviation Convention and Exhibition (BACE), which is the 12th largest trade show - of any type - in the United States. This event brings together key decision makers from business aviation including aircraft owners, operators, and flight department personnel from around the world. Additionally, ACI Jet annually exhibits at the NBAA Schedulers and Dispatchers Convention (SDC). This forum brings together flight crews and scheduling teams for operators with FBOs and other aviation support providers from around the world. ACI Jet also attends, exhibits, and/or sponsors different forums and conferences sponsored by NATA, AOPA, as well as other local and regional events.

Locally, a myriad of sponsorships and items for auctions are provided by ACI Jet for special events involving the Newport Beach Chamber of Commerce (firefighter, lifeguard and city employee appreciation events), the Orange County Job Fair, the Orange County Business Council, and Fullerton Airport Open House. ACI Jet is also a member of the Leadership Circle of the Newport Beach Chamber.

Customer and Community Outreach, and Support
With its demonstrated commitment to John Wayne Airport and the aviation community, ACI Jet has a value system that goes beyond its performance as an award winning FBO to include partnerships with local non-profit organizations as well as the business community. ACI Jet continuously hosts various local, regional, and national groups at its JWA location including the Ninety-Nines (an International Organization of Women Pilots that promotes advancement of aviation through education, scholarships and mutual support), the Civil Air Patrol, the Make-A-Wish Foundation, and the Orange County Chapter of Women in Aviation, amongst others. In October, ACI Jet hosted the Wings of The West (WoW) Orange County Chapter of Women In
Aviation, “Girls in Aviation Day” at its JWA FBO location. In addition, ACI Jet regularly hosts meetings and events for Angel Pilots West, Honeywell Operators Forum, and the Rusty Pilots Program with the Aircraft Owners and Pilots Association. Seminars and educational programs are also sponsored by ACI Jet for Stoneybrooke, a private high school in San Juan Capistrano which includes introduction to the OC Sheriff’s Department, the Orange County Fire Authority.

And, as recently as December 2nd, ACI Jet hosted a roundtable of the National Air Traffic Controller Association (NATCA) and local pilots of Orange County, to foster better communication between pilots and controllers at JWA.

CUSTOMER SERVICE
The success of past marketing campaigns is complemented by ACI Jet’s customer service programs, which are structurally different than most FBOs in the country. Two of these differences deserves mention- so too, do the results of those efforts.

First, while many FBOs in the US have two entry-level, front-line positions, called Line Service Technician or Customer Service Representative, ACI Jet has three. ACI Jet serves its customers better by allocating the responsibilities of two positions into three: Aircraft Ground Services (AGS), Hospitality & Experience (H&E), and Valets. In doing so, ACI Jet employees provide a far more personalized service experience than most FBOs. To be sure, the Valet position itself is unique to ACI Jet at JWA and altogether alters the arrival and departure experience for customers of ACI Jet.

Second, each of the three positions are designed for growth from the outset, and employees progress to three different levels within each position as they gain experience. That commensurate level of experience is rewarded with a commensurate increase in compensation- just one-way ACI Jet motivates and engages employees. This is in addition to the motivation of ACI Jet’s internal development programs, “Dreams Unthreatened” and “Sprout,” which are designed to allow any employee- regardless of position- to become a pilot, or aircraft mechanic, respectively.

While these differences may seem subtle, the results are anything but. In 2018, ACI Jet at JWA was awarded for their nationally-recognized customer service by industry leaders NetJets and Everest Fuel. From NetJets, ACI Jet at JWA received the “No. 1 Outstanding Service Award” as the top-rated FBO in the nation – based on service. This was followed by becoming the first FBO in the nation to receive the inaugural Everest Fuel Preferred Award. The Everest award recognizes FBOs based on stringent fuel quality control and safety guidelines, outstanding customer service, modern and exceptional facilities, and those who take a long-term approach to relationships.

FIVE YEAR MARKETING PLAN | INTRODUCTION
The five-year marketing plan that follows considers ACI Jet’s proven track record of growing General Aviation at JWA since its arrival in 2017, plus the awards and recognition earned by ACI Jet from its customers. Each year provides an overview of specific initiatives in the categories of Campaign Development and Advertising; Trade Event Exhibitions, Attendance and Sponsorships; and Customer and Community Outreach, and Support.

Additive to that context is ACI Jet’s Proposed Development and the proposed Phasing Plan, which the Five-Year Marketing Plan also considers. Finally, the below assumptions are provided as a backdrop to the marketing plan that follows:

- The marketing plan assumes ACI Jet is the Successful Respondent for the Northeast Full Service FBO parcel and the Proposed Development would commence within a reasonable time following lease commencement.
- The “Years” referred to in this plan are not calendar years. Instead, the reference means a duration of a year predicated on the start of lease commencement and a reasonable approval process to commence construction of the Planned Development.

FIVE YEAR MARKETING PLAN | YEAR ONE

- Immediate Steps: Post-Notification of Lease Award
  - Meet with current tenants to share development plans, interim parking and phasing plans
  - Schedule and Host “Thank You” Event for ACI Jet tenant and transient customers
  - Promotion of lease award on company website, social media, and other digital channels
  - Press releases announcing award for all major trade publications and local/regional publications including the Orange County Business Journal (OCBJ)
NORTHWEST FULL-SERVICE FIXED BASE OPERATION (FBO) LEASE

Dated ________________

between

County of Orange

and

Clay Lacy Aviation, Inc.

LESSEE
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EXHIBIT G  DEVELOPMENT AND PHASING PLAN AND SCHEDULE
EXHIBIT H  MAINTENANCE PLAN
EXHIBIT I  TRAINING AND CUSTOMER SERVICE PLANS

EXHIBIT DISCLAIMER

Some information contained in the Exhibits to this Lease has been obtained by COUNTY’s representatives and/or third parties. The information is believed to be reasonably correct, but the COUNTY does not warrant either the completeness or accuracy of such information. It is the responsibility of the LESSEE to verify all such information.
THIS FBO Lease (“Lease”) is made and entered into this ___ day of ____________, 20___, by and between the COUNTY OF ORANGE, a political subdivision of the State of California (“COUNTY”), and CLAY LACY AVIATION, INC. (“LESSEE”).

RECITALS

WHEREAS, COUNTY, through its Board of Supervisors, is the owner and airport proprietor of John Wayne Airport (“JWA” or “Airport”), located in the County of Orange, State of California, and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public; and

WHEREAS, JWA is in the process of implementing a comprehensive General Aviation Improvement Program (“GAIP”) with the intent to improve service, safety, security and efficiency for general aviation services and activities at JWA; and

WHEREAS, on June 25, 2019, COUNTY certified the GAIP Environmental Impact Report (“EIR”) 627 and selected the Proposed Project, providing a framework for general aviation improvements at the Airport and a comprehensive update of JWA’s general aviation facilities; and

WHEREAS, JWA conducted a competitive Request for Proposal (“RFP”) process and COUNTY selected LESSEE to develop and operate an updated Fixed Based Operator (“FBO”) facility at the Airport under this long-term Lease;

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter contained to be observed and performed by the respective parties hereto,

THE PARTIES HERETO COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

ARTICLE I - DEFINITIONS

The following words, terms and phrases whenever used in this Lease shall have the meaning and significance attached to them in this Article, unless otherwise apparent from context.

SECTION 1.01 AIRPORT

“Airport” or “JWA” shall mean the John Wayne Airport, Orange County, California.

SECTION 1.02 AIRPORT DIRECTOR

“Airport Director” or “Director” shall mean the Director of John Wayne Airport, County of Orange, as appointed by the County Executive Office, or Director's designee.
SECTION 1.03 AIRPORT FUEL FARM

“Airport Fuel Farm” or “Fuel Farm” shall mean the area located at the Southeast corner of the Airport located at the intersection of Campus Drive and Bristol Street, which contains COUNTY and LESSEE fueling facilities consisting of above ground sump tanks, underground fuel storage tanks, piping and associated fueling apparatus of which LESSEE’S Fuel Storage Parcel comprises a portion.

SECTION 1.04 BEST MANAGEMENT PRACTICES

“Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, safety plans, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment measures, operating procedures, and practices to control erosion, facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include any type of pollution prevention and pollution control measure necessary to achieve compliance.

SECTION 1.05 BOARD OF SUPERVISORS

“Board of Supervisors” shall mean the members of the Board of Supervisors of the County of Orange, as governing body of the County and proprietor of the Airport through its Airport Director, or designees, as appropriate.

SECTION 1.06 COUNTY

“COUNTY” shall mean the County of Orange, a political subdivision of the State of California.

SECTION 1.07 DOT

“DOT” shall mean the United States Department of Transportation.

SECTION 1.08 ENVIRONMENTAL LAWS

of 1986 ("Proposition 65"); (ix) California Health and Safety Code §§25100, 25395.7, 25915 et seq.; (x) the Porter-Cologne Water Quality Control Act (California Water Code); (xi) California Civil Code § 3479 et seq.; (xii) Storm Water Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (xiii) the Carpenter-Presley-Tanner Hazardous Substances Account Act; (xiv) the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; (xv) the Safe Drinking Water Act, 24 U.S.C. § 300f, et seq.; (xvi) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (or most current); xvii) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ; xviii) The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Arealwide Urban Storm Water Runoff Orange County Municipal Separate Storm Sewer System (MS4) Permit Order No. R8-2009-0030 (National Pollutant Discharge Elimination System No. CAS618030) as amended by Order No. R8-2010-0062; xix) South Coast Air Quality Management District Regulations and Rules; and (xx) all other federal, State, and local laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (a) emissions, discharges, releases, and/or threatened releases of Hazardous Materials into the environment (including, but not limited to, ambient air, surface water, groundwater, land surface, or subsurface strata); and (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials, as such laws are amended, and the regulations and administrative codes applicable thereto.

SECTION 1.09 FAA

“FAA” shall mean the Federal Aviation Administration created under the Federal Aviation Act of 1958, or such successor agency as may from time to time have similar jurisdiction over LESSEE or its business, and the Airport.

SECTION 1.10 HAZARDOUS MATERIALS

“Hazardous Materials” shall mean any pollutant, contaminant, chemical, compound, substance, hazardous or toxic substance, material, waste, and/or any other matter, which is or shall become regulated by any governmental entity, including, but not limited to COUNTY acting in its governmental capacity, the State of California, and/or the United States Government. The term “Hazardous Materials” includes, without limitation, any material or substance which is: (i) defined or listed as a “hazardous waste,” “extremely hazardous waste,” “restrictive hazardous waste” or “hazardous substance” or considered a waste, condition of pollution, nuisance, and/or is controlled or governed under any Environmental Law; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos-containing materials; (iv) flammable or explosive substances; (v) mold-containing materials; poly-chlorinated biphenyl compounds; and/or (vi) substances designated by any governmental entity to cause cancer and/or reproductive toxicity.
SECTION 1.11 NON-STORM WATER DISCHARGE

“Non-Storm Water Discharge” shall mean any discharge to storm sewer systems that is not entirely composed of storm water. “Non-Storm Water Discharge” includes “Unauthorized Non-Storm Water Discharges” and “Authorized Non-Storm Water Discharges” as defined by the California Environmental Protection Agency State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities and Construction Activities.

SECTION 1.12 NPDES PERMIT

“National Pollutant Discharge Elimination System (NPDES) Permit” means the currently applicable discharge permit(s) issued by the Regional Water Quality Control Board, Santa Ana Region, which establish waste discharge requirements applicable to storm runoff within the County and Airport.

SECTION 1.13 POLLUTANT

“Pollutant” means any chemical, compound, substance, liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

a. Artificial materials (such as floatable plastics, wood products or metal shavings);

b. Household waste (such as trash, paper, and plastics; cleaning chemicals, yard wastes, animal fecal materials, used oil and fluids from vehicles, lawn mowers and other common household equipment);

c. Metals and nonmetals, including compounds of metals and nonmetals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic) with characteristics which cause an adverse effect on living organisms;

d. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);

e. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;

f. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;

g. Materials which contain base/neutral or acid extractable organic compounds;

h. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act;

i. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus, or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial use of the receiving waters, flora or fauna of the State; and

j. Any substance listed under Health and Safety Code, §25316.
SECTION 1.14 PROHIBITED DISCHARGE

“Prohibited Discharge” shall mean any discharge that contains any pollutant, from public or private property to (i) the storm water drainage system; (ii) any upstream flow, which is tributary to the storm water drainage system; (iii) any groundwater, river, stream, creek, wash or dry weather arroyo, wetlands area, marsh, or coastal slough; or (iv) any coastal harbor, bay, or the Pacific Ocean.

SECTION 1.15 STORM WATER

“Storm Water” shall mean storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

SECTION 1.16 STORM WATER DRAINAGE SYSTEM

“Storm Water Drainage System” means street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of a tributary to the county-wide storm water runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of storm water. The Airport storm drain system shall mean any gutter, channel, storm drain, constructed drain, wash area, inlet or outlet or other facility that flows into, onto, through or out of the Airport property.

SECTION 1.17 TERMINAL

“Terminal” means the Thomas F. Riley commercial passenger terminal at John Wayne Airport.

SECTION 1.18 TSA

“TSA” shall mean the Transportation Security Administration of the United States Department of Homeland Security, the federal agency responsible for regulation of airport security, or any similar successor agency.

ARTICLE II - TERM OF LEASE

SECTION 2.01 TERM OF LEASE

The term of this Lease shall be thirty-five (35) years commencing on January 1, 2021 ("Commencement Date"), and continuing through December 31, 2055.

SECTION 2.02 HOLDING OVER

In the event LESSEE shall continue in possession of the Leased Premises after the term of this Lease, such possession shall not be considered an extension or renewal of this Lease but a tenancy from month-to-month and shall be terminable upon 30 days’ written notice and otherwise governed
by the conditions and covenants contained in this Lease. The Minimum Annual Rent used as the basis to calculate monthly rents for any month-to-month holdover period shall be subject to the terms in Section 4.01 of this Lease.

ARTICLE III - LEASED PREMISES

SECTION 3.01 LEASED PREMISES

COUNTY leases to LESSEE that certain real property as shown in Exhibits A and B hereinafter referred to as “Leased Premises” and incorporated herein by this reference. Said Leased Premises are being leased to LESSEE in their “as-is” and “where-is” condition.

LESSEE further acknowledges that COUNTY has made no representation or warranty regarding the condition of the Leased Premises or the suitability of such Leased Premises for the operation or conduct of LESSEE’s use thereon or for any other purpose. The taking of possession of the Leased Premises by LESSEE shall conclusively establish that the Leased Premises is acceptable to LESSEE and in satisfactory condition for LESSEE’s use at such time. LESSEE further, by taking possession of the Leased Premises, expressly acknowledges and represents to COUNTY that LESSEE is accepting LESSEE’s interest in, and possession of, the Leased Premises in their present condition “as-is” and “where-is” including, but not limited to, the physical condition and environmental condition of the Leased Premises and all applicable laws affecting or related to the Leased Premises, or any part thereof, including, but not limited to, building and safety codes, zoning ordinances, land use restrictions and regulations, Environmental Laws, and other such matters. LESSEE acknowledges and represents to COUNTY that neither COUNTY nor any agent or representative of COUNTY has made any representation, warranty or promise with respect to the Leased Premises, or any part thereof; that LESSEE has satisfied itself with the condition of the Leased Premises and the suitability of the Leased Premises for LESSEE’s intended use; and that LESSEE has made all such investigations as LESSEE deems necessary with reference to the Leased Premises and assumes all responsibility therefor as the same relates to LESSEE’s occupancy thereof.

SECTION 3.02 NATURE OF LESSEE'S ESTATE

LESSEE acknowledges and agrees to all of the following:

A. COUNTY has granted to LESSEE a leasehold interest in the Leased Premises only.

B. COUNTY retains a fee ownership for federal income tax purposes in and to the Leased Premises, as well as all other ownership burdens and benefits connected with such fee ownership.

C. LESSEE has not been granted any direct or indirect right or option to purchase the Leased Premises from COUNTY at any time during or after the termination and/or expiration of this Lease.
SECTION 3.03 INSTALLATION OF EQUIPMENT OUTSIDE THE LEASED PREMISES

LESSEE shall not make any alteration or install any fixture or equipment of any kind outside the Leased Premises unless authorized in writing by the Airport Director prior to installation.

ARTICLE IV - RENT

SECTION 4.01 RENT, FEES, AND CHARGES

Rent shall consist of Minimum Annual Rent and Additional Rent, as defined and adjusted from time to time as set forth hereinafter.

A. Minimum Annual Rent

For purposes of this Lease the “Minimum Annual Rent” is defined as the sum of Ground Rent and Building Rent. The Minimum Annual Rent shall be payable in twelve (12) equal monthly installments on or before the first (1st) day of each calendar month beginning on the Commencement Date. Said amount shall be subject to annual adjustment as set forth in that section of the Lease entitled “REVISION OF RENT, FEES AND CHARGES.”

1) Ground Rent

Ground Rent shall consist of $1.77 price per square foot (psf) for the square footage of all land that makes up the Leased Premises.

Ground Rent = $93,688.76 per month

2) Building Rent

Subject to the provisions of Sections 4.01(B)(5) and 4.01(B)(6) below, Building Rent shall consist of $8.76 price per square foot (psf) for the square footage of all enclosed structures located upon the Leased Premises on the Commencement Date.

Building Rent at Commencement Date = $72,865.68 per month

LESSEE shall pay 150% of Minimum Annual Rent during any holdover period, which shall be calculated based on the most current month prior to holdover period commencement.

B. Additional Rent

Additional Rent shall include Percentage Rent of Gross Receipts, Rent-a Car Fees, Advertising Fees, Fuel Flowage Fees, and Lubricant Fees as defined below. Additionally, NSF Check Fees, Charges for Late Payments, Penalty Fees, and Unauthorized Use and
Services Fees, and all other monetary obligations under this Lease shall be deemed Additional Rent. Further, COUNTY has the right to make any payment to any third-party on any delinquent obligation which LESSEE is obligated to pay under this Lease and recover that amount from LESSEE as Additional Rent.

LESSEE agrees to pay all Additional Rent monthly, in arrears, on or before the fifteenth day of each month, up to and including the last day of the preceding month.

1) **Percentage Rent of Gross Receipts**

LESSEE shall pay an amount equal to five percent (5%) of all Gross Receipts (as defined in Section 4.02) realized by LESSEE from its business operations on or from the Leased Premises including any amounts received by LESSEE from subtenant(s), sublessee(s), or licensee(s), as more fully set forth in Section 4.02, below.

LESSEE shall pay an amount equal to one-quarter of one percent (.25%) of all Gross Receipts realized by LESSEE for aircraft charter operations, the sale of aircraft, the sale of aircraft parts, and third-party aircraft maintenance services.

2) **Rent-A-Car Fees**

LESSEE shall pay its percentage of reportable Gross Receipts from rental car activities equal to the percentages paid by other rental car companies operating on Airport, which on the Commencement Date equals ten percent (10%), and which is subject to adjustment from time to time.

3) **Advertising Receipts**

LESSEE shall pay fifty percent (50%) of its Gross Receipts from all third-party advertising activities conducted on the Leased Premises. At least fifteen (15) days in advance of any advertising activity, LESSEE shall submit all advertising creatives and programs to JWA for Airport Director’s prior written approval.

4) **Fuel Flowage Fees and Lubricant Fees**

LESSEE shall pay a fuel flowage fee of six cents ($0.06) per gallon of fuel delivered to the Airport and lubricant fees of ten cents ($0.10) per gallon or as otherwise set by COUNTY’s Board of Supervisors.

All fuel flowage fees shall be applied to all fuel handlers without unjust discrimination. All such fees shall be calculated upon deliveries made to LESSEE at the airport. The fuel gallonage shall be computed on the basis of net gallonage delivered and invoiced to LESSEE. Oil gallonage and lubricant weights shall be based on delivery invoices as supplied by the oil delivery company to LESSEE.
5) **Building Rent Adjustment During Construction**

Beginning upon the initiation of demolition of enclosed structures located on the Leased Premises as of the Commencement Date, Building Rent shall be adjusted each month to reflect, on a pro-rata basis, the maximum square footage of usable space of such buildings at any point during the prior month. Ground Rent and Additional Rent shall remain unchanged during the course of any demolition or construction activities.

6) **No Building Rent for New Improvements**

In recognition that LESSEE will be constructing or causing new improvements to be constructed without cost to COUNTY and that LESSEE will be obligated to pay the property taxes, insurance, and other costs that become payable with respect to the Leased Premises, including any new improvements, and that all new improvements will revert to COUNTY at the expiration or termination of this Lease, no Building Rent will be due or payable by LESSEE for such new improvements.

C. **Fuel Pricing**

LESSEE’s highest fuel prices for aircraft fuel sold at JWA shall be established with reference to a regional average of the following airports: McClellan–Palomar Airport (CRQ), Van Nuys Airport (VNY), Hollywood Burbank Airport (BUR) and Long Beach Airport (LBG), and shall not be more than ten percent (10%) above the median retail price of fuel sold at those four airports, as published weekly by Airnav.com.

LESSEE may also provide other discounts and shall seek to maintain competitive fuel pricing for customers purchasing fuel at JWA.

Fuel pricing shall be accessible and subject to inspection or audit by Airport Director or designee upon request.

Notwithstanding anything in this Lease to the contrary, all amounts payable by LESSEE to or on behalf of COUNTY under this Lease, whether or not expressly denominated as Minimum Annual Rent, Ground Rent, Building Rent, or Additional Rent, shall also constitute rent for the purposes of the Bankruptcy Code, 11 United States Code Section 502(b). Rent payments shall be made in accordance with the provisions with that section of the Lease entitled “PAYMENT PROCEDURE.”

**SECTION 4.02 DEFINITION OF GROSS RECEIPTS**

As used in this section, the term “LESSEE” shall include LESSEE, its officers, directors, employees, agents, affiliates, assigns, and successors. The term “Gross Receipts” upon which five percent (5%) of Gross Receipts is to be calculated, shall include the following:
A. All business activities that generate income or revenue for LESSEE on or from the Leased Premises, which shall include but not be limited to, the sale price of all goods, services, wares, and products sold, performed or traded on or from the Leased Premises, whether for cash or credit and whether payment is actually made or not (provided, however, that it is expressly understood that the activities encompassed in this Subsection 4.02(A) do not include those activities that are covered by the separate percentage (.25%) provided for in the second paragraph of Subsection 4.01(B)(1);

B. All admission, entry, rental and other fees of any nature or kind charged by LESSEE;

C. The fair rental value of facilities on the Leased Premises used by LESSEE or its employees for purposes other than the business purposes for which the Leased Premises are leased;

D. The value of all consideration received by LESSEE including, without limitation, non-monetary considerations, including trades, for the items sold, leased, rented or services rendered.

E. Any rent, consideration or other amounts paid to LESSEE by subtenant(s), sublessee(s), or licensee(s), or any person acting under contract with LESSEE based on LESSEE’s operations at JWA.

F. Revenue from box hangars.

Gross Receipts subject to the five percent (5%) payment amount shall exclude revenue from tie-downs, sunshades, and T-hangars; Rent-a-Car Fees; Advertising Receipts; Fuel Sales; Fuel Flowage Fees and Lubricant Fees; pass-through costs (which are understood to be expenses that LESSEE prepays on behalf of aircraft owners in the course of aircraft operations as a matter of convenience, and which are then reimbursed by said aircraft owners and on which LESSEE charges no markup), and all sales and excise taxes as defined by federal, State, county or municipal government tax codes, and that are paid by LESSEE as a direct result of operations under this Lease.

Refunds for goods returned shall be deducted from current Gross Receipts upon return. Bad debt losses, including but not limited to NSF checks and uncollectible credit card charges, shall not be deducted from Gross Receipts.

Discounts including but not limited to allowances, deductions, rebates, trades, kickbacks, hidden credit, promotional sales, or any other reductions shall not be deducted from Gross Receipts, unless the Airport Director provides written approval for such a discount.

SECTION 4.03 CHARGE FOR UNAUTHORIZED SERVICES AND USES

In the event LESSEE breaches this Lease by using or permitting the Leased Premises to be used in any manner other than as expressly permitted under this Lease or by providing unauthorized services on the Airport outside of the Leased Premises, LESSEE shall pay COUNTY a sum equal
to one hundred percent (100%) of the Gross Receipts for any such service or use. Said payment shall be subject to the charge for late payment in that section of the Lease entitled “CHARGE FOR LATE PAYMENT.” As used in this section, the term “LESSEE” shall include LESSEE, its employees, agents, successors, assigns, affiliates, sublessees, concessionaires, licensees, or any person acting under contract with LESSEE, or on LESSEE’s behalf. All charges for unauthorized services and uses are due and payable as Additional Rent. Furthermore, this Lease may be subject to termination by the COUNTY for LESSEE’s unauthorized services or uses, which termination would be governed by the provisions of Section 9.02.

SECTION 4.04 REVISION OF RENT, FEES AND CHARGES

A. Minimum Annual Rent

The Minimum Annual Rent specified in that section of the Lease entitled “RENT, FEES AND CHARGES” shall be subject to automatic annual adjustments in proportion to changes in the Consumer Price Index for Los Angeles-Long Beach-Anaheim, CA (All Urban Consumers - All Items 1982-1984=100) promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor.

The automatic adjustment shall be effective on each anniversary of the Commencement Date of the Lease and shall be calculated by means of the following formula:

\[ A = \frac{B \times C}{D} \]

A = Adjusted Rent
B = Minimum Annual Rent as originally set forth in that section of the Lease entitled “RENT, FEES AND CHARGES”
C = Monthly index for the fourth month prior to the month in which each rental rate adjustment is to become effective
D = Monthly index for the month in which this Lease becomes effective

In the event that the Consumer Price Index (CPI) ceases to use 1982-84 = 100 as the basis of calculation, or if, in COUNTY's sole judgment, a substantial change is made in the method used by the federal government to determine the CPI or the items used to calculate the CPI, then the CPI shall be converted to the figure that would have been calculated (or as close to such figure as shall be practicable) had the manner of calculating the CPI in effect at the date of this Lease not been altered.

In the event that the CPI is not issued or published for the period for which such minimum annual rent is to be adjusted and computed hereunder, or in the event that the Bureau of Labor Statistics of the United States Department of Labor should cease to publish said index figures, then any similar index published by any other branch or department of the United States Government shall be used and if none is so published, then another index generally recognized as authoritative shall be substituted by COUNTY.
Notwithstanding the foregoing, in no event shall the rent be reduced by reason of any such adjustment.

B. **Fees and Charges**

The fuel flowage and lubricant fees shall be adjusted periodically by COUNTY based on the latest schedule established by Board of Supervisors. The rent-a-car percentage fees shall be the same as the percentage fees paid by other rental car companies operating on Airport.

**SECTION 4.05 PAYMENT PROCEDURE**

A. **Place of Payment and Filing.** Payments and statements required by Section 4.01 “RENT” shall be delivered to the County of Orange, John Wayne Airport Accounting Services, 3160 Airway Avenue, Costa Mesa, California 92626. The designated place of payment, filing and reporting may be changed at any time by COUNTY upon ten (10) days' written notice to LESSEE. Payments may be made by check payable to the County of Orange. LESSEE assumes all risk of loss if payments are made by mail.

B. **Form of Payment.** All sums due under this Lease shall be paid in lawful money of the United States of America without offset or deduction or prior notice or demand. No payment by LESSEE or receipt by COUNTY of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and COUNTY shall accept such check or payment without prejudice to COUNTY's right to recover the balance of the amount due or pursue any other remedy in this Lease. All Electronic Funds Transfer (EFT) payments must be remitted by Automated Clearing House (ACH) / direct deposit to the COUNTY’s designated bank account, or any future mode prescribed by the COUNTY. Any fees assessed to the COUNTY’s bank account due to the use of other form of payment (e.g. wire transfer) not prescribed or approved by the COUNTY, shall be passed through to the LESSEE plus $25 processing fee.

C. **In the event the obligation to pay rent begins or terminates on some day other than the first or last day of the month, the rent shall be prorated to reflect the actual period of use on the basis of a thirty (30) day month. The rent for any partial calendar month during which this Lease becomes effective will be payable on such effective date.**

D. **NSF Check Fees.** In the event a check submitted by LESSEE is returned for non-sufficient funds (“NSF”), LESSEE agrees to pay COUNTY a fee in the amount of twenty-five dollars ($25) for the first check, and thirty-five dollars ($35) for each subsequent check. All NSF check fees are due and payable as Additional Rent. LESSEE will be liable for treble the amount of the check under certain circumstances described by California Civil Code Section 1719.
SECTION 4.06 CHARGE FOR LATE PAYMENT

LESSEE hereby acknowledges that the late payment of rent or any other sums due hereunder will cause COUNTY to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, increased accounting costs, lost interest income.

Accordingly, if any payment of rent as specified in that section of the Lease entitled “RENT, FEES AND CHARGES” or of any other sum due COUNTY is not received by COUNTY by the due date, a late charge of one and one-half percent (1.5%) of the payment due and unpaid plus one hundred dollars ($100) shall be added to the payment, and the total sum shall become immediately due and payable to COUNTY. An additional charge of one and one-half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid. All charges for late payments are due and payable as Additional Rent.

LESSEE and COUNTY hereby agree that such late charges represent a fair and reasonable estimate of the costs that COUNTY will incur by reason of LESSEE's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by COUNTY shall in no event constitute a waiver of LESSEE's default with respect to such overdue payment, or prevent COUNTY from exercising any of the other rights and remedies granted hereunder.

SECTION 4.07 PROVISION AGAINST SET-OFFS

It is the obligation of LESSEE to pay all rents, fees, and charges, free of any set-offs or claims, in the amount and at the times specified in this Lease. In the event that LESSEE desires to contest the validity or amount due and owing, LESSEE shall first pay the same to COUNTY and may then seek a refund in any appropriate forum.

SECTION 4.08 SECURITY DEPOSIT

No less than thirty (30) days prior to the Commencement Date of this Lease, LESSEE shall deposit with COUNTY a security deposit subject to the provisions for adjustment as provided hereinafter. Concurrently with each revision of the rent pursuant to that section of the Lease entitled “RENT, FEES, AND CHARGES,” the security deposit to be provided by LESSEE shall be adjusted to six (6) times the total monthly building and ground rent to guarantee the faithful performance by LESSEE of its obligations under this Lease and the payment of all rents, fees and charges due hereunder. Any increased security deposit is due within ten (10) business days of such adjustment.

The security deposit shall take one of the forms set out below and shall guarantee LESSEE's full and faithful payment and performance of all the terms, covenants, and conditions of this Lease:

A. An instrument or instruments of credit from one or more financial institutions, subject to regulation by the State of California or Federal government, pledging that funds necessary to secure performance of the Lease terms, covenants, and conditions are on deposit and guaranteed for payment, and agreeing that said funds shall be trust funds securing
LESSEE's performance and that all or any part shall be paid to COUNTY, or order upon demand by Airport Director. Both the financial institution(s) and the form of the instrument(s) must be approved by Airport Director.

B. A Faithful Performance Bond executed by a surety company or financial institution qualified and admitted to do business in the State of California and issued in a form, approved by the COUNTY. Under the bond, the surety company shall guarantee to COUNTY full and complete payment and performance of all the terms, conditions and covenants herein to be performed on the part of the LESSEE, including the payment of use fees, charges, rents, as well as any and all other payments. Said bond shall be maintained at the cost of the LESSEE throughout the existence of this Lease. Said Surety shall give Airport Director a minimum (30) days' prior written notice of cancellation or material change in said bond. Such cancellation or material change without Airport Director's prior written consent shall constitute a default under this Lease.

Regardless of the form in which LESSEE elects to make said security deposit, all or any portion of the principal sum shall be available unconditionally to the COUNTY for correcting any default or breach of this Lease by LESSEE, its successors or assigns, or for payment of expenses incurred by COUNTY as a result of the failure of LESSEE, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this Lease.

Any instrument or bond shall have the effect of releasing depository or creditor therein from liability on account of the payment of any or all of the principal sum to COUNTY, or order upon demand by Airport Director.

In the event Airport Director withdraws all or any portion of the security deposit as provided herein, LESSEE shall, within ten (10) days of any withdrawal by Airport Director, replenish the security deposit to maintain it at amounts herein required throughout the Lease term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Lease.

LESSEE shall be obligated to maintain the security deposit in effect until all obligations of LESSEE under this Lease have been fully paid and/or performed. LESSEE shall deliver to the COUNTY an original copy of all instruments obtained under this Section including renewals and amendments as applicable.

The security deposit, after deduction of all amounts due COUNTY, shall be rebated, reassigned, released or endorsed by the COUNTY to LESSEE or order, as applicable, after one hundred twenty (120) days have elapsed following the expiration date of the Lease term, provided LESSEE has fully and faithfully performed each and every term, covenant, and condition of this Lease.
ARTICLE V - USE

SECTION 5.01 USE

LESSEE's use of the Leased Premises shall be for operation of a Full Service FBO. LESSEE shall furnish all services on a reasonable, and not unjustly discriminatory, basis to all Airport users, and shall charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that LESSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Any use or provision of services on Airport is specifically subject to rules and regulations as may be promulgated from time to time by COUNTY.

LESSEE shall ensure that aircraft fueling or self-fueling facilities (as applicable), aircraft storage (hangars and tie-downs), aircraft charters, and aircraft maintenance and repair services are provided from the Leased Premises throughout the term of this Lease. LESSEE shall designate an area for transient aircraft self-service activity as approved by Airport Director in his/her reasonable discretion.

LESSEE shall offer a right of first refusal to the Orange County Sheriff’s Department (“OCSD”) and Orange County Fire Authority (“OCFA”) to sublease an Air Support Facility (“ASF”) to be constructed and maintained by LESSEE on the Leased Premises in accordance with a mutually agreed design providing for operations and administrative support functions, an aircraft hangar and apron area for OCSD’s and OCFA’s helicopters, and auto parking. Such sublease will be negotiated between LESSEE and OCSD and OCFA on reasonable terms consistent with a fair market appraisal of the leased value of the ASF.

Other required services and operations include, without limitation:

A. Maintenance, repair, overhaul, and modification of general aviation aircraft, aircraft engines, airframes, automatic flight systems, instruments, radio, electronic equipment, propellers and other aircraft components under cover or indoors.

B. All taxiing and movement of aircraft must be accomplished in a manner that does not disturb or damage other aircraft or pavement outside the Leased Premises. Aircraft must be parked so that no portion of the aircraft extends outside the Leased Premises. Any takeoff and landing of rotorcraft may only be from an area approved by both the Airport and FAA for such use.

C. Effective upon LESSEE’s completion of a given phase of construction, as approved by Airport Director, LESSEE shall park or store aircraft affected by such construction phase on the Leased Premises in strict accordance with the uses depicted on Exhibit C for the remaining term of the Lease.

For purposes of the uses depicted on Exhibit C, the following definitions shall apply:
a. The green area marked as “SMALL GA” on Exhibit C shall only be used for the parking or storage of aircraft that meet at least one of the following criteria:
   i. The aircraft has a wingspan of less than 49 feet in accordance with FAA Airplane Design Group I (see Advisory Circular AC 150/5300-13A regarding Airport Design, updated September 28, 2012); or
   ii. The aircraft is a “small aircraft” with a maximum certificated takeoff weight of 12,500 pounds or less in accordance with Title 14 CFR § 1.1.

b. The yellow area marked as “MIXED USE” may be used for the parking or storage of aircraft of any size.

Any modification to the parking areas depicted on Exhibit C shall be permitted only with Airport Director’s prior written approval and shall not increase the acreage allotted for MIXED USE.

For each violation of this provision, LESSEE shall pay to COUNTY liquidated damages in the amount of $1,000 per occurrence, per day. LESSEE agrees this amount is reasonable in light of the anticipated harm to COUNTY for each such occurrence, which would otherwise be difficult to calculate with certainty.

D. Storage of aircraft-related supplies, parts and equipment necessary for support of said aircraft.

E. Retail and wholesale sales of aircraft fuel by into-plane full service fueling, engine oil, and lubricants. LESSEE acknowledges that COUNTY has installed a hydrant fueling system and fuel storage tanks to serve commercial airline aircraft, and LESSEE’s fuel storage improvements and wholesale deliveries will be serving only general aviation aircraft.

F. Line service for the purpose of fueling, supplying engine oil, checking tire pressures, and use of auxiliary power units for starting and/or on-the-ground utility service on the Leased Premises or in the public transit area.

G. Flight instruction (schools or individual instructors), including flight training and demonstration of aircraft for sale or charter.

H. Towing of disabled aircraft.

I. Maintenance and servicing of general aviation automotive ramp equipment (under cover or indoors), and the sale of aircraft fuel, subject to Airport Director approval.

J. Installation of food vending equipment and/or a coffee bar for the purpose of serving LESSEE’s employees and customers. Sale or vending of tobacco products is prohibited. Use of tobacco products is prohibited within any building on the Leased Premises.
K. Provision of aircraft washing beginning at such time as appropriate facilities are constructed and operational on the Leased Premises.

L. Office space incidental to LESSEE’s operations permitted herein.

Other allowed services and operations may be provided, including:

A. Sale, lease, and rental of new and used aircraft (both retail and wholesale).

B. Sale of aircraft parts and accessories (retail or wholesale).

C. Sale of new and used radio and other electronic equipment, including aircraft instruments.

D. Sale of navigational and aviation supplies and accessories.

E. Aircraft chartering, operation, and management services.

F. Financing, leasing, and insuring of aircraft.

G. Rent-a-car service.

H. Upholstery and maintenance of aircraft interiors.

I. Such other services or uses as Airport Director may approve in writing.

Additional Use Requirements and Prohibitions:

LESSEE shall provide on-site management personnel for hangars, tie-downs, and other uses permitted above. On the Commencement Date of this Lease, LESSEE shall accept the assignment from COUNTY to LESSEE of all aircraft parking and storage licenses (including all tie-down, sunshade, and hangar licenses) on the Leased Premises, and LESSEE shall assume responsibility for any waitlists for formerly COUNTY-operated facilities on the Leased Premises. LESSEE shall offer aircraft storage and maintain any waitlists for aircraft storage in a fair and transparent manner.

LESSEE shall provide the Airport with copies of all subleases and/or agreements with subtenants and/or third parties for the leasing of office space or another portion of the Leased Premises, community hangars, box hangars, flight instruction, maintenance and servicing of aircraft, wash and wax services, and rent-a-car services, within fifteen (15) days following execution of this Lease (in the case of pre-existing subleases and agreements), or within fifteen (15) days following the execution of any new such subleases or agreements.

LESSEE shall make restroom facilities available for general aviation users, as well as allow Airport Security personnel staffing perimeter gates to use such facilities closest to the gate they are staffing.
LESSEE shall comply with all applicable federal, State, and local laws and regulations. LESSEE agrees not to use the Leased Premises for any unauthorized commercial airline aviation purposes or to engage in or permit any activity not enumerated by this section within or from the Leased Premises. Additionally, LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time. LESSEE agrees not to conduct or permit to be conducted any public and/or private nuisance (as defined in Civil Code, §§3479 – 3481, et seq.) at, in, on, or from the Leased Premises, or to commit or permit to be committed any waste in, on or from the Leased Premises.

However, LESSEE may be permitted to provide certain commercial aviation ramp services and other contract ground services to commercial airlines pursuant to a separate Airline Related Services License.

SECTION 5.02 USE OF PUBLIC AIRPORT FACILITIES

COUNTY grants the LESSEE a license for the non-exclusive use of all public Airport facilities including, but not limited to, taxiways, runways, navigational aids and facilities relating thereto for purposes of landings, takeoffs and taxiing of LESSEE's aircraft. All such use shall be in accordance with the laws of the United States of America, the State of California, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all reasonable and applicable rules, regulations, and ordinances of COUNTY now in force or hereafter prescribed or promulgated by ordinance or by law. The use of these areas shall be subject to the control and regulation of Airport Director, in his/her sole discretion. This license for non-exclusive use is subject to all rights reserved by the COUNTY to license, permit, authorize, regulate, and relocate concessionaires and other Airport lessees.

SECTION 5.03 RULES AND REGULATIONS

During the term of this Lease, the COUNTY may adopt and enforce rules and regulations which LESSEE agrees to observe and obey with respect to the use of the Airport and its appurtenances, facilities, improvements, equipment and services; provided that such rules and regulations shall not be inconsistent with safety and with rules, regulations, and orders of the FAA and TSA with respect to all operations of the Airport. Except in the case of emergency, the COUNTY shall give LESSEE written notice and opportunity to comment on any proposed changes or additions to the rules and regulations that could impact LESSEE's operations at the Airport before such proposed rules and regulations are adopted by the COUNTY. If requested, the COUNTY shall promptly provide a copy of such rules and regulations to LESSEE.

LESSEE must comply with the Minimum Standards promulgated by the Airport and presently in effect at the Commencement Date or in effect at such time as this Lease is amended.

LESSEE shall comply with all Airport Rules and Regulations, the Airport’s General Aviation Minimum Standards, and shall observe, obey, comply with and not otherwise hinder or obstruct any and all rules, regulations, laws, ordinances, statutes or orders of any governmental authority,
whether federal, State, or local, lawfully exercising authority over the Airport or the activities thereon, including compliance with FAA, TSA and Airport security rules, regulations, grant assurances, and plans. The Airport Rules and Regulations contain environmental and sustainability requirements that LESSEE agrees to make reasonable efforts to participate in, help facilitate, and cooperate with, including those related to air quality, waste, and water and energy conservation.

To the fullest extent authorized by law, LESSEE shall be liable to COUNTY for any and all claims, losses, expenses, demands, damages, fines or penalties of any nature whatsoever which may be imposed upon COUNTY due to LESSEE's violation of any governmental rules, regulations, or standards as now or may hereafter be promulgated or enacted, including, but not limited to, the payment of any fines or penalties for any breach of security, arising from the unauthorized entry of any person or vehicle onto Airport, or from any other violations caused directly or indirectly by the act, omission, negligence, abuse, or carelessness on the part of LESSEE, its employees, sublessees, agents, or suppliers.

COUNTY shall not be liable to LESSEE for any diminution or deprivation of possession, or of its rights hereunder, on account of the exercise of such right or authority as in this section provided, nor shall LESSEE be entitled to terminate the whole or any portion of the Leasehold estate herein created, by reason of the exercise of such right or authority, unless the exercise thereof shall so interfere with LESSEE's use and occupancy of the Leased Premises so as to constitute a termination in whole or in part of this Lease by operation of law in accordance with the laws of the State of California.

SECTION 5.04 FUEL STORAGE PARCEL

The Leased Premises includes an area designated as “Fuel Storage Parcel” which is described in the Exhibits attached hereto. LESSEE shall not use any other fuel storage tanks or facilities at the Airport without the prior written approval of the Airport Director, subject to any conditions described therein.

A. Use

The use of said Fuel Storage Parcel shall be limited to the storage and transfer of fuel, the installation and maintenance of all auxiliary equipment, and facilities required to handle such fuel storage and parking of aircraft refueling vehicles. Except as approved by Airport Director in writing, parking of fuel delivery or other vehicles is prohibited. LESSEE is prohibited from replacing, altering, or modifying the fuel storage tanks located on LESSEE’s designated Fuel Storage Parcel without the prior written approval of the Airport Director.

B. Fuel Storage Parcel Access

COUNTY agrees to provide LESSEE with access to the Fuel Storage Parcel from the ramp and runway areas which will not require LESSEE’s fuel handling equipment to travel upon
a public roadway. COUNTY reserves the right to access groundwater and/or soil below
the Fuel Storage Parcel, for monitoring, assessment, evaluation, remediation, or as
otherwise deemed necessary by the Airport Director.

C. Liability

LESSEE acknowledges that said Fuel Storage Parcel was under control and operation of
prior lessees during a previous lease with COUNTY which expired. As set forth in this
Lease, and without releasing any other party that may be legally responsible and/or
financially liable for the environmental conditions that exist upon execution of this Lease,
LESSEE agrees that LESSEE shall be liable and assume responsibility for the
environmental conditions associated with the fuel storage tanks on the Leased Premises
and for the cleanup of any Hazardous Materials in, at, on, under, and/or emanating from
said Fuel Storage Parcel which were present during that prior occupancy or control and to
indemnify and hold COUNTY harmless for any such condition as required by the
“ENVIRONMENTAL INDEMNIFICATION” section of this Lease.

D. Termination for Non-Use

In the event LESSEE ceases all use and activity on said Fuel Storage Parcel for a period of
six (6) months, as shown by fuel not being delivered or withdrawn from the fuel storage
tanks on said parcel for that period, then Airport Director, may elect to terminate that
portion of the Lease relating to the Fuel Storage Parcel. Termination shall occur upon the
date the Notice of Termination is issued. LESSEE shall not be entitled to any compensation
for termination of the portion of the Leased Premises covering the Fuel Storage Parcel if
said termination occurs due to non-use by LESSEE.

Airport Director shall also notify LESSEE whether to leave the existing improvements on
the Fuel Storage Parcel or to remove all or a portion of said improvements. LESSEE agrees
that should the Fuel Storage Parcel of this Lease be terminated for non-use under the
provisions of this section, LESSEE shall leave the Fuel Storage Parcel in such condition as
is required to conform with federal, State, and local regulations, particularly those
regulations relating to underground storage tanks and the cleanup of Hazardous Materials.

If LESSEE’s use of the Fuel Storage Parcel is terminated, the monthly rent required under
this Lease shall be reduced in proportion to the square footage eliminated from the total
Leased Premises.

SECTION 5.05 LIMITATION OF THE LEASEHOLD

This Lease and the rights and privileges granted LESSEE in and to the Leased Premises are subject
to all covenants, conditions, restrictions, and other exceptions of record. Nothing contained in this
Lease or in any document related hereto shall be construed to imply the conveyance to LESSEE
of rights in the Leased Premises which exceed those owned by COUNTY, or any representation
or warranty, either expressed or implied, relating to the nature or condition of the Leased Premises.
or COUNTY’s interest therein. LESSEE acknowledges that LESSEE has conducted a complete and adequate investigation of the Leased Premises and that LESSEE has accepted the Leased Premises in “as is” condition.

SECTION 5.06 PROVISION OF SUFFICIENT PARKING

LESSEE shall provide sufficient vehicular parking to accommodate LESSEE’s operation within the Leased Premises consistent with applicable building or zoning regulations. Should LESSEE need off-site parking to meet the parking requirements for its operations or improvements on the Leased Premises, then LESSEE shall first obtain the approval of the Airport Director and, if approved, agrees that any future sale or assignment of this Lease shall also include an assignment of LESSEE’s off-site parking or provision of a comparable alternate off-site parking area outside the Airport perimeter fence to be available for use during the remaining term of the Lease.

COUNTY has no obligation whatsoever to make vehicular parking available to accommodate LESSEE’s operation.

SECTION 5.07 RECORDS AND ACCOUNTS

A. Records. LESSEE shall, at all times during the term of this Lease, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents.

B. The Accounting Year. The accounting year shall be twelve full calendar months. The accounting year may be established by LESSEE, provided LESSEE notifies the COUNTY in writing of the accounting year to be used. Said accounting year shall be deemed to be approved by COUNTY unless COUNTY has objected to LESSEE's selection in writing within sixty (60) days of LESSEE's written notification.

In the event LESSEE fails to establish an accounting year of its choice, regardless of the cause, the accounting year shall be synonymous with the twelve-month period contained in the first one-year term of the Lease.

Any portion of a year that is not reconciled, should the accounting year and the anniversary year of the Commencement Date not be the same, shall be accounted for as if it were a complete accounting year.

Once an accounting year is established, it shall be continued through the term of the Lease unless COUNTY specifically approves in writing a different accounting year. COUNTY shall only approve a change in accounting years in the event of undue hardship being placed on either the LESSEE or COUNTY, and not because of mere convenience or inconvenience.
C. Financial Statements.

1) Annual Balance Sheet and Income Statement

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY a detailed balance sheet and income statement prepared in accordance with generally accepted accounting principles reflecting all business transacted by the LESSEE on or from the Leased Premises during the preceding accounting year. The LESSEE shall attest in writing that the balance sheet and income statement submitted are true and accurate representation of LESSEE’s records. LESSEE shall also provide standalone audited financial statements of the LESSEE’s business entity if they are available from LESSEE’s corporate audit or upon request of the COUNTY. The COUNTY has the option to require LESSEE’s submission of audited financial statements.

2) CPA-Audited Gross Receipts

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY an audited statement of total Gross Receipts and total gallons of fuel delivered to LESSEE. This statement must include a breakdown schedule of all total gallons and all total Gross Receipts by type and month. At a minimum, Gross Receipts should be divided into the categories as set forth in Section 4.01(B). This statement must be prepared by a Certified Public Accountant (CPA) who is a member in good standing with the American Institute of Certified Public Accountants (AICPA) or the California Society of CPA's. The audit must be performed in accordance with Generally Accepted Auditing Standards (GAAS) authorized by the AICPA. The reference for this is Statement on Auditing Standards (SAS) #95. The audited statement of fuel and lubricant deliveries and Gross Receipts shall include total Gross Receipts for the accounting year classified according to the categories of business established for fuel flowage and lubricant fees and for rent-a-car fees as listed in Section 4.01 of this Lease entitled “RENT, FEES AND CHARGES.”

A reviewed statement of Gross Receipts may be requested by LESSEE instead of an audited statement of fuel deliveries and Gross Receipts if undue hardship is placed on the LESSEE to obtain an audited statement. LESSEE must request and obtain written approval for a reviewed statement from the COUNTY prior to the start of the financial statement engagement for the year to be audited. If a reviewed statement of Gross Receipts is approved by the COUNTY, COUNTY retains the right to require an audited statement of Gross Receipts for future years.

LESSEE shall provide COUNTY with copies of any CPA audit or review report and audited or reviewed financial statements prepared in conjunction with their audit of LESSEE's operations from the leased premises. Copies of reports and/or
financial statements shall be provided directly to COUNTY by the CPA at the same time LESSEE's copy is provided to LESSEE.

LESSEE acknowledges its understanding that any and all of the “Financial Statements” submitted to COUNTY pursuant to this Lease become public records subject to public inspection as required by California Government Code Section 6250 et seq.

D. Failure to Submit Financial Statements. In addition to any other remedies available to COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to submit any financial statements by the due date listed in Section 5.07 “RECORDS AND ACCOUNTS,” Airport Director may require LESSEE to pay the greater of:

1) Five thousand dollars ($5,000); or

2) Any and all costs incurred by COUNTY for the Certified Public Accountant hired by the COUNTY to prepare the required financial statements, including an administrative fee equal to fifteen percent (15%) of those costs.

E. Audits. All LESSEE's books of account and records and supporting source documents related to this Lease or to business operations conducted within or from the Leased Premises shall be kept and made available at one location within the limits of the County of Orange. COUNTY shall, through its duly authorized agents or representatives, have the right to examine and audit said books of account and records and supporting source documents at any and all reasonable times.

The COUNTY, upon request of LESSEE and at said COUNTY’s sole discretion, may authorize the above-referenced books and records and supporting source documents to be kept in a single location outside the limits of Orange County provided LESSEE shall agree to pay all expenses including but not limited to transportation, food, and lodging necessary for COUNTY to send a representative to audit said books and records. Said right shall not be exercised by COUNTY more than once each accounting year.

The full cost of said audit, as determined by COUNTY, shall be borne by LESSEE if either or both of the following conditions exist:

1) The audit reveals an underpayment of more than two percent between the rent due as reported and paid by LESSEE in accordance with this Lease and the rent due as determined by said audit;

2) LESSEE has failed to maintain true and complete books, records, accounts and supporting source documents in accordance with Section A “Records” above. The adequacy of records shall be determined at the sole discretion of COUNTY in accordance with the provisions of a letter of agreement between LESSEE and COUNTY.
Otherwise, COUNTY shall bear the cost of said audit, excluding the aforementioned expenses related to audit of documents kept outside the limits of Orange County.

Upon the request of COUNTY, LESSEE shall promptly provide, at LESSEE's expense, necessary data to enable COUNTY to fully comply with any and every requirement of the State of California or the United States of America for information or reports relating to this Lease and to LESSEE's use of the Leased Premises. Such data shall include, if required, a detailed breakdown of LESSEE's receipts and expenses.

F. **Environmental Compliance Audits.** LESSEE shall provide the COUNTY Airport Environmental Resources Manager with any documentation of environmental compliance audits, inspections, and violations within 5 days. LESSEE is responsible for correcting environmental conditions to address the findings, paying fines/fees to maintain compliance, and responding to the oversight agency. A copy of correspondence shall be submitted to the Airport’s Environmental Resources Manager within 5 days.

G. **Failure to Maintain Adequate Records.** In addition to any other remedies available to COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to maintain and keep books, records and accounts of Gross Receipts from business operations conducted on or from the Leased Premises and/or source documents relating thereto, or to make the same available to COUNTY for examination and audit, or to record sales and/or to maintain registers to record sales, or to provide financial statements and other information to COUNTY regarding gross sales as required by this Lease, COUNTY, at COUNTY's option, may:

1) Perform such examinations, audits and/or investigations itself or through agents or employees as COUNTY and/or its auditors may deem appropriate to confirm the amount of percentage rents payable by LESSEE under this Lease and any and all costs and/or expenses incurred by COUNTY in connection therewith shall be promptly reimbursed to COUNTY by LESSEE upon demand.

2) Provide accounting services and/or a system for recording retail sales and charges, including without limitation, cash registers, for use by LESSEE in business transactions upon or from the Leased Premises, and, at COUNTY's option, maintain personnel on the Leased Premises to observe and/or record such sales during LESSEE's business hours, or from time to time, all at LESSEE’s sole cost and expense and, in such event, LESSEE shall promptly reimburse COUNTY for any and all costs incurred by COUNTY in connection therewith; and/or

3) Require that LESSEE pay percentage rents based on COUNTY's best good faith estimate of LESSEE's Gross Receipts from business operations conducted on or from the Leased Premises and any such determination made by COUNTY shall be conclusive and binding upon LESSEE.

The above costs payable by LESSEE shall include reimbursement to COUNTY of
COUNTY provided services at such rates as COUNTY may from time to time, in good faith, establish for such services. In the case of services provided by COUNTY's employees, such rates shall be sufficient to reimburse COUNTY for employee salaries, including employee taxes and benefits and COUNTY’s overhead or, at COUNTY’s option, may be the rate for such services that would be charged by a qualified third-party or parties, approved by COUNTY, if engaged by COUNTY to perform such services.

H. **Review Period.** COUNTY or its designee may conduct such audits or inspections throughout the term of this Lease and for a period of three (3) years after final payment or longer if permitted by law.

I. **Methodology.** COUNTY or designee may, without limitation by LESSEE, conduct verifications including, but not limited to, inspection of LESSEE's Records, observation of LESSEE's employees in or about the Leased Premises, and verification of information and amounts through interview and/or written communications with LESSEE's employees or sub-contractors.

J. **Record Retention.** All of LESSEE's Records shall be retained by LESSEE for a period of the balance of the fiscal year in which the Record was created, recorded, or otherwise prepared, plus five (5) years regardless of when this Lease expires or is terminated.

K. The Airport is developing a tenant portal/revenue system for daily automated reporting of operations, revenues and data exchange. Airport shall have the right to implement such system that can provide daily reports to Airport. If Airport exercises such right, LESSEE must, at its cost, purchase and install the necessary equipment, train its employees, and thereafter use, such equipment to take part in such system. Until such time as the system is implemented, LESSEE shall comply with the following:

1) **Sales Recording System.** LESSEE shall prepare a description of its cash handling and sales recording systems and equipment which shall be submitted to Airport Director, or designee for approval no later than thirty (30) days after Commencement Date. Following approval by Airport Director, or designee, such systems and equipment shall be utilized by LESSEE. LESSEE shall accurately record each transaction on a system that can generate daily electronic reporting. LESSEE shall report on a daily basis and in an electronic format all business activities. Such system shall be sufficient to supply an accurate record of all sales.

2) **Electronic Reporting Requirements.** LESSEE shall install in the Leased Premises an electronic reporting system which shall meet current industry standards for transmitting, capturing and recording transactions, and data in a secure fashion while protecting Card Holder Data, and shall register every transaction made in, on, about or from the Premises, including every type of Gross Revenue daily automated reporting. Said system shall be accessible to and subject to inspection or audit by Director or designee upon request. All cash receipts must include LESSEE’s identification thereon. Customer must be issued
a receipt or sales slip for each transaction, which transaction must be recorded either on or serially numbered sales slip or digital record produced. COUNTY should have the right during business hours to examine the totals of the electronic reporting system used in the Leased Premises and to inspect for compliance with this section. LESSEE shall ensure a capability for the installation of Airport and Airport partner applications that can be integrated with LESSEE’s system to exchange data. Any sales captured from third-party applications, LESSEE branded applications, cell phone applications must be provided to the COUNTY as part of the monthly sales reporting.

SECTION 5.08 MAINTENANCE AND OPERATION OF LEASED PREMISES

At LESSEE’s sole cost and expense, LESSEE shall keep and maintain the Leased Premises in good working order, and in a safe, clean, wholesome, sanitary condition in compliance with all applicable laws, rule, regulations, and ordinances, and as provided in LESSEE’s maintenance plan attached hereto as Exhibit H. At LESSEE’s sole cost and expense, LESSEE shall be responsible to make all necessary replacements and/or repairs required to maintain the Leased Premises and improvements in good condition and working order. In addition to the building facilities, drainage facilities (storm and sanitary sewer), above and below ground utilities, lighting, and security (i.e. gates, fencing, etc.), this includes routine maintenance, replacements, and/or repairs of all pavements (including subgrade) and below-ground improvements including underground storage tanks, wash racks, and/or clarifiers that may be on the Leased Premises. All repairs and/or replacements shall be of a quality equal to or exceeding the original. All repairs, replacements, and improvements made by the LESSEE to the Leased Premises shall be submitted to JWA for review and approval prior to construction, require JWA inspection upon completion of construction, and shall be in compliance with all current federal, State, and local ordinances and building codes, fire codes, zoning, safety, all Airport Regulations, and with the requirements of Title III of The Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, et seq., and the regulations issued pursuant thereto (Codes). The Codes encompass all fire, life, and safety aspects and apply to the construction, alteration, moving, demolition, repair, replacement, and use of the Leased Premises. LESSEE is prohibited from engaging in any activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment of the leased premises. All devices or safeguards which are required by the Codes shall be maintained in conformance with the edition of the Codes under which it was installed.

LESSEE shall engage the services of an independent and qualified State of California licensed and registered professional engineer who shall conduct an annual pavement inspection of all paved areas used by aircraft within the Leased Premised in compliance with FAA Advisory Circular 150/5380-6 Guidelines and Procedures for Maintenance of Airport Pavements (“FAA AC 150/5380-6”), as amended from time to time, and ASTM D 5340 Standard Test Method for Airport Pavement Condition Index Surveys (“ASTM D 5340”) as amended from time to time. A detailed report signed, stamped, and sealed by the professional engineer shall be submitted to the COUNTY on each anniversary of the Commencement Date. The report shall meet Airport Director’s requirements, including, as applicable, complete plans, specifications, and schedules for repair or replacement of any found defects or deficiencies in accordance with FAA AC 150/5380-6 and ASTM D 5340.
LESSEE shall immediately notify Airport Director and the Airport Operations Center at 949-252-5000 of any fire, emergency, accident, release, discharge, and/or reportable spill of fuel, lubricants, solvents and/or Hazardous Materials. Reportable spills or releases are those that require notification to a government entity by any fire code or Environmental Law as defined in this Lease. In addition to reimbursing County the costs of all services provided by third parties to mitigate such spills, LESSEE shall pay to County administrative costs in the amount of one thousand dollars ($1,000) per incident.

LESSEE shall further notify the Airport’s Environmental Services Manager within 24 hours of any release, discharge, leak or spill of any fuel, lubricants, solvents and/or Hazardous Materials that LESSEE knows or reasonably should have known about within the Leased Premises.

LESSEE shall report to Airport Director any accidents or incidents for which LESSEE is wholly or partially responsible, which occur on the Leased Premises and are reportable to the FAA or other governmental or regulatory agencies. LESSEE shall pay to COUNTY administrative costs in the amount of one thousand dollars ($1,000) per such reportable accident or incident.

LESSEE further agrees to provide approved containers for trash, garbage, recyclables, and regulated waste and to keep the Leased Premises free and clear of rubbish, litter, and hazardous waste. The Airport Director shall have the right to enter upon and inspect the LESSEE’s Leased Premises and other Airport facilities at any time for cleanliness, safety and maintenance inspections. LESSEE shall designate in writing to Airport Director an on-site representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness and general order.

If LESSEE fails to maintain or make repairs or replacements as required herein, Airport Director shall notify or attempt to notify the LESSEE in writing of said failure. Should LESSEE fail to correct the failure within fifteen (15) days or as otherwise specified in the notice, Airport Director shall have the right, but not the obligation, to enter the Leased Premises to make the necessary correction, repair, and/or replacement, or cause it to be made and the cost thereof, including but not limited to the cost of labor, materials and equipment shall be charged to LESSEE as Additional Rent. Thereafter, an administrative fee equal to fifteen percent (15%) of the sum of such items also shall be paid by LESSEE within ten (10) days of receipt of a statement of said cost from Airport Director as Additional Rent. Airport Director may, at Director's option, choose other remedies available herein, including termination, or as provided by law.

LESSEE expressly waives any and all claims against the COUNTY for compensation for any and all loss or damage to LESSEE's property sustained by reason of any defect, deficiency or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, internet, electrical supply system or electrical apparatus, cable or wires serving the Leased Premises, except to the extent caused by the COUNTY's negligence or willful misconduct.
SECTION 5.09 PAYMENT OF AND RESPONSIBILITY FOR UTILITIES

LESSEE shall be responsible for and pay, prior to the delinquency date, all charges for utility connections and services supplied to the Leased Premises. COUNTY shall not be liable in damages or otherwise for any failure or interruption of any utility service, and no such failure or interruption shall entitle LESSEE to terminate this lease or abate the rent due hereunder.

SECTION 5.10 REPORTING OF BASED AIRCRAFT

LESSEE shall submit to COUNTY with its monthly payment of rents a listing of all Based Aircraft parked on the Leased Premises. For purposes of this Section, “Based Aircraft” shall mean an aircraft that is operational and airworthy, and which is based at the Airport for a majority of the year. Therefore, LESSEE must track the daily activity of aircraft parked on the Leased Premises and determine, on a rolling basis, which aircraft have been parked on the Leased Premises for at least 183 days out of the prior 365 days. The monthly listing shall be provided to the Airport using a JWA-approved Microsoft Excel template.

ARTICLE VI - ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION

SECTION 6.01 LIABILITY FOR EXISTING ENVIRONMENTAL CONDITIONS

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE understands and agrees that it may be found legally responsible and/or financially liable for existing environmental conditions on, under, and/or emanate from the Leased Premises upon entering into this Lease, including, but not limited to, associated costs and expenses related to Hazardous Materials, fuel storage tanks including underground storage tanks, and compliance with all Environmental Laws.

SECTION 6.02 HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE

LESSEE shall comply with all Environmental Laws, including laws regulating Hazardous Materials, and shall not engage in any activity on or about the Airport that violates any Environmental Law. In conducting its operations and maintenance on the Airport under this Lease, LESSEE shall comply with such regulations regarding the storage, distribution, processing, handling, release, removal, and/or disposal, including the storm water discharge requirements, of Hazardous Materials including, but not limited to, gasoline, aviation fuel, jet fuel, diesel fuel, lubricants and/or solvents, whether the obligation for such compliance is placed on the owner of the land, owner of the improvements or user of the improvements. Violation by LESSEE or any of its agents, assigns, successors, sublessees, subcontractors, or employees of any Environmental Law are grounds for termination of this Lease in accordance with Article IX of this Lease, and for termination of all operations by LESSEE at or on the Airport.

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE shall at its sole cost and expense investigate, evaluate, assess, remove, and/or remediate any and all Hazardous Materials that may be required or ordered by any governmental agency or Environmental Law. In
conducting a clean-up of a Hazardous Material release under this Lease, LESSEE shall comply with all applicable Environmental Laws. LESSEE shall not use the COUNTY hazardous waste generator ID for waste disposal.

SECTION 6.03 STORM WATER CONTROL AND CONTAMINATION

Storm Water Laws and Regulations. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency (U.S. EPA) (40 CFR Parts 122, 123, and 124). The U.S. EPA, through the NPDES permitting program, regulates discharges of potentially contaminated wastewater and storm water into waters of the United States. California has been delegated NPDES general permitting authority by the U.S. EPA. California's State Water Board has issued NPDES permits to regulate municipal, industrial, and construction storm water discharges under the NPDES permitting program.

Section 402(p) of the Clean Water Act (CWA) requires NPDES permits for storm water discharges from municipal separate storm sewer systems (MS4s). The County of Orange is the principal permittee for Orange County's MS4 Permit Order No. R8-2009-0030 (or currently effective permit) No. CAS 618030 (MS4 Permit). As a facility owned and operated by the County of Orange, the Airport implements requirements in the MS4 permit and is responsible for discharges into the system. One of the MS4 Permit requirements is to establish the legal authority to control discharges. The County's Water Quality Ordinance (OCCO Title 4, Division 13, Sections 4-13-10 et. seq.) regulates non-storm water discharges into the MS4 to reduce the discharge of pollutants into the waters of the State. The CWA and the resulting MS4 permit require the County to take steps to reduce pollutants leaving its systems to the maximum extent practicable. The MS4 permit requires the County to develop and implement a Local Implementation Plan (LIP) describing the programs and procedures required by the MS4 permit.

COUNTY will provide the required annual training for LESSEE as part of the MS4 LIP training program requirements. LESSEE shall have all personnel who may affect discharges to the storm system or who work within the airside portion of John Wayne Airport attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials. LESSEE shall not have prohibited discharge to the MS4 system or on-site storm drains. Some non-storm water discharges (i.e., fire sprinkler tests) require additional permits with the Regional Water Quality Control Board (RWQCB). LESSEE is responsible for obtaining and implementing monitoring requirements associated with any non-storm water discharge permits. LESSEE shall notify COUNTY prior to any non-storm water discharge.

In the furtherance of these regulations and Section 402 of the Clean Water Act (CWA), the State of California has adopted a General Permit for discharges of Storm Water associated with industrial activities: “State Water Resources Control Board (State Water Board) Water Quality Order No. 2014-0057-DWQ, NPDES General Permit No. CAS 000001 (Industrial General Permit or IGP).” JWA has applied for and received coverage to discharge storm water and authorized non-storm water discharges pursuant to the general permit for industrial activities and are subject to the permit’s requirements, conditions, and penalties. The permit requires the development and
implementation of an effective Industrial Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Implementation Plan (MIP). This plan is developed by COUNTY and covers LESSEE. The airside portion of JWA where industrial activities take place is covered by the IGP. Industrial activities include maintenance, fueling, equipment cleaning, storage areas, and material handling activities.

LESSEE shall comply with applicable storm water discharge requirements for industrial facilities, including numeric effluent limits (NELs) and numeric action levels (NALs), as may be promulgated, updated, or amended from time to time. The current IGP includes NELs for copper, zinc, and lead. LESSEE shall, to the extent possible:

A. Separate industrial storm water flows off their leasehold from the airfield non-industrial flows. The LESSEE drainage system must consolidate storm water flows and allow for monitoring of storm water quality by JWA at the LESSEE discharge location(s) to the JWA storm water drainage system.

B. Install and implement appropriate BMPs to meet the COUNTY’s WQMP requirements and to meet pollutant discharge limits identified in the IGP at their discharge point(s) to the JWA storm drain system. LESSEE shall consider space planning, policies, and practices to reduce storm water flow from industrial activities that would require management and treatment to meet NALs and NELs under the IGP.

C. COUNTY will coordinate design and construction of the Airport’s responsible portion of the industrial storm water system with LESSEE’s phasing plan.

COUNTY will provide the required annual training for LESSEE personnel that work on the airfield as part of the airport-wide IGP SWPPP requirements. LESSEE shall have all personnel working within the airside portion of JWA to attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials. LESSEE shall implement BMPs in accordance with the COUNTY’s IGP SWPPP.

LESSEE shall submit a Water Quality Management Plan (WQMP) for approval for significant redevelopment projects, defined as the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site to address post-construction urban runoff and storm water pollution.

When LESSEE engages in a constructed project with an approved WQMP, LESSEE shall implement post-construction BMPs, including operation and maintenance (O&M) requirements, described in the WQMP. LESSEE shall notify the COUNTY at least five (5) days prior to any O&M conducted for post-construction BMPs. LESSEE shall provide the O&M records to the COUNTY within 30 days of completing the maintenance.

LESSEE activities may require additional separate permits, which LESSEE may be responsible for, and which will be clarified with COUNTY at the time of planning and design. LESSEE shall contact COUNTY prior to new construction activities, operational changes, and/or prior to any
activity that may result in a non-storm water discharge. LESSEE will comply with all applicable NPDES storm water permit requirements for LESSEE activities.

LESSEE shall not allow or cause the entry of any materials, waste, or hazardous materials under its control into the Airport Storm Water Drainage System unless authorized by Environmental Law and the Airport's Storm Water Discharge Permit. LESSEE shall not allow or cause the entry of any Unauthorized Non-Storm Water Discharge that is under its control into the Storm Water Drainage System of the Airport or into the Storm Water Drainage System of any of its surrounding communities, unless such substances are first properly treated by equipment installed with the approval of COUNTY for that purpose, and LESSEE complies with recommendations made by the California and/or U.S. Environmental Protection Agency and the Airport's Storm Water Discharge Permit requirements. LESSEE shall bear all costs and any other expenses related to unauthorized non-storm water discharges.

LESSEE shall assure the protection of storm water from aircraft maintenance and washing activities, including GA self-service activities, through implementation of policies or Best Management Practices. Wet washing of aircraft is only allowed in designated wash rack areas. Only dry wash methods are allowed for cleaning aircraft outside of the designated wash rack areas. Aircraft maintenance can only occur in designated areas; these areas must be protective of storm water through covering or other means.

**Spill Control and Hazardous Materials**

Within 60 days following the Commencement Date of this Lease, LESSEE shall furnish COUNTY with an updated Spill Prevention, Control, and Countermeasures (SPCC) Plan and Hazardous Material Disclosure/Business Emergency Plan for activities that will be performed at the Airport for JWA’s review and approval. LESSEE shall register on the Orange County Health Care Agency/Certified Unified Program Agency (OCHCA/CUPA) E-Submit Business Portal, upload the updated Plans, and show proof of submittal to the COUNTY within 90 days of the Commencement Date. Any modifications to SPCC Plans and/or Hazardous Material Disclosure/Business Emergency Plans shall be submitted as soon as practicable following the change, but no later than 30 days from the correction.

The SPCC Plan shall meet the applicable requirements of 40 CFR Part 112. LESSEE will take necessary steps to prevent spills and, if a spill does occur, will minimize the impacts to human health and the environment. LESSEE shall commit the necessary resources to maintain spill prevention systems, provide appropriate security, respond to spills, inspect storage areas, test storage equipment, make required notifications, maintain records, and provide training for personnel. LESSEE shall meet the General Secondary Containment Requirements for refueling vehicles, §112.7(c), without relying on the Oil Water Separators installed at JWA.

The Hazardous Material Disclosure/Business Emergency Plan shall be updated if there is a substantial change in quantities, storage locations, or material types. LESSEE shall include details on the emergency contacts, training, mitigation, abatement, and evacuation procedures that will be followed in an emergency. Maps and chemical inventories shall be accurate and kept up-to-date.
SECTION 6.04 GENERAL HEALTH AND SAFETY CONDITIONS

Precaution shall be exercised at all times by LESSEE for the health, safety, and welfare of persons, including employees and property. The safety provisions of applicable laws and building and construction codes shall be observed. Work, materials, and equipment used shall comply with the Occupational Safety & Health Administration (OSHA) requirements including but not limited to OSHA Hazard Communication Standard 29 CFR 1910.1200, and federal and State safety orders.

LESSEE shall comply with all material usage limitation, permit record keeping, and reporting requirements imposed by federal, State, and local laws and regulations. LESSEE shall properly post Manufacturer’s Safety Data Sheets as required by law and shall use and dispose of all materials in conformance with all applicable codes, rules, regulations, and manufacturer’s recommendations.

LESSEE shall submit to the Airport’s Environmental Resources Manager, annually on December 31, a report on compliance with and the status of all required permits including, but not limited to, Fire, OSHA, Air Quality Management, and Health Care Agency. The report must summarize all spills, leaks or permit violations for the previous year. The annual report must also contain copies of all reports and annual testing reports (such as fuel tank tightness testing) sent to any regulatory agency and documentation of required maintenance and inspection of fire and safety fixtures and equipment and an updated inventory of all Hazardous Materials used or stored on site.

LESSEE shall provide all notices required pursuant to the Environmental Laws. LESSEE shall provide prompt written notice to COUNTY within five (5) days of receipt of any written notices of violation of any Environmental Law received by LESSEE.

The annual report and all written notices must be submitted to COUNTY by the due date. Liquidated damages of five hundred dollars ($500) will be assessed against LESSEE for each day the annual report or written notice of violation is late.

SECTION 6.05 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the LESSEE shall indemnify, defend, and hold the COUNTY, its officers, directors, agents, and employees and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless for compliance with all Environmental Laws, from and against any and all Environmental Law claims, judgments, damages, penalties, actions, fines, costs, liabilities, losses, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants) arising from the Leased Premises, and/or out of or related to any actions or omissions of LESSEE, the LESSEE’s operations at the Airport or any action arising from and which involve the LESSEE’s officers, agents, successors, assigns, sublessees, subcontractors, and employees (whether or not they are negligent, intentional, willful or unlawful), including defense expenses arising therefrom, including, but not limited to, the following:
(1) The historical environmental conditions at, on, under, and/or emanating from the Leased Premises that LESSEE may be required to pay.

(2) The LESSEE’s placement, disposal, allowing, or releasing of Hazardous Materials upon or within the Airport including any such claims, demands, liabilities, cost, expenses, and/or obligations related to LESSEE’s release or threatened release of Hazardous Materials on, at, and/or under the Airport.

(3) The LESSEE’s release or threatened release of Hazardous Materials at, on, under, and/or emanating from the Airport.

(4) The LESSEE’s noncompliance with any Environmental Law, except that LESSEE's obligations under this paragraph shall not extend to remediation conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, sublessee, assignee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE.

(5) The LESSEE’s causing or allowing any prohibited discharge into the Airport Drainage System.

This indemnification includes, without limitation, reasonable fees, costs, and expenses for attorneys, experts, expert consultants, and all other costs incurred by COUNTY in connection with any investigation, evaluation, assessment, and/or monitoring of the environmental conditions at the Leased Premises or any cleanup, remedial, removal, and/or restoration work required by any federal, State, or local governmental or regulatory entity because of any Hazardous Materials being present in the soil, surface water, or groundwater at, on, under, or about the Airport. However, LESSEE's indemnity obligation shall not apply in the event of any claims for any loss, damage, or expense arising from the sole negligence or willful misconduct of COUNTY or its officers, employees, agents, or contractors.

In the event the indemnitees as described herein are parties in any proceeding (legal, administrative, or otherwise), the LESSEE shall, at the request of the COUNTY, defend the indemnitees with qualified counsel approved in writing by COUNTY, unless the COUNTY, in its sole and absolute discretion, undertakes legal representation, in which event the LESSEE shall reimburse the COUNTY for the expenses incurred by it in defending such proceeding, including reasonable attorneys’ fees, expert and/or consultant fees, and investigative and court costs.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney’s fees in any action to enforce the terms of this Lease.
The rights and obligations set forth in this indemnification shall survive the termination and expiration of this Lease.

SECTION 6.06 CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS

In the event that any of the terms of the environmental requirements codified in this Article conflict with any other terms of this Lease, the environmental requirements contained in Article VI shall apply.

SECTION 6.07 EXISTING ENVIRONMENTAL CONDITIONS AND HISTORICAL ASSESSMENTS

COUNTY and others have conducted environmental assessments on portions of the Leased Premises which provide a historical assessment of the environmental condition on portions of the Leased Premises regarding Hazardous Materials (the “Historical Conditions”). A list of references is provided in Exhibit D.

LESSEE hereby expressly acknowledges that it has reviewed the Historical Conditions and agrees that it shall be responsible for remediation of any and all Hazardous Materials at, on, and/or under the Leased Premises including and in excess of the Historical Conditions. Without releasing any other party that may be legally responsible and/or financially liable for the environmental conditions that exist upon execution of this Lease, LESSEE agrees to be legally responsible and/or financially liable for the environmental conditions related to Hazardous Materials and underground storage. LESSEE further agrees that it shall also be responsible for any release, threatened release, and/or disposal of Hazardous Materials which occur on or off the Leased Premises as a result of LESSEE’s acts or omissions or by those who are affiliated with LESSEE. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, assign, sublessee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE. LESSEE shall not be responsible to remediate conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport.

LESSEE agrees to provide COUNTY and COUNTY’s consultants with complete access to the Leased Premises for the purpose of investigation and remediation of contamination. LESSEE agrees to preserve all existing and future remediation infrastructure including, without limitation, any groundwater monitoring wells, groundwater extraction wells, and related piping.

SECTION 6.08 ANTI-IDLING POLICY

Within six months of LEASE execution, LESSEE must develop, implement and submit to the Airport Director for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling period. LESSEE’s policy shall also include airfield GSE, ground transportation vehicles, and all sublessee and third-party vehicles that enter Airport property at the direction of the LESSEE.
SECTION 6.09  ENVIRONMENTAL STEWARDSHIP

Environmental stewardship is one of the key pillars in JWA’s mission to be a good neighbor. JWA is committed to upholding best practices in environmental responsibility and has been an industry leader in implementing policies that provide both sustainability and cost-effectiveness. JWA has adopted a variety of environmental policies and practices.

LESSEE shall support JWA's Environmental Stewardship program by complying with JWA's Tenant Design Guidelines and shall make reasonable efforts to participate in, help facilitate, and cooperate with JWA's sustainability efforts.

The LESSEE shall support the COUNTY’s Environmental Stewardship program through participation in various efforts or implementation of plans, as amended from time to time, and the following requirements. Full implementation of this program shall be applicable to all GSE effective on January 1, 2023, and will apply to all facilities and capital improvements as they are constructed.

1)  Climate Action Plan
2)  Waste and Recycling Plan
3)  SWPPP
4)  Air Quality Improvement Plan and Memorandum of Understanding with the South Coast Air Quality Management District
5)  Ground Support Equipment (“GSE”)
   a.  LESSEE shall employ Zero Emission Vehicle (“ZEV”) GSE where available (e.g. tugs, water carts, lavatory carts, other ramp service equipment/vehicles) for 90 percent or greater of the GSE operating hours.
   b.  Where ZEVs are not available, vehicles shall meet Ultra Low Emission Vehicle (“ULEV”) requirements.
   c.  Where ULEVs are not available, and only diesel fuel engine trucks are available, the diesel-fueled truck shall comply with the On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation.
   d.  LESSEE shall maintain monthly records regarding GSE type, make, model, year, fuel type, horsepower (if non-electric), and hours in-use. Monthly records are subject to audit and verification by JWA. These records shall be provided to JWA annually in December.
6)  Conservation
   a.  LESSEE shall use ENERGY STAR and EPA Water Sense appliances.
   b.  LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.
c. LESSEE shall adopt a Waste and Recycling Plan meeting CALGreen Tier 1 requirements, or better, and acceptable to LESSOR. LESSEE shall provide waste diversion data quarterly and annually to COUNTY Airport Environmental Resources Manager.

d. LESSEE shall install Electric Vehicle chargers in public and employee parking areas, provide preferential parking for vehicles powered by low emission sources, and provide secure bicycle racks.

e. LESSEE shall practice water conservation through design, construction, and ongoing maintenance activities.

f. LESSEE shall include over 50% of solar-ready roof-top on new construction; COUNTY maintains the option to lease any solar-ready areas not covered by owner's solar arrays and to install renewable energy equipment.

g. LESSEE shall implement the following conservation measures:

   i. Use high-efficiency light fixtures and bulbs (including compact fluorescents) when replacing or installing new fixtures and bulbs
   ii. Install sensors in office areas to turn off when unoccupied
   iii. Install energy-efficient heating and cooling equipment when replacing or upgrading
   iv. Purchase and use energy-efficient computers and servers
   v. Select equipment with variable speed motors and fan drives, when possible

7) Environmental Policies

   a. LESSEE shall adopt the COUNTY’s Environmentally Preferable Purchasing Policy (2008) or develop a similar policy that addresses the LESSEE’s procurement of goods and services. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

   b. LESSEE shall develop an Environmental Sustainability Policy that covers water and power conservation, waste diversion, and pollution prevention. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

   c. LESSEE shall provide reports necessary for environmental compliance, regulatory requirements, and airport mitigation measure obligations upon request from COUNTY, including but not limited to GSE data, fuel delivery and usage, spills, and business emergency plans.
ARTICLE VII - CONSTRUCTION AND IMPROVEMENTS

SECTION 7.01 IMPROVEMENTS BY LESSEE

LESSEE shall cause to be designed and constructed, at no cost to COUNTY, those initial improvements shown on the conceptual plans attached hereto as Exhibit F. The development and phasing of said construction shall proceed as described in Exhibit G, and may be subject to reasonable modification or amendment by the Airport Director in consultation with LESSEE. All costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The minimum cost of LESSEE’s Initial Capital Investment shall be $57,897,531, and excludes the cost of any and all refurbishments or improvements made pursuant to Section 7.11. In the event the minimum cost of Initial Capital Investment exceeds the actual construction costs of all LESSEE improvements itemized in accordance with Section 7.06 of this Lease, LESSEE’s savings resulting from lower actual construction costs will be shared equally between LESSEE and COUNTY, and LESSEE shall pay to COUNTY one half (50%) of the difference between the minimum cost of Initial Capital Investment and the actual construction costs within 30 days of LESSEE’s submittal of itemized costs required by Section 7.06.

The term “cost of improvements” shall mean direct construction costs, including costs paid to contractors, architects, engineers, laborers and suppliers, premiums for bonds required by COUNTY, and permit and developer fees required by governmental agencies, but shall exclude indirect costs, such as costs of financing, and administrative and overhead expenses.

LESSEE shall not perform any construction upon the Leased Premises nor shall LESSEE modify, alter or remove any permanent improvements lying within the Leased Premises without prior written approval of COUNTY.

A. COUNTY and Federal Approvals Required. No structures, improvements, or facilities shall be constructed, erected, altered, removed or made within the Leased Premises without prior written consent of COUNTY, which consent may be withheld or conditioned in COUNTY’s sole and absolute discretion.

FAA approval of JWA’s Airport Layout Plan (“ALP”) is required prior to any FBO construction activities. The ALP shows the boundaries and proposed additions to all areas of the Airport, the location and nature of existing and proposed Airport facilities and structures, and the location on the Airport of existing and proposed non-aviation areas and improvements thereon, and shall incorporate LESSEE’s development plans, which must be submitted to the FAA for review. LESSEE shall provide CADD/GIS files of the LESSEE’s development plans to JWA. Airport-approved development plans will not be released for permitting until the ALP is approved.

National Environmental Policy Act (“NEPA”) approval by the FAA is required prior to any FBO construction activities. As the Airport Sponsor, JWA will prepare all required NEPA documentation for submission to the FAA. LESSEE shall provide CADD/GIS files
of the LESSEE’s development plans to JWA. Upon receipt of NEPA approval, JWA will invoice LESSEE for JWA’s actual costs associated with NEPA review and approval of LESSEE’s project, and LESSEE shall reimburse such costs within thirty (30) days of such invoice. Airport-approved development plans will not be released for permitting until the ALP is approved and NEPA approval has been received.

B. Compliance with Plans, Schedule, Design and Construction Standards. LESSEE shall construct (or cause to be constructed) all improvements within the Leased Premises in strict compliance with detailed plans and specifications complying with the Airport’s Tenant Design Guidelines, including all other available John Wayne Airport Design and Construction Standards, and approved in writing by Airport Director. LESSEE shall submit to JWA for review plans and specifications at the 50% complete, 90% complete, and 100% complete milestones, which are prepared by a State of California licensed and registered Architect and Engineer (A/E) firm with qualifying experience for the intended improvements at an airport setting. Submittals shall include all required reports, basis of designs, studies, exhibits, and calculations. Upon completion of JWA’s review of the plans and specifications, and when approved in writing by the Airport Director, the LESSEE shall submit the construction documents to the County of Orange Public Works Department and any other required agencies for approval and permitting. If required, LESSEE shall submit the construction documents to the City of Costa Mesa for permitting.

The plans and specifications shall include detailed phasing and sequencing plans which clearly show the extent of work within each phase of demolition and construction, the area of each phase, and the number and type of aircraft to be located within each completed phase. The plans shall include an operational plan which identifies the number and type of aircraft to be displaced during each phase and to where displaced aircraft will be relocated. The plans shall show the capacity of the relocation site(s). The plans and specifications shall provide an interim operating plan for the preservation of the joint OCSD/OCFA Air Support Facility.

LESSEE shall begin coordination of the fire-life safety designs with the Orange County Fire Authority as early as practicable.

Along with plans and specifications for proposed improvements, LESSEE shall provide to Airport Director a detailed project critical path method (CPM) schedule (in Primavera P6 format) enumerating, at a minimum, all activities affecting the baseline schedule of work from mobilization through substantial completion of construction. The schedule shall include 90-day transitional plan, design and construction documents preparation, reviews and permits, NEPA processes and approvals, bidding and awards, inspections and occupancy certifications, closeout, commissioning, activations and start-up of operations. The schedule shall match the plans and specifications and shall be organized in a manner that clearly shows the phasing and sequencing of each phase of the development, identifying the beginning and completion dates for each phase of the work. In order to facilitate phasing of construction projects among multiple Airport tenants, said schedule shall be subject to Airport Director’s approval, and work shall not
commence until Airport Director provides a notice to proceed, which notice may be conditioned or delayed at Airport Director’s sole discretion without cost or liability to COUNTY. Upon receipt of the Airport Director’s notice to proceed with the work, LESSEE must maintain compliance with its baseline schedule. Except as otherwise agreed in writing by Airport Director, liquidated damages in the amount of two thousand dollars ($2,000) will be assessed for each day beyond the substantial completion date identified in the schedule that the work has not been substantially completed. At a minimum, LESSEE shall provide to JWA monthly updates of the schedule, including a summary report of any changes.

All construction shall be conducted in a good and workmanlike manner and shall conform to applicable building codes, rules, regulations and Airport’s architectural standards as contained in reference document “John Wayne Airport, Architect and Engineer Guide,” including all other available John Wayne Airport Design and Construction Standards, which can be provided by Airport upon request. All work shall be done in conformity with Airport approved plans, valid building and other necessary permits, and shall be acceptable to COUNTY and the appropriate governmental entity inspecting such work. LESSEE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

All improvements constructed by LESSEE, including the plans and specifications therefor, shall conform in all respects to the applicable statutes, ordinances, building codes, rules and regulations of the COUNTY and such other governmental authority as may have jurisdiction. The Airport Director's approval shall not constitute a representation or warranty as to such conformity, which shall remain LESSEE's responsibility. LESSEE, at its own cost and expense, shall procure all permits necessary for such construction.

As applicable depending on the type of project, all design and construction shall meet CALGreen Tier 1 requirements, or better (at time of permit submittal), include documentation for construction requirements (i.e. waste management, low emissions vehicles, etc.), and meet the most recent applicable Envision Gold certification requirements, or better, at permit submittal. LESSEE shall use the Envision pre-assessment checklist to guide the sustainability efforts early in project planning and strive to achieve a level of Gold; certification shall be required if applicable to the project type.

LESSEE shall participate in the COUNTY’s storm water site development plan, if available, or obtain approval from COUNTY for LESSEE’s water quality management plan as required by COUNTY for significant redevelopment projects. Architectural coatings applied to pavement surfaces shall be marked using low VOC coatings. Specifically, with paint that contains less than 50 grams of VOC emissions per liter of paint. If needed, LESSEE shall use heavy-duty, off-road, diesel-powered construction equipment to meet or exceed the USEPA’s Tier 4 off-road emissions engine standards during Airport construction to reduce construction-related NOx emissions.

C. Performance of Work. LESSEE agrees that any improvement being constructed by or
under the direction of LESSEE shall be constructed in substantial compliance with COUNTY-approved plans, which requires those improvements to be constructed as if such improvements had been constructed under the direction and supervision, or under the authority, of COUNTY. In satisfaction of the requirements of the COUNTY, LESSEE shall be required to secure the faithful performance of construction and completion of construction of the improvement by appropriate contractor’s bonds and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided by the California Labor Code and California Department of Industrial Relations.

D. Insurance Requirements. LESSEE shall be required to carry comprehensive public liability insurance during construction. If the construction is done by an independent contractor, insurance shall be procured by the contractor in LESSEE’s and COUNTY’s name. All insurance shall be in the limits and coverages acceptable to COUNTY’s Risk Management Services in its reasonable discretion. LESSEE shall indemnify COUNTY and hold COUNTY harmless for any and all claims, demands, damages, costs or expenses of any nature, including defense costs by reason of construction or alteration by LESSEE.

E. Noninterference. LESSEE warrants that it or its contractor shall in no way delay, cause delays to or interfere with any Airport operations or other contractors working in the Terminal or on the Airport. LESSEE agrees to hold COUNTY harmless from the cost of any time lost by COUNTY or any damages to COUNTY due to the actions or failure to act of LESSEE or its contractor.

F. Trailers and Modular Structures. All improvements constructed by LESSEE shall be of a permanent nature. Trailers and modular buildings are prohibited on the Leased Premises. This provision shall not apply to the use of COUNTY approved temporary modulars or trailers during construction. LESSEE shall maintain restroom facilities and provide existing or comparable restrooms to customers, guests, and flight crew personnel throughout the redevelopment of the Leased Premises. Upon completion of construction, all trailers or modulars must be immediately removed from the Leased Premises.

G. LESSEE’s Cost and Expense. All renovation or construction by LESSEE pursuant to this Section shall be at LESSEE’s sole cost and expense. LESSEE shall keep the Leased Premises and the improvements constructed thereon free and clear of all liens, except for construction or take-out financing with respect solely to LESSEE’s improvements, and shall pay all costs for labor and material arising out of such construction and shall hold COUNTY harmless from any liability in respect thereto. Nothing contained herein shall be understood to foreclose the right of contractors, suppliers or laborers to file preliminary notices with respect to the Leased Premises (and not the COUNTY’s underlying fee interest) in connection with construction performed on the Leased Premises and the filing of such preliminary notices shall not constitute a violation of LESSEE’s obligations under this Section, and LESSEE shall also hold COUNTY harmless from any liability based on the filing of such notice.
H. **Utilities.** LESSEE shall bear sole financial responsibility for all connection fees, design, construction, removal, relocation, and installation of utilities related to the development of its facilities, as well as any costs related to compliance with local governmental or utility provider requirements when utilities are impacted as a result of the development. All impacts to utilities shall be brought to the attention of Airport Director for review and approval. All energy and water utilities to the Leased Premises shall be separately metered. Those utilities not separately metered shall be specified in writing and COUNTY and LESSEE shall reach agreement, either in this Lease or in a separate written agreement, on the proration of utility expenses. Those payments may include, without limitation, restrictions on or special allocation provisions with respect to excess utility usage upon the Leased Premises for exceptional equipment, ventilation or cooling requirements. LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.

I. **Damage during Construction.** LESSEE shall repair all damage to Airport facilities caused by LESSEE's construction within seven calendar days, unless other arrangements are approved by Airport Director. Damages or conditions which impact safety must be corrected immediately by LESSEE. All Airport roads must be maintained as open and passable by emergency equipment at all times during construction and shall not conflict with normal Airport operation.

J. **Ownership of Improvements.** All improvements and facilities, exclusive of trade fixtures, constructed or placed within the Leased Premises by LESSEE must, upon completion, be free and clear of all liens, claims, or liability for labor or material and at COUNTY's option shall become the property of COUNTY at the expiration of this Lease or upon earlier termination hereof. COUNTY retains the right to require LESSEE, at LESSEE's cost, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof.

**SECTION 7.02 CONSTRUCTION AND/OR ALTERATION BY COUNTY**

In the event COUNTY should require any portion of the Leased Premises in connection with construction of improvements, future expansion, and/or alterations by the Airport, Airport Director may, upon sixty (60) days’ written notice (or immediately should Airport Director determine in Director's sole discretion that an emergency exists) make his/her best effort to substitute alternate space for that portion of the Leased Premises necessary to accommodate the construction. Airport Director will make every reasonable effort to provide replacement space during the construction period that will furnish LESSEE the same utility as the space replaced. In the event alternate space is not available, LESSEE will be reimbursed pursuant to Section 7.03.
SECTION 7.03 LESSEE REIMBURSEMENT

In the event COUNTY should require the Leased Premises, or any portion thereof, for any Airport purpose, COUNTY may terminate this Lease as to all or any portion of the Leased Premises. In that event, if this Lease is terminated in its entirety, COUNTY shall reimburse LESSEE for improvements to the Leased Premises completed during the term of this Lease.

Compensation for improvements located on the Leased Premises shall be calculated by means of the following formula:

\[
\text{COMPENSATION} = \frac{B \times A}{C}
\]

\(A\) = LESSEE’s actual Leased Premises improvement construction costs submitted in accordance with the Section in this Lease entitled “RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS,” plus any amounts paid to COUNTY by LESSEE in accordance with Section 7.01.

\(B\) = Number of full months remaining in the Lease term.

\(C\) = Number of full months between the date LESSEE completed construction of Leased Premises improvements and the date the Lease would expire by its terms if COUNTY did not exercise its right to early termination.

LESSEE shall submit to COUNTY within sixty (60) days of completion of construction of any Leased Premises improvement, notifications of completion of construction and submit detailed supporting documentation of construction costs together with “as-built”/record documents as required elsewhere in this Lease. LESSEE acknowledges and agrees if LESSEE fails to submit notifications and supporting documentation for any such Leased Premises improvements in a timely manner, LESSEE waives its right to compensation for such improvements.

SECTION 7.04 LESSEE'S ASSURANCE OF CONSTRUCTION COMPLETION

A. Within nine (9) months of the Commencement Date of this Lease, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE to complete the first phase of Initial Capital Investment as described in Exhibit G. The amount of money available shall be at least $27,053,815, the total estimated construction cost of this first phase. Such evidence may take one of the following forms:

a. Completion Bond issued to COUNTY as obligee.

b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction or until the assurances required by sub-section B, hereafter, have been provided.
c. Any combination of the above to equal total estimated cost of construction for the first phase.

In the event that LESSEE complies with sub-section B, below, within nine (9) months of the full execution of this Lease, LESSEE shall not be required to comply with this sub-section A.

B. Notwithstanding the requirements of Section 7.04(A), above, prior to commencement of demolition of existing facilities and construction of approved facilities, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE and COUNTY to complete the proposed construction. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms:

a. Completion Bond issued to COUNTY as obligee.

b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction.

c. Any combination of the above to equal total estimated cost of construction.

The assurances required by sub-section A, above, shall no longer be required once LESSEE complies with this sub-section B.

All bonds and letters of credit pursuant to this Section must be issued by a surety company, financial institution or advising bank qualified and admitted to do business in the State of California and issued in an approved form approved by the COUNTY. All bonds and letters of credit pursuant to this Section shall insure faithful and full observance and performance by LESSEE of all terms, conditions, covenants and agreements relating to the construction of improvements within the Leased Premises.

It is not the intent of the contracting parties herein to create a third-party beneficiary, and nothing in this Section shall be construed to do so.

SECTION 7.05 MECHANICS LIENS OR STOP NOTICES

LESSEE shall at all times indemnify and hold COUNTY harmless from all Mechanics Liens, Stop Notices, claims, losses, demands, damages, cost, expenses or liability costs for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the Leased Premises undertaken by LESSEE, and from the cost of defending against such claims, including attorneys' fees and costs.

In the event a mechanics lien or stop notice is imposed upon the Leased Premises, LESSEE shall either:
A. Record a valid Release of Lien, or

B. Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the Leased Premises from the claim of the lien or stop notice and from any action brought to foreclose the lien.

Should LESSEE fail to accomplish either of the two optional actions above within fifteen (15) days after the filing of such a lien or stop notice, the Lease shall be in default and shall be subject to immediate termination. LESSEE shall indemnify, defend, and hold COUNTY harmless from and against any and all claims, damages, liabilities, costs and expenses (including attorneys' fees and costs) arising out of or related to any mechanic’s liens recorded against any portion of the Leased Premises caused by LESSEE, or its agents, employees, contractors, sublessees, successors, and/or assigns, and any and all monetary amounts incurred by COUNTY to obtain a lien release shall be due and payable as Additional Rent. This indemnity shall survive the expiration or earlier termination of this Lease.

SECTION 7.06 RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS

Within sixty (60) days following completion of any improvement within the Leased Premises, the LESSEE shall furnish the Airport Director a complete package of “As-Built Documents” and “Record Documents,” which include but are not limited to construction documents, specifications, cost estimates, engineering studies and calculations. The aforementioned information shall be submitted on two (2) thumb drives containing digital copies of the “As-Built Documents” and “Record Documents,” organized in a detailed, logical, and comprehensible folder structure, which is in a form that is usable and accepted by the COUNTY, to the COUNTY’s satisfaction, as described below, unless otherwise allowed by the Airport Director.

**Drawings and Models:**
- All 2-D and 3-D architectural, engineering, design, and/or construction drawing and/or modeling files for the project shall be completed using AutoCAD 2019 and REVIT 2019 or a newer version of either software if approved by John Wayne Airport.
- All geographic data, spatial analysis, geographic information system (GIS) mappings, drawings, exhibits, and/or figures for the project shall be completed using Environmental Systems Research Institute (ESRI) ArcGIS.
- All 2-D and 3-D drawing and/or modeling files created via computer aided design and drafting (CADD), building information modeling (BIM), and/or GIS for the project shall conform to the John Wayne Airport CADD/BIM/GIS standards and specifications.
- In addition to the 2-D and 3-D drawing and/or modeling files indicated above, a PDF format (scaled to ARCH E1 format where applicable) of those drawings, exhibits, figures, etc. shall be generated and submitted digitally.

**Documents and Reports:**
- All specifications, reports and/or studies (e.g. geotechnical report, etc.), calculations, and other project information (e.g. construction submittals, operations and maintenance
(O&M) manuals, warranties, etc.) for the project shall be completed using MS Office suite applications and also generated and submitted digitally in a PDF format.

Note: “Record Documents,” e.g. record drawings, specifications, calculations, etc., shall be prepared, stamped, signed by the Architect and/or Engineer of Record for the project and shall reflect all updates and/or modifications that were approved during design and construction, i.e. separate from the as-built documents, which include contractor redlines, contract changes, etc. Refer to the “John Wayne Airport Construction Standards” for additional information.

In addition, two (2) sets of hard prints of the stamped and signed record drawings for the project, as described above, must be furnished by the LESSEE with the thumb drives containing the “As-Built Documents” and “Record Documents.” Basic specifications, standards, and requirements for BIM, CADD, and/or GIS produced information at the Airport can be located on the www.ocair.com website or provided by the Airport upon request. Additional requirements for digital record files are described in Exhibit E.

Furthermore, within 90 days of the date the LESSEE begins to use such improvements (“Date of Beneficial Occupancy”), the LESSEE shall furnish to the Airport Director an itemized statement of the actual, direct construction costs of any such improvement. All such costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The construction costs may include actual, direct fees paid to contractors, architects, engineers, surveyors, laborers, and suppliers, or permit fees required by governmental agencies to allow construction. Construction costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, bond premiums, or developer fees. The statement of cost shall be sworn to and signed by the LESSEE or its responsible agent under penalty of perjury. The LESSEE must obtain the Airport Director's approval of acceptance of the “As-Built Documents” and “Record Documents” and the form and content of the itemized statement for the release of any construction bond.

SECTION 7.07 DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

In the event of damage to or destruction of LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises or in the event LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, LESSEE shall, within thirty (30) days, commence and diligently pursue to completion the repair, replacement, or reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the Leased Premises for the purposes required by the Lease. Repair, replacement, or reconstruction of improvements within the Leased Premises shall be accomplished in a manner and according to plans approved by Airport Director. Except as otherwise provided herein, termination of this Lease shall not reduce or nullify LESSEE's obligation under this paragraph. With respect to damage or destruction to be repaired by COUNTY or which COUNTY elects to repair, LESSEE waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).
In the event that (a) such damage or destruction to LESSEE-owned or constructed buildings, facilities or improvements (“improvements”) located within the Leased Premises occurs, or (b) said improvements are declared unsafe or unfit for use and occupancy, within one (1) year of the expiration date of this Lease, COUNTY and LESSEE may mutually agree to terminate this Lease, in which case, COUNTY may, at COUNTY’s sole option, accept monetary consideration from LESSEE in lieu of LESSEE’s reconstruction of improvements located on the Leased Premises, and after such termination, neither party shall have any further obligations under this Lease, except for obligations that expressly survive the termination or expiration of the Lease hereunder.

SECTION 7.08 CONSTRUCTION HEALTH AND SAFETY

LESSEE’s contractor for demolition and/or construction (“the Contractor”) shall have at the work site copies of or suitable exacts of “Construction Safety Orders” and “General Industry Safety Orders” issued by the California State Division of Industrial Safety. The Contractor shall comply with the provisions of these and all other applicable laws, ordinances, and regulations.

Contractor’s Safety Plan. The Contractor shall submit for approval, prior to beginning construction, a comprehensive Safety Plan (“the Safety Plan”) outlining code of safe work practices and procedures as listed in Appendix C: Code of Safe Practices in the Guide to Developing Your Workplace Injury and Illness Prevention Program, CCR Title 8, Section 1509, Industrial and Illness Prevention Program, Subchapter 4, Construction Safety Orders, Article 3, General, for all construction activities including, but not limited to, trenching and shoring, fall protection, confined space entry, hazardous materials, night work, and lockout/block-out. The plan shall provide a list of competent persons for activities for which competent persons are defined and are required by state law. The plan shall also describe Airport security procedures.

The Safety Plan(s) must be site-specific and job task(s) specific. They must identify job/site-specific workplace hazards as part of an Injury and Illness Prevention Program. The plan(s) must outline the site-specific Code of Safe Work Practices and Procedures for all equipment used or work activities performed at the Airport, and for all materials and “HAZARDOUS MATERIALS” used or stored onsite. The plan(s) must include the JWA worksite specific emergency contact lists, and emergency response and personnel training procedures.

The Safety Plan shall contain directions to the closest hospital and provide a map showing the Airport and the location of hospitals. Information regarding spill response and hazardous materials is to be included. The plan shall be reviewed and signed by all personnel entering Airport property. The plan shall identify the projects included in the Safety Plan, describe operational safety during construction, construction activity and aircraft movement, and limitations of construction. It shall list safety considerations to be discussed at the preconstruction conference and safety meetings. The Contractor shall prepare and distribute to JWA three complete bound booklets identified as “SAFETY PLAN.”
SECTION 7.09  CONSTRUCTION STORMWATER PLAN

LESSEE’s Contractor shall submit for Airport approval, prior to beginning construction, its Construction SWPPP or Erosion and Sediment Control Plan (“ESCP”) concerning BMP implementation including how Storm Water run-off will be controlled, how the discharge of unauthorized Non-Storm Water Discharges will be contained and prevented, and how soil erosion and sedimentation of surface run-off will be prevented at the site. Projects disturbing one (1) or more acres of soil or projects that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to develop a SWPPP and obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity – General Permit Order 2009-0009-DWQ (“Construction General Permit”). Projects disturbing less than one acre of soil and not required a Construction SWPPP shall develop an ESCP.

A. The SWPPP or ESCP shall be site-specific and shall be approved by the Airport Director before the start of construction. It shall be incorporated into the design and planning phases of the project.

B. Contractor shall select BMPs for the site-specific SWPPP or ESCP. The plan must cover the construction area, construction lay-down areas, haul routes, and off-site migration or tracking of contaminants such as mud. This includes keeping Aircraft Operating Areas (“AOA”) clear of mud and debris. The plan must minimize potential soil and water quality impacts, including impacts resulting from total suspended solids (“TSS”), oil and grease, total petroleum hydrocarbons (“TPH”), or chemicals or materials used for construction. The plan must also include leak or spill cleanup.

SECTION 7.10  CONSTRUCTION WASTE MANAGEMENT PLAN

LESSEE’s Contractor shall submit for approval, prior to the beginning of construction, its Construction Waste Management (“CWM”) Plan detailed how waste generated during construction activities will be contained, stored, labeled, tracked, and disposed of. The plan should address waste diversion for recyclables and organic waste and meet the requirements of CALGreen Tier 1. CWM forms can be found in the Guide to the 2019 California Green Building Standards Code published by the California Building Standards Commission and the International Code Council.

A. The CWM Plan shall be project-specific and cover all the construction activities.

B. The CWM Plan shall be incorporated into the design and planning phases of the project and shall be approved by the Airport Director before the start of construction.

C. LESSEE’s Contractor shall use the CWM Worksheet and Acknowledgement forms to report waste disposal monthly and at the conclusion of the construction project.
SECTION 7.11   TEN-YEAR REFURBISHMENTS

Every ten (10) years from date LESSEE begins to use its improvements to the Leased Premises ("Date of Beneficial Occupancy"), LESSEE shall make refurbishments to its facilities for the purpose of keeping the FBO contemporary and competitive with current FBO industry standards; provided, however, that no program of refurbishment, renovation or capital improvement shall be mandated or compelled so long as LESSEE maintains its facilities and improvements in good working order and condition. LESSEE shall consult with the Airport Director prior to making any such refurbishments and, in particular, shall consult with the Airport Director on or before the tenth (10th), twentieth (20th) and thirtieth (30th) anniversaries of the Commencement Date to discuss such refurbishment of facilities as may be necessary or appropriate to satisfy the requirements of this Section. LESSEE’s refurbishments must provide for a capital reinvestment in facilities on the Leased Premises meeting the following requirements, where the amount of the reinvestment will be reasonably determined by Airport Director with consideration given to the conditions of the facilities at each reinvestment milestone.

Should the Airport Director and LESSEE disagree on the necessary improvements required, the parties shall engage a third-party, selected and agreed to by COUNTY and LESSEE, at LESSEE’s sole cost and expense, to assess the condition of the premises relative to industry standards and to make a determination as to what improvements shall be required. In no case will the cost of such improvements exceed the amounts specified below relative to each reinvestment milestone.

A. On or before the tenth (10th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

B. On or before the twentieth (20th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

C. At such time that five (5) years remain on the term of this Lease, LESSEE may be required by JWA to make a reinvestment of up to ten percent (10%) of its Initial Capital Investment.

Prior to reaching each reinvestment milestone, and with sufficient time for all required review and approval in accordance with this ARTICLE VII but in no event later than one hundred eighty (180) days prior to the milestone date, LESSEE shall provide to JWA its plans and specifications for the refurbishment project, as well as a breakdown of the costs for design, construction, upgrades, and installations of new fixtures or equipment proposed for the refurbishment project. LESSEE shall complete each refurbishment project within one hundred eighty (180) days from the date of its final approval by JWA unless otherwise approved in writing by Airport Director. Failure to complete the refurbishment within the prescribed time will subject LESSEE to liquidated damages in the amount of two thousand dollars ($2,000) per day until the refurbishment has been completed to the satisfaction of the Airport Director.

Within sixty (60) days following the completion of each refurbishment project, LESSEE shall
provide certified documentation of the capital investment actually expended in the project, together
with “as-built”/record documents as required by this ARTICLE VII. In the event of a shortfall
between the required reinvestment amount and the actual refurbishment cost, LESSEE shall pay
to COUNTY an amount equal to the shortfall as of one hundred eighty (180) days after completion
of the refurbishment project. The amount spent for refurbishment shall be exclusive of any amount
spent for normal repair and maintenance as reasonably determined by Airport Director.

ARTICLE VIII - ASSIGNMENT, SUBLETTING, AND ENCUMBERING

SECTION 8.01 ASSIGNING, SUBLETTING, AND TRANSFERRING

The provisions of this Section are subject to the limitations of Section 5.01 “USE.”

A. Transfers. Except as provided by this Article, LESSEE shall not voluntarily, involuntarily,
or by operation of law transfer, assign, sublet, encumber, or hypothecate (hereinafter
referred to as “Transfer”) any interest of the LESSEE in the Leased Premises without the
prior written approval of the COUNTY. Occupancy of the Leased Premises by a
prospective transferee prior to approval shall constitute a breach of this Lease. LESSEE
shall give the COUNTY sixty (60) days’ prior written notice of all proposed Transfers.
The LESSEE shall not make any such Transfers for a period longer than the remaining
term of the Lease. All subleases of hangar space, ramp parking space, and office/facility
space shall be between LESSEE and sublessee; sub-subleases are prohibited and shall
constitute a breach of this Lease. LESSEE shall provide Airport Director copies of all
subleases within fifteen (15) days following their approval.

If the COUNTY approves any Transfer, such approval does not constitute a waiver of any
of the terms of the Lease. LESSEE agrees that a Transfer of this Lease shall not release
LESSEE from any of the obligations found in this Lease. All Transfer documents shall be
consistent with the terms, covenants, and conditions of the Lease, and in the event of any
inconsistency, the provisions of this Lease shall govern. LESSEE must submit all required
COUNTY forms with backup documentation, and include payment to COUNTY of a
$3,000 administrative charge, for COUNTY to process such request.

If the LESSEE is a corporation, an unincorporated association, or a partnership, Transfers
include the acquisition by any person other than the LESSEE of any stock or interest in
said corporation, unincorporated association, or partnership in the aggregate amount of
fifty-one percent (51%) or more.

Except as provided by this Article, the failure by the LESSEE to obtain the prior written
approval by the COUNTY of any Transfer of the Lease or any interest in the Leased
Premises shall constitute a material breach of this Lease by, and shall not confer any
Leasehold rights upon the transferee. Such failure shall be grounds for termination of this
Lease for default per Article IX, Section 9.02.
B. Conditions of COUNTY Approval. COUNTY agrees that it will not arbitrarily withhold consent to any Transfer, but COUNTY and LESSEE expressly agree it shall be reasonable for COUNTY to withhold consent to any Transfer for the following reasons:

1. LESSEE, its successors or assigns are in default of any term, covenant or condition of this Lease, whether notice of default has or has not been given by COUNTY.

2. The prospective sublessee, assignee or transferee has not agreed in writing to keep, perform and be bound by all the terms, covenants, and conditions of this Lease.

3. The prospective sublessee, assignee or transferee is not financially capable or not experienced in performing the Lease obligations, as determined by the Airport Director.

4. Sublessee's use is in conflict with the terms of this Lease.

5. All the terms, covenants and conditions of Transfer, including the consideration therefor, of any and every kind, have not been revealed in writing to Airport Director. On the first day of each month, LESSEE shall submit a monthly rent roll of all its existing sublessees indicating the sublessee/customer name, sublessee type, start date, end date, square footage and monthly rent.

6. Any construction required of LESSEE as a condition of this Lease has not been completed to the satisfaction of COUNTY.

7. LESSEE has not provided Airport Director with a copy of all documents relating to the Transfer, including, but not limited to, appraisals, notes, trust deeds, title reports, and escrow instructions.

8. LESSEE attempts to hypothecate the Leasehold for an amount greater than the cost of new improvements to be constructed on the Leased Premises. Hypothecation of the Leasehold shall not be permitted for any reason other than to obtain loan proceeds necessary to construct new improvements on the Leased Premises.

9. If a release or threatened release of Hazardous Materials is materially increased as a result of a Transfer or if COUNTY does not receive reasonable assurances that a prospective sublessee, assignee or transferee has the experience and/or the financial ability to remedy a violation of Environmental Laws related to Hazardous Materials and/or fulfill all obligations under this Lease.

C. Bankruptcy Transaction. If LESSEE assumes this Lease and proposes to assign the same pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, et seq., then notice of such proposed assignment shall be given to COUNTY.

1. The name and address of proposed assignee,
(2) All of the terms and conditions of such offer, and

(3) Adequate assurance to COUNTY of the proposed assignee's future performance under the Lease, including, without limitation, the assurance referred to in the United States Bankruptcy Code, 11 U.S.C. §365(b)(3).

Any person or entity to which this Lease is assigned pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §101, et seq., shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to COUNTY an instrument confirming such assumption.

SECTION 8.02 LEASEHOLD MORTGAGES

A. LESSEE’s Right to Encumber Leasehold Estate; No Right to Encumber COUNTY’s Fee Interest. LESSEE may, at any time during the Term of this Lease (with the consent of COUNTY after prior written notice providing evidence that all requirements of this Lease applicable at the time have been complied with) encumber all or any portion of LESSEE’s leasehold estate in and to this Lease, including LESSEE’s rights, title and interest in and to the Leased Premises and Improvements, or any applicable portion thereof or interest therein (“Leasehold Estate”) with one (1) or more mortgage, deed of trust, security deed, conditional deed, deed to secure debt or any other security instrument (including any assignment of leases and rents, security agreement and financing statements) held by an institutional lender by which LESSEE’s Leasehold Estate is mortgaged to secure a debt or other obligation, including a purchase money obligation (“Leasehold Mortgages”); provided, however:

1) Such Leasehold Mortgage(s) (as of the date recorded) shall not exceed 80% of the costs of the improvements and facilities to be constructed by LESSEE prior to completion and 80% of the Leasehold Estate value after completion;

2) That LESSEE shall not have the power to encumber, and no Leasehold Mortgage shall encumber, COUNTY’s fee interest in the property underlying the Leased Premises (“COUNTY’s Fee Interest”);

3) The Leasehold Mortgage and all rights acquired under it shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Lease and to all rights and interests of COUNTY hereunder, except as otherwise provided in this Lease;

4) Nothing in this Lease shall be construed so as to require or result in a subordination in whole or in part in any way of the COUNTY’s Fee Interest to any Leasehold Mortgage; and

5) In the event of any conflict between the provisions of this Lease and the provisions of any such trust Leasehold Mortgage, the provisions of this Lease shall control.
B. Notification to COUNTY of Leasehold Mortgage. LESSEE or any Leasehold Mortgagee shall, prior to making any Leasehold Mortgage, provide COUNTY with notice of such Leasehold Mortgage and the name and address of the Leasehold Mortgagee. At the time of notice, LESSEE shall furnish to Airport Director a complete copy of any trust deed and note to be secured thereby, together with the name and address of the holder thereof. Thereafter, LESSEE or any Leasehold Mortgagee shall notify COUNTY of any change in the identity or address of such Leasehold Mortgagee.

SECTION 8.03 SUCCESSORS IN INTEREST

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all parties hereto, all of whom shall be jointly and severally liable hereunder.

ARTICLE IX - TERMINATION AND DEFAULT

SECTION 9.01 TERMINATION OF PRIOR AGREEMENTS

This Lease creates a new Leasehold concerning all or any portion of the Leased Premises. Upon the Commencement Date of this Lease, any prior agreement with relation to the Leased Premises between the parties shall terminate and be of no further force and effect, and shall be superseded and replaced in its entirety by this Lease.

SECTION 9.02 TERMINATION FOR DEFAULT

The COUNTY may terminate this Lease and all of its obligations hereunder with or without prior notice to LESSEE and may exercise all rights of entry for default and breach if the LESSEE fails to perform on any of its obligations under this Lease, including but not limited to the following:

A. Payment of all rents, fees, and charges if not cured within ten (10) days following written notice from COUNTY;

B. A general assignment for the benefit of creditors and any Transfer in violation of Article VIII, above;

C. The issuance of any execution or attachment against LESSEE at the Airport which is undischarged within sixty (60) days of levy or seizure or if the Leased Premises are occupied by someone other than LESSEE;

D. The voluntary vacation or abandonment by LESSEE of the conduct of a fixed base operation at the Airport;

E. The violation by LESSEE of any of the terms of any insurance policy referred to in this Lease, the remedies for which are provided in that section of the Lease entitled “INSURANCE”;
F. If LESSEE is found by the FAA, TSA, other government regulatory or successor agency to have violated safety standards in the conduct of LESSEE's business, it being understood that this requirement pertains specifically to a substantial and material breach of the standards and policies established and administered by the FAA’s Office of Safety Standards (to the extent they are applicable to fixed base operations), and/or those standards established by the TSA specifically pertaining to airport safety pursuant to its authority arising under Title 49 Code of Federal Regulations (“CFR”) § 1542. Citations, enforcement actions, and proceedings related to minor violations shall not constitute a breach of this Lease.

G. The violation of any written directions of the Airport Director if not cured within three (3) business days following written notice from Airport Director;

H. The appointment of a receiver to take possession of all, or substantially all, the assets of LESSEE located at the Leased Premises or of LESSEE's Leasehold interest in the Leased Premises where such appointment or seizure is not discharged within sixty (60) days following the appointment of the receiver or seizure of assets; and,

I. All other violations not specified above if not cured within five (5) business days following written notice from COUNTY, provided that if the nature of such failure is such that it can be cured by LESSEE but that more than five (5) business days are reasonably required for its cure (for any reason other than financial inability), then LESSEE shall not be deemed to be in default if LESSEE shall commence such cure within said five (5) business days, and thereafter diligently prosecutes such cure to completion.

SECTION 9.03   COUNTY REMEDIES

In the event of any default by LESSEE, then, in addition to any other remedies available to COUNTY at law or in equity, COUNTY shall have the immediate option to terminate this Lease and all rights of LESSEE hereunder by giving written notice of such termination. In the event that COUNTY shall elect to so terminate this Lease, then COUNTY may recover from LESSEE:

A. The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

B. The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss LESSEE proves reasonably could have been avoided; plus

C. The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that LESSEE proves reasonably could be avoided; plus
D. Any other amount necessary to compensate COUNTY for all detriment proximately caused by LESSEE’s failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, plus

E. At COUNTY’s election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California Law.

As used above, the “worth at the time of award” is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1 percent.

SECTION 9.04 TERMINATION FOR NONUSE

COUNTY has entered into this Lease for the express purpose of having LESSEE provide those services and uses to the public at the Airport as authorized in that section of the Lease entitled “USE.” Should such services and uses of the Leased Premises be discontinued for thirty (30) consecutive calendar days or more, the Airport Director may terminate this Lease and all rights, but not the obligations, of LESSEE shall end at time of such termination subject to that section of the Lease entitled “LESSEE REIMBURSEMENT.” Said thirty consecutive calendar day requirement shall not include periods during which LESSEE performs demolition of existing facilities, construction of site improvements, remodeling, renovations, or repairs as approved by Airport Director.

SECTION 9.05 CONDITION OF LEASED PREMISES UPON TERMINATION

Except as otherwise provided by this Lease or approved in writing by COUNTY, upon termination of this Lease, LESSEE shall redeliver possession of the Leased Premises to COUNTY in substantially the same or better condition than existed immediately prior to LESSEE’s entry thereon, reasonable wear and tear, flood, earthquakes, war and any act of war, excepted. References to the termination of the Lease in this Lease shall include termination by reason of expiration.

SECTION 9.06 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If LESSEE abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to LESSEE and left on the Leased Premises fifteen (15) days after such event shall be deemed to have been transferred to COUNTY. COUNTY shall have the right to remove and to dispose of such property without liability therefor to LESSEE or to any person claiming under LESSEE, and shall have no need to account therefor. Personal property left on the Leased Premises after termination, expiration, or abandonment of the Lease shall not be construed as giving LESSEE possession of the Leased Premises during the fifteen (15) days after termination, expiration, or abandonment of the Lease.
SECTION 9.07 QUITCLAIM OF LESSEE'S INTEREST UPON TERMINATION OR DEFAULT

Upon termination of this Lease for any reason, including, but not limited to, termination because of default by LESSEE, LESSEE shall execute, acknowledge, and deliver to COUNTY, within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title, and interest of LESSEE in the Leased Premises is quitclaimed to COUNTY. Should LESSEE fail or refuse to deliver the required deed to COUNTY, COUNTY may prepare and record a notice reciting the failure of LESSEE to execute, acknowledge and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all right of LESSEE or those claiming under LESSEE in and to the Leased Premises.

SECTION 9.08 COUNTY’S RIGHT TO RE-ENTER

LESSEE agrees to yield and peaceably deliver possession of the Lease Premises to COUNTY on the date of termination or default of this Lease, whatsoever the reason for such termination or default.

Upon giving written notice of termination or default to LESSEE, COUNTY shall have the right to re-enter and take possession of the Leased Premises on the date such termination or default becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination or default of the Lease and re-entry of the Leased Premises by COUNTY shall in no way alter or diminish any obligation of LESSEE under the Lease terms and shall not constitute an acceptance or surrender.

LESSEE waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Leased Premises for any lawful reason or in the event COUNTY re-enters and takes possession of the Leased Premises in a lawful manner.

ARTICLE X - SECURITY

SECTION 10.01 AIRPORT SECURITY

In addition to FAA safety regulations, the LESSEE must also comply with all Airport security rules, regulations and plans, Department of Homeland Security-Transportation Security Administration (TSA) regulations, United States Customs and Border Protection (USCBP) regulations, and all other applicable federal, State and local regulations regarding security during the term of this Lease. LESSEE is responsible for fines imposed by any regulatory agency as a result of LESSEE’s failure to comply with applicable rules and regulations regarding airport security.

LESSEE shall be required to obtain airport security clearance in order to operate on the Leased Premises pursuant this Lease. LESSEE must designate one or more Authorized Signatories to attend training by the Airport, and to be the primary point(s) of contact for Airport Issued I.D. security badge related correspondence and records management. LESSEE, its employees and
contractors must complete a background clearance, and a Security Identification Display Area (SIDA) class in order to obtain an Airport issued I.D. security badge for access to secure areas. All Airport Operations Area (AOA) drivers must also complete training to receive driver’s authorization to drive on the airfield.

A. Authorized Signatory

Authorized Signatories are individuals or designated representatives authorized to sponsor badge applicants and request Airport issued I.D. security badges on behalf of their organization. They are responsible for initiating and understanding the security I.D. badge application process, and certify applicant employment. Authorized Signatories are also the primary points of contact for the Airport I.D. Badge Office correspondence related to audits, changes to employee access authority, if an employee is arrested or convicted of a disqualifying criminal offense, and if an employee is terminated.

B. Airport Issued I.D. Security Badge Acquisition

Prior to issuance of I.D. security badge(s), LESSEE’s personnel must successfully complete the Airport issued I.D. security badge acquisition process. LESSEE personnel who will be working onsite, and engaged in the performance of work under this Lease, must be sponsored by a Lessee identified Authorized Signatory, pass Airport’s screening requirements, which includes, but may not be limited to, an F.B.I. Criminal History Records Check and a Security Threat Assessment, and shall pay any applicable fees. Upon successful completion of the background checks, LESSEE personnel will be required to attend a 3-hour SIDA class and pass a written test. Those personnel who may be permitted by the Airport to drive on the Airport Operations Area (AOA) perimeter road must also complete a Driver’s Training class and written test. The physical Airport issued I.D. security badges are not issued until LESSEE personnel have: 1) completed appropriate application forms and submitted proof of identity and employment eligibility, 2) passed all required background checks, 3) completed and passed appropriate classroom training and 4) paid an I.D. badge fee for each badged person. LESSEE should anticipate a minimum of five (5) business days to complete the Airport issued I.D. security badge process if all requirements listed above are fulfilled by individual applicants in a timely manner. LESSEE shall be responsible for all applicable fees and costs associated with the background checks and I.D. security badging process. The amount of such fees is subject to change without notice.

C. Airport Issued I.D. Security Badge Holder Requirements and Responsibilities

The Airport Security Plan (ASP) requires that each person issued an Airport issued I.D. security badge be made aware of his/her responsibilities regarding the privilege of access to SIDA, Secure, Sterile, and AOA areas of the Airport.

LESSEE and all its personnel within access controlled areas (AOA, SIDA, secured area or sterile area) are required to display on their person an Airport issued I.D. security badge,
unless they are escorted by a properly badged individual with escort privileges. When working in a SIDA, AOA, Sterile or Secure area, each badged person is responsible for challenging any individual who is not properly displaying an Airport issued or approved and valid I.D. badge. Any person who is not properly displaying or who cannot produce a valid Airport issued I.D. security badge must immediately be referred to the Sheriff’s Department – Airport Police Services Office for proper handling.

The Airport issued I.D. security badge is the property of the County of Orange and must be returned upon termination of employment and/or termination of the Lease. The loss of a badge shall be reported within 24 hours to the Sheriff’s Department–Airport Police Services by calling (949) 252-5000. LESSEE or its personnel who lose their badges shall be required to pay a fee before receiving a replacement badge. The charge for lost badge replacement will be posted in the Airport Administration Office and is subject to change without notice. A report shall be made before a replacement badge will be issued.

The Airport security badge is nontransferable. In the event that the LESSEE’s badge is not returned to the Airport upon termination of employment and/or termination of the Lease, the LESSEE and/or LESSEE personnel shall be liable to the County of Orange for a fine in the amount of $250 per unreturned badge. The amount of the fine is subject to change without notice. LESSEE’s security deposit may be applied to cover the cost of the fine.

ARTICLE XI - INSURANCE AND INDEMNITY

SECTION 11.01 INSURANCE

LESSEE agrees to purchase all required insurance at LESSEE’s expense and to deposit with the COUNTY certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this Lease have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY during the entire term of this Lease.

LESSEE agrees that LESSEE shall not operate on the Lease Premises at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Airport Director. In no cases shall assurances by LESSEE, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Airport Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. LESSEE also agrees that upon cancellation, termination, or expiration of LESSEE's insurance, COUNTY may take whatever steps are necessary to interrupt any operation from or on the Lease Premises until such time as the Airport Director reinstates the Lease.

If LESSEE fails to provide Airport Director with a valid certificate of insurance and endorsements, or binder at any time during the term of the Lease, COUNTY and LESSEE agree that this shall constitute a material breach of the Lease. Whether or not a notice of default has or has not been sent to LESSEE, said material breach shall permit COUNTY to take whatever steps necessary to
interrupt any operation from or on the Lease Premises, and to prevent any persons, including, but not limited to, members of the general public, and LESSEE's employees and agents, from entering the Lease Premises until such time as Airport Director is provided with adequate evidence of insurance required herein. LESSEE further agrees to hold COUNTY harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the COUNTY'S action.

LESSEE may occupy the Leased Premises only upon providing to COUNTY the required insurance stated herein and maintain such insurance for the entire term of this Lease. COUNTY reserves the right to terminate this Lease at any time LESSEE’s insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. LESSEE shall pay COUNTY a fee of $300.00 for processing the reinstatement of the Lease. LESSEE shall provide to COUNTY immediate notice of said insurance cancellation or termination.

LESSEE shall ensure that all contractors performing work on behalf of LESSEE pursuant to this Lease and all tenants operating within the Lease Premises shall carry appropriate lines of insurance subject to the same terms and conditions as set forth herein for LESSEE. LESSEE shall not allow contractors or tenants to operate within the Lease Premises if they have less than an appropriate level of coverage required by the LESSEE under this Lease. It is the obligation of the LESSEE to provide written notice of the insurance requirements to every contractor and tenant and to receive proof of insurance prior to allowing any contractor or tenant to begin operations within the Lease Premises. Such proof of insurance must be maintained by LESSEE through the entirety of this Lease and be available for inspection by a COUNTY representative at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of LESSEE’s current audited financial report. If LESSEE’s SIR is approved, LESSEE, in addition to, and without limitation of, any other indemnity provision(s) in this Lease, agrees to all of the following:

1) In addition to the duty to indemnify and hold the COUNTY harmless against any and all liability, claim, demand or suit resulting from LESSEE’s, its agents, employee’s or subcontractor’s performance of this Agreement, LESSEE shall defend the COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and

2) LESSEE’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the LESSEE’s SIR provision shall be interpreted as though the LESSEE was an insurer and the COUNTY was the insured.
Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the LESSEE shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverages</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aviation General Liability (Including but not limited to General Liability, Contractual, Premises, Products/Completed Operations, Hangarkeepers and Vehicles/Mobile Equipment operated on restricted airport premises)</td>
<td>$10,000,000 per occurrence $10,000,000 aggregate</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers' Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Pollution Liability</td>
<td>$5,000,000 per claims-made or per occurrence</td>
</tr>
<tr>
<td>Commercial Property Insurance on an “All Risk” or “Special Causes of Loss” basis covering all, contents and any tenant improvements including Business Interruption/Loss of Rents with a 12 month limit. Property Schedule to include all assigned fuel storage tanks, piping, fittings, associated equipment, vaults and clarifiers.</td>
<td>100% of the Replacement Cost Value and no coinsurance provision.</td>
</tr>
</tbody>
</table>
Required Endorsements

The following endorsements must be submitted with the Certificate of Insurance:

1. The Aviation General Liability and Pollution Liability policies shall contain an Additional Insured endorsement providing coverage at least as broad as ISO forms CG 2010 or CG 2033 naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds. Blanket coverage may also be provided which will state - As Required by Written Agreement.

2. The Aviation General Liability and Pollution Liability policies shall contain a primary non-contributing endorsement evidencing that the LESSEE's insurance is primary and any insurance or self-insurance maintained by County of Orange shall be excess and non-contributing.

3. The Workers' Compensation policy shall contain a Waiver of Subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees. Blanket coverage may also be provided which will state - As Required by Written Agreement.

4. The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the COUNTY’S financial interest when applicable.

All insurance policies required by this lease shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Aviation General Liability policy shall contain a severability of interests clause, also known as a “separation of insureds” clause (standard in the ISO CG 001 policy).

If LESSEE’s Pollution Liability policy is a claims-made policy, LESSEE shall agree to maintain coverage for two (2) years following termination of the Lease.

Insurance certificates should be forwarded to the COUNTY address provided in the Clause (NOTICES) below or to an address provided by Airport Director. LESSEE has ten (10) business days to provide adequate evidence of insurance or this Lease may be cancelled.

COUNTY expressly retains the right to require LESSEE to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

COUNTY shall notify LESSEE in writing of changes in the insurance requirements. If LESSEE does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this Lease may be in breach without further notice to LESSEE, and COUNTY shall be entitled to all legal remedies.
The procuring of such required policy or policies of insurance shall not be construed to limit LESSEE's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer.

SECTION 11.02 INDEMNITY

To the fullest extent authorized by law, the LESSEE shall indemnify, defend with counsel approved in writing by COUNTY, and hold the COUNTY, its officers, directors, employees, agents and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless from any and all claims, demands, or liability of any kind or nature arising out of or related to the LESSEE's operations at the Airport, including the cost of defense arising therefrom. LESSEE's indemnity obligations stated herein also apply to those actions arising out of or related to LESSEE's officers, agents, successors, assigns, sublessees, subcontractors, and employees. LESSEE's indemnity obligations stated herein shall not apply in the event of any loss, damage, or expense arising from the sole negligence and/or willful misconduct of the COUNTY or of the COUNTY's officers, employees, agents, servants, or independent contractors. The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this Lease.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorneys' fees in any action to enforce the terms of this Lease. The rights and obligations set forth in this paragraph shall survive the termination of this Lease.

ARTICLE XII - FEDERAL GRANT ASSURANCES AND REQUIREMENTS

SECTION 12.01 CIVIL RIGHTS AND NONDISCRIMINATION

A. LESSEE agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If LESSEE transfers its obligation to another, the transferee is obligated in the same manner as LESSEE.

B. LESSEE, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:

1) LESSEE will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2) LESSEE, with regard to the work performed by it during the Lease, will not discriminate on the grounds of race, color, or national origin, in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

3) In all solicitations, either by competitive bidding or negotiation made by LESSEE for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential subcontractor or supplier will be notified by LESSEE of the LESSEE’s obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4) LESSEE will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, LESSEE will so certify to the COUNTY or the FAA, as appropriate, and will set forth what efforts it has made to obtain this information.

5) In the event of LESSEE’s noncompliance with the non-discrimination provisions of this Lease, COUNTY will impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to: withholding payments under the contract until LESSEE complies, and/or cancelling, terminating, or suspending a contract, in whole or in part.

6) LESSEE will include the provisions of paragraphs one through six in every sublease or subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. LESSEE will take action with respect to any sublease, subcontract or procurement as the COUNTY or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if LESSEE becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, LESSEE may request the COUNTY to enter into any litigation to protect the interests of the COUNTY. In addition, LESSEE may request the United States to enter into the litigation to protect the interests of the United States.

C. LESSEE, for itself, personal representatives, 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) In the event facilities are constructed, maintained or otherwise operated on the Leased Premises for a purpose for which a FAA activity, facility, or program is
extended or for another purpose involving the provision of similar services or benefits, LESSEE will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2) No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

3) In the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.

4) LESSEE will use the Leased Premises in compliance with all other requirements imposed by or pursuant to List of discrimination Acts and Authorities.

D. LESSEE shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service.

E. LESSEE, for itself, its assignees, and successors in interest agrees to comply with the following Nondiscrimination Acts and Authorities, including without limitation:

1) Title VI of the Civil Rights Acts of 1964, 42 U.S.C. § 2000d et seq. (prohibiting discrimination on the basis of race, color, national origin);

2) 49 Code of Federal Regulations part 21, Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964;

3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 (prohibiting unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects);

4) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. (prohibiting discrimination on the basis of disability), and 49 CFR part 27;

5) The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq. (prohibiting discrimination on the basis of age);
(6) Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47123 (prohibiting discrimination based on race, creed, color, national origin, or sex);

(7) The Civil Rights Restoration Act of 1987, Pub.L 100-209, (broadening the scope, coverage, and applicability of Title VI of the Civil Acts Right of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients, and contractors, whether such programs or activities are federally funded or not;

(8) Titles II and III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12189, as implemented by 28 CFR parts 35 and 36, and 49 CFR parts 37 and 38 (prohibiting discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities);

(9) The FAA’s Nondiscrimination statute, 49 U.S.C. § 47123 (prohibiting discrimination on the basis of race, color, national origin, and sex);

(10) Executive Order 12898, Federal Actions to Address Environmental Justice in the Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

(11) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 70 Fed. Reg. at 74087 – 74100 (defining national origin discrimination to include discrimination because of limited English proficiency); and

(12) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (prohibiting discrimination because of sex in education programs or activities).

F. In the event of breach of any of the above nondiscrimination covenants, COUNTY shall have the right to terminate the Lease in accordance with the provisions of Section 9.02, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

SECTION 12.02 DEVELOPMENT/MAINTENANCE OF AIRPORT

COUNTY reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or view of LESSEE, and without interference or hindrance. COUNTY reserves 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 of the Airport, together with the right to direct and control all activities of LESSEE in this regard.
SECTION 12.03 LEASE SUBORDINATE TO AGREEMENT WITH U.S.A.

This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between COUNTY and the United States or any lawful requirement of the United States relative to the development, operation or maintenance of the Airport. In the event the FAA, or its successors, request modifications or changes to this Lease which may or may not be condition precedent to obtaining funds for the improvement of the Airport, LESSEE hereby consents to any and all such modifications and changes as may be requested and without further consideration, and LESSEE agrees to immediately execute an amendment to this lease to reflect the requested modifications or changes.

SECTION 12.04 USE TO CONFORM WITH FEDERAL AVIATION REGULATIONS

LESSEE agrees that LESSEE's use of the Leased Premises, including all construction thereon, shall conform to applicable Federal Aviation Regulations.

LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or such other regulation replacing Part 77 as may be adopted by Federal authority) prior to the construction of the improvements described herein and prior to the construction of any future structure or building upon the Leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

SECTION 12.05 NONEXCLUSIVE RIGHT

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to conduct aeronautical activities or provide aeronautical services to the public as prohibited by 49 U.S.C. § 40103(e) and 47107(a)(4), as amended from time to time, and the COUNTY reserves the right to grant others the privilege and right of conducting any or all activities of an aeronautical nature.

SECTION 12.06 RESERVATION OF AVIGATION EASEMENT

COUNTY hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the air space above the surface of the Leased Premises, together with the right to cause in said air space such noise, vibration, fumes, and soot as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport.

SECTION 12.07 HEIGHT LIMITATION OF STRUCTURES

LESSEE by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land Leased hereunder (if any) which would penetrate the imaginary surfaces as defined in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or as such
regulation replacing Part 77 may be adopted by Federal authority) or such other lesser altitude as may be required by COUNTY. In the event the aforesaid covenants are breached, COUNTY reserves the right to enter upon the land Leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of LESSEE. LESSEE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

LESSEE acknowledges that it accepts the Leased Premises in “as is” condition and by entering into this Lease accepts liability, and agrees to indemnify COUNTY pursuant to Section 11.02 for all existing conditions whether known or unknown on the Commencement Date.

SECTION 12.08 NONINTERFERENCE WITH AIRCRAFT

LESSEE by accepting this Lease agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, COUNTY reserves the right to enter upon the Leased premises and hereby cause the abatement of such interference at the expense of LESSEE.

SECTION 12.09 WAR OR NATIONAL EMERGENCY

This Lease 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 Airport or the exclusive or nonexclusive use of Airport by the United States during the time of war or national emergency.

SECTION 12.10 DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

It is the policy of the Department of Transportation that disadvantaged business enterprises (DBE) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Lease. To the extent applicable to LESSEE’s operations at the Airport, LESSEE agrees to comply with all DBE requirements.

SECTION 12.11 RESERVATION OF RIGHT OF ENTRY AND EASEMENT FOR NAVIGATIONAL AIDS

COUNTY reserves the right to enter the Leased Premises for the installation and maintenance of Airport navigational aids. Said navigational aids may be installed on land or improvements within the Leased Premises. Said installation and any required maintenance shall be coordinated with LESSEE so as to cause the least interference with LESSEE's use of the Leased Premises. All installation and maintenance costs will be paid by COUNTY.

COUNTY also reserves the right to grant easements to provide utilities to serve the navigational aids. All utility costs for the operation of navigational aids shall be the responsibility of COUNTY.
SECTION 12.12 ACCESS TO LEASED PREMISES

The COUNTY has exclusive access and control over the perimeter gates to the airfield. LESSEE shall not unlock, tamper or open any Airport perimeter gate on the Leased Premises unless specifically authorized by the COUNTY in writing. In order to meet reasonable requirements for Airport operation and traffic safety and control, COUNTY, at COUNTY’s sole discretion, shall determine and may from time to time change the location of ingress and egress connecting the Leased Premises to public road right-of-way or Airport on-site roads and taxiways. Access locations to the Leased Premises from public road right-of-ways shall be limited to a single location unless an additional access point is approved by COUNTY. Should it be necessary for COUNTY to change the location of said access point LESSEE shall be given sixty (60) days prior written notice.

SECTION 12.13 AIRPORT MAINTENANCE AND CONSTRUCTION BY COUNTY

COUNTY may, from time to time, need to perform construction, maintenance, repairs or installations on, near or under the Leased Premises. Such work may include, but is not limited to, construction and maintenance of Airport aprons, taxiways and access roads; repair or installation of utilities; and improvement or repair of Airport drainage. Should such work by COUNTY adversely affect LESSEE’s operations within or from the Leased Premises, LESSEE shall only be entitled to a reduction in rent payable to COUNTY during the period of interference which shall be reduced in proportion to the interference with LESSEE’s use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation, payment or damages.

SECTION 12.14 AMERICANS WITH DISABILITIES ACT

LESSEE shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 (“ADA”) in connection with: (a) the Leased Premises or any portion thereof and its operations thereon, LESSEE’s furnishings, trade fixtures and equipment; (b) removing physical barriers; (c) providing auxiliary aids and services for use of the LESSEE’s furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. LESSEE shall develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of disability complaints. LESSEE shall deliver to the COUNTY, upon the COUNTY’s request, a copy of each report and work plan. The COUNTY’s approval of or acceptance of any aspect of the LESSEE’s activities under this Lease shall not be deemed or construed in any way as a representation that such item, activity of practice complies with the ADA. LESSEE agrees to indemnify, defend, and hold the COUNTY harmless from and against any and all costs incurred by the COUNTY with respect to the LESSEE’s failure to comply with the ADA.
ARTICLE XIII - MISCELLANEOUS PROVISIONS

SECTION 13.01 TIME

Time is of the essence in this Lease.

SECTION 13.02 LEASE ORGANIZATION

The various headings and numbers herein, the grouping of provisions of this Lease into separate sections and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.

SECTION 13.03 AMENDMENTS

This Lease sets forth all of the agreements and understandings of the parties with regard to its subject matter and any modification must be written and properly executed by both parties.

SECTION 13.04 SIGNS

LESSEE agrees not to construct, maintain or allow any sign upon the Leased Premises except as approved by Airport Director. Unapproved signs, banners, flags, etc., may be removed by Airport Director without prior notice to LESSEE.

SECTION 13.05 PERMITS AND LICENSES

LESSEE shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with the operation of the Leased Premises as set forth herein. No permit approval or consent given hereunder by COUNTY in its governmental capacity shall affect or limit LESSEE's obligations hereunder, nor shall any approvals or consents given by COUNTY as a party to this Lease, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

LESSEE’s obligation under this section includes the responsibility to pay any and all fees associated with permitting, including any development fees due to the Transportation Corridor Agency which may be assessed at the time of permitting.

SECTION 13.06 TAXES AND ASSESSMENTS

This Lease may create a possessory interest which is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to possessory interest tax, personal property taxes, and taxes and fees associated with permitting, including without limitation any development fees due to the Transportation Corridor Agency) which become due and payable upon the Leased Premises or upon fixtures, equipment, or other property installed or constructed thereon, shall be the full responsibility of LESSEE, and LESSEE shall cause said taxes and assessments to be paid promptly.
SECTION 13.07  CIRCUMSTANCES WHICH EXCUSE PERFORMANCE

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Section shall excuse LESSEE from the prompt payment of any rental or other charge required of LESSEE except as may be expressly provided elsewhere in this Lease.

SECTION 13.08  PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 13.09  WAIVER OF RIGHTS

The failure of COUNTY or LESSEE to insist upon strict performance of any of the terms, covenants or conditions of this Lease shall not be deemed a waiver of any right or remedy that COUNTY or LESSEE may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants and conditions of the Lease thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of this Lease. Any waiver, in order to be effective, must be signed by the party whose right or remedy is being waived.

SECTION 13.10  RESERVATIONS TO COUNTY

The Leased Premises are accepted “as is” by LESSEE subject to any and all existing easements and encumbrances. COUNTY reserves the right to install, lay, construct, maintain, repair and operate sanitary sewers, drains, storm water sewers, pipelines, manholes and connections; water, oil and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under and along the Leased Premises or any part thereof; and to enter the Leased Premises for any and all such purposes. COUNTY also reserves the right to grant franchises, easements, rights of way and permits in, over, upon, through, across, under and along any and all portions of the Leased Premises. No right reserved by COUNTY in this Section shall be so exercised as to interfere unreasonably with LESSEE's operations hereunder or to impair the security of any secured creditor of LESSEE.

COUNTY agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction. COUNTY further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Leased Premises by
LESSEE, LESSEE shall only be entitled to a reduction in the rent payable to COUNTY during the period of interference, which shall be reduced in proportion to the interference with LESSEE’s use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation.

SECTION 13.11  AUTHORITY OF LESSEE

If LESSEE is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with the by-laws of said corporation, and that this Lease is binding upon said corporation.

LESSEE has had access to legal advice from an attorney with respect to the advisability of entering into this Lease. COUNTY has made no statement or representation to LESSEE regarding any fact relied upon in entering into this Lease; and LESSEE did not rely upon any statement, representation, or promise of COUNTY in executing this Lease. LESSEE has made its own independent investigation of all facts pertaining to this Lease and the Lease Premises, and of all the matters pertaining thereto, as LESSEE deemed necessary. LESSEE expressly acknowledges it has read and understood the terms and conditions set forth in this Lease and has authority to execute this Lease.

SECTION 13.12  COUNTY REPRESENTATIVE

The Board of Supervisors hereby designates the Airport Director to be its designated representative for purposes of contact between the COUNTY and LESSEE in connection with this Lease, including, without limitation, the giving of consents and approvals in a timely manner and in accordance with the terms hereof. The Board of Supervisors may at any time, by notice given to LESSEE, remove the Director as the COUNTY’s representative and appoint another individual to act as the County’s representative.

SECTION 13.13  PUBLIC RECORDS

LESSEE understands that written information submitted to and/or obtained by COUNTY from LESSEE related to this Lease and/or the Leased Premises, either pursuant to this Lease or otherwise, may be open to inspection by the public as required by the California Public Records Act (Government Code § 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof.

SECTION 13.14  NATIONAL SECURITY

LESSEE agrees to follow all laws, rules, regulations, and/or executive orders of the United States promulgated to protect national security, including, without limitation, the following: (1) the Trading with the Enemy Act of 1917, 50 U.S.C. App. § 1, et seq., as amended; (2) the International Emergency Economic Powers Act of 1976, 50 U.S.C. § 1701, et seq., as amended; (3) the Anti-Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405W, as amended; (4)
Executive Order No. 13224 on Terrorist Financing (effective, September 24, 2001, as may be amended or supplemented); (5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56, as amended); and (6) the regulations of the United States Department of the Treasury Office of Foreign Assets Control (including the prohibitions against doing business with persons or entities named on the list of “Specially Designated Nationals and Blocked Persons,” as modified from time to time).

SECTION 13.15 RELATIONSHIP OF PARTIES

The relationship of the parties hereto is that of COUNTY and LESSEE, and it is expressly understood and agreed that COUNTY does not in any way or for any purpose become a partner of LESSEE in the conduct of LESSEE's business or otherwise, or a joint venturer with LESSEE; and the provisions of this Lease and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method by which rental payments are to be measured and ascertained. This Lease is intended for the sole benefit of the parties hereto and their successors, and, unless otherwise provided herein, or by law, no rights are created, or are intended to be created, for the benefit of, or enforceable by, any third parties.

SECTION 13.16 ATTORNEYS’ FEES

In any action or proceeding to enforce or interpret any provision of this Lease, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorneys’ fees, costs and expenses.

SECTION 13.17 PORT OF ENTRY DESIGNATION

LESSEE acknowledges the Airport’s desire to be granted USCBP Port of Entry status by the federal government, and will support Airport in any efforts to that end. LESSEE shall refrain from undertaking any action to diminish the likelihood of the Airport receiving a Port of Entry designation.

SECTION 13.18 TRAINING AND CUSTOMER SERVICE PLANS

LESSEE will implement a customer service plan and training plan as provided for in Training and Customer Service Plan, Exhibit I, attached hereto, which plans may be amended, updated, or superseded from time to time, with the concurrence of the Airport Director.

SECTION 13.19 LESSEE’S SERVICE OF ALCOHOL

LESSEE shall comply with all applicable federal, State, and local laws and regulations for the service of alcohol. LESSEE agrees to adhere to the guidelines of 14 CFR Part 91.17 in serving alcohol to aircraft crewmembers. LESSEE shall maintain appropriate insurance coverage for the service of alcohol.
SECTION 13.20  NOTICES

All notices pursuant to this Lease shall be addressed to either party as set forth below and shall be sent through the United States Mail, in the State of California, duly registered or certified, return receipt requested with postage prepaid or by an overnight carrier service. If any notice is sent by an overnight carrier service, the same shall be deemed to have been served or delivered twenty-four (24) hours after mailing. Notwithstanding the above, COUNTY may also provide notices to LESSEE by personal delivery or by regular mail postage prepaid and any such notice so given shall be deemed to have been given upon the date of personal delivery or three (3) days after the date of deposit in the United States Mail, respectively.

TO:  COUNTY

John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA  92626

TO:  LESSEE

Bradford W. Wright
Chief Financial Officer
Clay Lacy Aviation, Inc.
7435 Valjean Avenue
Van Nuys, CA 91406

Either party hereto may from time to time, by written notice to the other in the method described above, designate a different address which shall be substituted for the one above specified.

[Signature Page Follows.]
Corporate Resolution of Signing Authority

WHEREAS, the Corporation is determined to grant signing and authority to certain person(s) described hereunder.

RESOLVED, that the Board of Directors is hereby authorized and approved to authorize and empower the individuals identified on Exhibit A to make, execute, endorse and deliver in the name of and on behalf of the corporation, but shall not be limited to, any and all written instruments, agreements, documents, execution of deeds, powers of attorney, transfers, assignments, contracts, obligations, certificates and other instruments of whatever nature entered into by this Corporation.

The undersigned certifies that he is the properly elected and qualified Secretary of the books, records and seal of Clay Lacy Aviation, Inc., a corporation duly conformed pursuant to the laws of the state of California, and that said meeting was held in accordance with state law and with the Bylaws of the above-named corporation.

This resolution has been approved by the Board of Directors of Clay Lacy Aviation, Inc. on November 1, 2019.

I, as authorized by the Company, hereby certify and attest that all the information above is true and correct.

Bradford W. Wright
Secretary
Clay Lacy Aviation, Inc.
JOHN WAYNE AIRPORT
FBO LEASE

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

LESSEE, Clay Lacy Aviation, Inc.

By:

By:

APPROVED AS TO FORM:
County Counsel
By:

APPROVED AS TO AUDIT AND ACCOUNTING:
Auditor-Controller
By:

RECOMMENDED FOR APPROVAL:
John Wayne Airport
By: Barry A. Rondinella
   Airport Director

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. Sec. 25103, Reso 79-1535
Attest:

COUNTY
COUNTY OF ORANGE

Robin Stieler
Clerk of the Board of Supervisors
County of Orange

Chairwoman, Board of Supervisors

Page 73
EXHIBIT A

Leased Premises Description
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NW-01
(SHEET 1 OF 2)

PARCEL NW-01:

THOSE PORTIONS OF LOTS 140 AND 141, BLOCK 6 OF IRVINE SUBDIVISION, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT AN ANGLE POINT ON THE NORTHWESTERLY BOUNDARY OF JOHN WAYNE AIRPORT AS SHOWN ON THAT RECORD OF SURVEY NO. 87-1008, FILED IN BOOK 117, PAGES 5 THROUGH 9, INCLUSIVE OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER, SAID POINT BEING ON THE SOUTHEASTERLY BOUNDARY OF AIRWAY AVENUE, SAID POINT BEING ALSO THE WESTERLY TERMINUS OF THAT LINE SHOWN AS HAVING A BEARING AND DISTANCE OF “S79°44′06″W 41.94 FEET” AT THE INTERSECTION OF SAID AIRWAY AVENUE AND PAULARINO AVENUE AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG SAID SOUTHEASTERLY BOUNDARY OF AIRWAY AVENUE THE FOLLOWING COURSES: S28°47′39″W 535.24 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1365.00 FEET; SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°50′25″, AN ARC LENGTH OF 282.08 FEET; AND S40°38′04″W 55.56 FEET; THENCE LEAVING SAID SOUTHEASTERLY BOUNDARY OF AIRWAY AVENUE, S49°21′55″E 23.11 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 79.50 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°47′59″, AN ARC LENGTH OF 63.55 FEET; THENCE S03°33′57″E 37.50 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 48.08 FEET, A RADIAL LINE TO SAID POINT BEARS S82°45′54″W; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 28°26′00″, AN ARC LENGTH OF 23.86 FEET; THENCE S39°37′37″W 3.00 FEET; THENCE S48°57′53″E 357.45 FEET; THENCE S00°41′07″E 50.95 FEET; THENCE S26°28′06″W 6.61 FEET; THENCE S49°20′50″E 200.07 FEET; THENCE N28°48′45″E 234.41 FEET; THENCE N28°48′17″E 471.90 FEET; THENCE N28°48′12″E 236.84 FEET; THENCE N60°33′28″W 48.67 FEET; THENCE N28°38′28″E 105.95 FEET; THENCE N61°11′46″W 134.10 FEET; THENCE S00°41′07″E 14.67 FEET TO THE SOUTHWESTERLY LINE OF SAID PAULARINO AVENUE; THENCE ALONG SAID SOUTHWESTERLY LINE, N49°21′01″W 435.01 FEET TO SAID LINE MENTIONED ABOVE AS HAVING A BEARING AND DISTANCE OF “S79°44′06″W 41.94 FEET”; THENCE ALONG SAID LINE, S79°44′06″W 41.94 FEET TO THE POINT OF BEGINNING.

CONTAINS: 634,815 SQUARE FEET, MORE OR LESS.
LEGAL DESCRIPTION
JOHN WAYNE AIRPORT
FBO LEASE NW-01
(SHEET 2 OF 2)

NOTE:
THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

[Signature]
STEPHANIE A. WAGNER, P.L.S. 5752

September 09, 2020
DATE:
PARCEL FL-01:

THAT PORTION OF LOT 143, BLOCK 6 OF IRVINE SUBDIVISION, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY CORNER OF SAID LOT 143, SAID CORNER BEING ALSO THE INTERSECTION OF THE CENTERLINES OF CAMPUS DRIVE AND BRISTOL STREET AS SHOWN ON RECORD OF SURVEY NO. 87-1008 FILED IN BOOK 117, PAGES 5 THROUGH 9, INCLUSIVE OF RECORD OF SURVEYS, IN SAID OFFICE OF THE COUNTY RECORDER; THENCE ALONG SAID CENTERLINE OF CAMPUS DRIVE, N40°39'20"E 520.00 FEET; THENCE LEAVING SAID CENTERLINE OF CAMPUS DRIVE, N49°20'40"W 165.67 FEET; THENCE N28°47'53"E 249.51 FEET; THENCE S61°12'07"E 15.00 FEET TO A LINE THAT IS PARALLEL WITH AND DISTANT 15.00 FEET SOUTHEASTERLY FROM SAID LINE DESCRIBED ABOVE AS HAVING A BEARING AND DISTANCE OF “N28°47’53"E 249.51 FEET”, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE CONTINUING S61°12’07"E 75.00 FEET; THENCE S28°47’53"W 100.00 FEET; THENCE N61°12’07"W 75.00 FEET TO SAID PARALLEL LINE; THENCE ALONG SAID PARALLEL LINE, N28°47’53”E 100.00 FEET TO THE TRUE POINT OF BEGINNING

CONTAINS: 7,500 SQUARE FEET, MORE OR LESS.

NOTE:
THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:

Stephanie A. Wagner, P.L.S. 5752

September 09, 2020
DATE:
EXHIBIT B

Map of Leased Premises
LINE TABLE

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<td>L2</td>
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ABBREVIATIONS:
- POC ..... POINT OF COMMENCEMENT
- TPOB ..... TRUE POINT OF BEGINNING
EXHIBIT C

Proposed Project Map Depicting Mixed Use and Small GA Areas
LEGEND

- MIXED USE
- SMALL GA
- AIRPORT PROPERTY LINE

NOTE: ACREAGE IS APPROXIMATE. FINAL ACREAGE TO BE DETERMINED BY A PROFESSIONAL LAND SURVEYOR.
EXHIBIT D
LISTING OF EXISTING ENVIRONMENTAL CONDITIONS AND HISTORICAL ASSESSMENTS

Parcel 2  Northwest Full Service FBO


Parcel FB (Northwest Full Service FBO)


EXHIBIT E

REQUIREMENTS FOR DIGITAL RECORD FILES

Development plans shall be submitted in accordance with the following standards:

1. PDF Requirements
   • Full scale complete set (All sheets and disciplines combined)
   • Pages labeled and bookmarked according to sheet name

2. CADD Requirements
   • Files must be submitted in the latest editions of AutoCAD or Civil 3D
   • Files must meet the latest edition of the JWA CADD Standards

3. GIS Requirements
   • Files must be submitted in the latest edition of ArcGIS Pro
   • Files must meet the latest edition of the JWA GIS Standards

4. BIM Requirements
   • Files must be submitted in the latest edition of Autodesk Revit
   • Files must meet the latest edition of the JWA BIM Standards
EXHIBIT F

Conceptual Plans
### Key Map Details

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### Project Information
- **Project Number**: 1900788
- **Designated By**: John Wayne Airport - FBO - NORTHWEST
- **Issue Date**: May 27, 2020
- **Scale**: Not Specified
- **Consultants Stamp**: Not Specified
- **Revisions**: Not Specified

### Notes
- **NOT FOR CONSTRUCTION**: Date
- **Date**: 05.27.20
- **Sheet Number (Exhibit Number)**: 1900788-C-500DT.dwg

### Contacts
- **Office**: 213.418.0201
- **Fax**: 213.266.5294
- **Website**: www.kpff.com

### Drawing Title Page
- **Attachment B**
- **Page 114 of 167**

### Diagrams
- **Cast-in-Place Concrete Trench Drain Detail**
- **Asphalt Pavement Section**
- **Concrete Curb**
- **Flexible Pipe Bedding Detail**
- **Standard Cleanout**

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### General Notes
- **For Construction Only**: Please disregard any notes not pertinent to construction.
NOTE: 37 BASED AIRCRAFT CAN BE ACCOMMODATED ON THIS LEASEHOLD.
LEVEL 01
0' - 0"
HANGAR LOW ROOF
15' - 0"
HANGAR ROOF
45' - 0"

Gensler
500 S. Figueroa St.
Los Angeles
CA  90071
Tel: 213.327.3988

Sheet Plan No.
Sht Title:
Project:
Approvals

SEAL
PM
Manager, Airport Development
Revisions

JOHN WAYNE AIRPORT
ORANGE COUNTY, CALIFORNIA

County of Orange

Date
Descrip.

SET PROJECT INFO NUMBER PARAMETER
Author Checker

SCALE: 1" = 30'-0"

HANGARS 1-3 - OVERALL NORTH EXTERIOR ELEVATION

HANGARS 1-3 - OVERALL SOUTH EXTERIOR ELEVATION

SEC PROJECT INFO NUMBER PARAMETER
Author Checker
Jimmy Doolittle, Commander of the raid on Tokyo in 1942; and Clay, in front of the record setting Learjet. In 1965, Clay piloted this plane on the first coast to coast round trip flight during daylight hours, establishing 3 world speed records in the process.
EXTERIOR VIEW – FBO FRONT

EXTERIOR VIEW – FRONT ENTRY
EXHIBIT G

Development and Phasing Plan and Schedule
**CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.**

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- SW LIMITED-SERVICE FBO (SW L-FBO) 9 mo
- CLAY LACY 12 mo

- AIRWAY AVE
- CAMPUS DR
- MARTIN

---

**Exhibit G**

**Attachment B**
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
<table>
<thead>
<tr>
<th>Year</th>
<th>SW L-FBO</th>
<th>ACIJET</th>
<th>SW LIMITED-SERVICE FBO (SW L-FBO)</th>
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<tbody>
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CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
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CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.

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<td>YR9</td>
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CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
CONSTRUCTION SEQUENCE. START AFTER RECEIPT OF NEPA, COUNTY PERMITS APPROVALS.
EXHIBIT H

Maintenance Plan
Section 6j | Maintenance Plan
Clay Lacy Aviation has budgeted 3% of our initial capital investment for facility maintenance increasing annually with CPI. Our comprehensive maintenance program, directed by our Facilities Manager includes preventative maintenance, facility upkeep, utilities, unscheduled repairs, vendor and employee labor, taxes, employee training, compliance with environmental regulations, ADA compliance, insurance and other aspects of facility maintenance to adhere to the guidelines in the model lease. Prior to commencing construction, we will maintain and make reasonable improvements to current facilities to best serve our clients. An additional category has been added to the schedule below detailing the inspection, maintenance, and cleaning of the hydrodynamic separators that are an element of our storm water management program.

Facility Maintenance Schedule

<table>
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<tr>
<th>Category &amp; Action</th>
<th>Frequency</th>
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<tbody>
<tr>
<td>Roofing</td>
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<tr>
<td>Remove debris in roof drains and flush</td>
<td>Quarterly</td>
<td>Staff</td>
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<tr>
<td>Remove growing plant life</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Inspect roof (connections, tearing, corrosion)</td>
<td>Semi-annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Check gutter aches</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Remove standing water (after storms)</td>
<td>Seasonal</td>
<td>Staff</td>
</tr>
<tr>
<td>Building Maintenance (Exterior)</td>
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<tr>
<td>Check for broken glass or debris</td>
<td>Daily</td>
<td>Staff</td>
</tr>
<tr>
<td>Inspect dumpsters and clean surrounding area</td>
<td>Daily</td>
<td>Staff</td>
</tr>
<tr>
<td>Inspect condition of paint and walls</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Remove grit from walls with power washer</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Inspect windows and doors, check frames</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Clean windows</td>
<td>Quarterly</td>
<td>Vendor</td>
</tr>
<tr>
<td>Power wash facility entry</td>
<td>Quarterly</td>
<td>Vendor</td>
</tr>
<tr>
<td>Inspect stormwater drains</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Inspect condition of sidewalk, driveway, parking areas</td>
<td>Semi-annual</td>
<td>Staff</td>
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<tr>
<td>Clean sidewalk, driveway, parking area</td>
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<td>Vendor</td>
</tr>
<tr>
<td>Check condition of fencing</td>
<td>Semi-annual</td>
<td>Staff</td>
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<tr>
<td>Building Maintenance (Interior)</td>
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<tr>
<td>Check condition of walls, floors, and ceilings</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Deep clean flooring</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Look for signs of leaks</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Check proper functioning of windows, doors, locks</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Check for signs of insect or rodent infestation</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Check for hazards (electrical, structural, mechanical)</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Lubricate door hinges and locks</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Check faucets, toilets, showers for proper function</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Inspect condition of stairs and handrails</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Inspect storage areas for accumulation of trash</td>
<td>Semi-annual</td>
<td>Staff</td>
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</tbody>
</table>

Note: Produced in MS Excel Times New Roman size 12 font.
## Facility Maintenance Schedule Continued

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<th>Category &amp; Action</th>
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<tr>
<td>Clean and change air filters</td>
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<tr>
<td>Check for noise or vibration</td>
<td>Quarterly</td>
<td>Staff</td>
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<td>X</td>
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<tr>
<td>Check condensate drains are working</td>
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<td>Vendor</td>
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<td>Inspect HVAC equipment and make repairs</td>
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<td>Check ducting for cracks and leaks</td>
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<tr>
<td>Check for proper functioning, clean, re-aim</td>
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<td>Inspect for leaks or noises</td>
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<td>Confirm adequate hot and cold water is available</td>
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<td>Check drains and connection to sewer</td>
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<td>Staff</td>
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<td>Check sink traps and building trap are clean</td>
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<tr>
<td>Check fire suppression system</td>
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<td>Check safety signage visibility and condition</td>
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<td>Replenish first aid kits</td>
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<td>Check function emergency eye-wash station</td>
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<td>Check function of smoke and CO2 detectors</td>
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<td>Test fire alarm system</td>
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<td>Check fire extinguishers</td>
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<td>Vendor</td>
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<tr>
<td>Clean and proper functioning security camera system</td>
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<td>Staff</td>
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<td>Routine maintenance</td>
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<td>Replenish personal protection equipment</td>
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<td>Staff</td>
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*Updated on next page*
# Proposal for Northwest Full-Service FBO
## County of Orange | John Wayne Airport | Solicitation PM 1121 223 0030

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<thead>
<tr>
<th>Category &amp; Action</th>
<th>Frequency</th>
<th>Responsible</th>
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<tbody>
<tr>
<td><strong>HVAC</strong></td>
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<td></td>
</tr>
<tr>
<td>Clean air intake</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Clean and change air filters</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Check for noise or vibration</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Check condensate drains are working.</td>
<td>Semi-annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Inspect HVAC equipment and mise repairs</td>
<td>Semi-annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Check ducting for crevics and leaks</td>
<td>Annually</td>
<td>Vendor</td>
</tr>
<tr>
<td><strong>Electrical and Lighting</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Check for proper functioning, clean, re-arm</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Complete electrical system inspection</td>
<td>3 to 5 years</td>
<td>Vendor</td>
</tr>
<tr>
<td><strong>Plumbing</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inspect for leaks or noises</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Confirm adequate hot and cold water is available</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Check drains and connection to sewer</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Check sink traps and building trap are clean</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td>Check fire suppression system</td>
<td>Semi-annual</td>
<td>Vendor</td>
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<tr>
<td><strong>Safety</strong></td>
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</tr>
<tr>
<td>Check safety signage visibility and condition</td>
<td>Weekly</td>
<td>Staff</td>
</tr>
<tr>
<td>Replenish first aid kits</td>
<td>Monthly</td>
<td>Staff</td>
</tr>
<tr>
<td>Check function emergency eye-wash station</td>
<td>Monthly</td>
<td>Staff</td>
</tr>
<tr>
<td>Check function of smoke and CO2 detectors</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td>Test fire alarm system</td>
<td>Semi-annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Check fire extinguishers</td>
<td>Semi-annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Clean and proper functioning security camera system</td>
<td>Semi-annual</td>
<td>Staff</td>
</tr>
<tr>
<td><strong>Landscaping</strong></td>
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<tr>
<td>Routine maintenance</td>
<td>Weekly</td>
<td>Vendor</td>
</tr>
<tr>
<td>Maintain mulch cover</td>
<td>Bi-Annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Fertilize</td>
<td>Bi-Annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Seasonal pruning</td>
<td>Bi-Annual</td>
<td>Vendor</td>
</tr>
<tr>
<td><strong>Facility Maintenance Supplies</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Replenish personal protection equipment</td>
<td>Monthly</td>
<td>Staff</td>
</tr>
<tr>
<td>Replenish janitorial equipment</td>
<td>Quarterly</td>
<td>Staff</td>
</tr>
<tr>
<td><strong>Storm Water Management</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inspect and maintain hydrodynamic separators</td>
<td>Bi-Annual</td>
<td>Vendor</td>
</tr>
<tr>
<td>Clean hydrodynamic separators</td>
<td>Annually</td>
<td>Vendor</td>
</tr>
<tr>
<td>Clean monitoring system</td>
<td>Annually</td>
<td>Vendor</td>
</tr>
</tbody>
</table>

**Note:** Produced in MS Excel Times New Roman size 12 font.
Section 6k | Operational Plan on Managing Existing Wait List for County Hangars
Not applicable to Northwest Leasehold.

Section 6l | Management and Operations Plan for GA Transient Parking
John Wayne Airport is a high-traffic environment and due to the Airport’s constrained size, a large portion of the flight operations are transient in nature. CLA has studied the Airport’s movement statistics for the past five years and has designed and phased the new development with a focus to ensure ample transient parking facilities.

We recognize that the current facilities on the Northwest leasehold does not currently have landside access or an automobile parking lot. Further the size of the existing lobby is not ideal for supporting a Full-Service FBO operation. Therefore, in order to maintain adequate transient parking on the Northwest leasehold prior to development completion, Clay Lacy Aviation will limit the total number of based aircraft to those identified in our phasing plans. Upon completion of the new facilities, the enlarged ramp area will provide ample transient parking facilities based on historical Airport movement trends while accommodating for future changes in aircraft design.

Section 6m | Interim Operating Plan for OCSD/OCFA Facility
The proposed redevelopment program takes full consideration of the critical mission of OCSD/OCFA and their need for uninterrupted operations with minimal disruption. In accordance with the development and phasing plans outlined in this proposal, CLA will maintain the current OCSD/OCFA facilities until the new OCSD/OCFA facility is operational. Our redevelopment plan is broken into two phases to ensure OCSD/OCFA will be able to operate its facility as-is until the new facility is constructed and ready for occupancy. Once OCSD/OCFA is operational in the new facility, Phase Two of the leasehold development will begin without any negative impact to OCSD/OCFA operations. It is CLA’s intention to work closely with OCSD and OCFA personnel to ensure they are able to meet their operational needs throughout the development period.
EXHIBIT I

Training and Customer Service Plans
Section 8b | Training Plan
Clay Lacy Aviation is committed to training our employees to provide safe, superior service. As a testament to this commitment, we spend an average of $6,000 per employee annually on training. Clay Lacy Aviation has proprietary Standard Operating Procedures (SOPs) for all aspects of FBO operations including training. We follow the guidelines of Air Transport Association (ATA) 103, the standard for safe jet fuel quality control at airports, and our line service staff are trained in National Air Transportation Association (NATA) Safety First, the industry standard for professional line service specialists. In 2020, Clay Lacy will complete the process to receive the International Standard for Business Aircraft Handling (ISBAH) Stage 1 accreditation, an elite recognition of global industry best practices in aircraft handling and safety.

Monitoring of Training
Clay Lacy managers ensure all necessary training is completed and documented, according to the responsibilities outlined below.
- Line Service Manager: responsible for initial and recurrent training for all line service technicians.
- Quality Assurance Manager: conducts weekly audits on all training records to ensure compliance.
- Quality Control/Ground Service Equipment Manager: responsible for the record keeping and maintenance of fuel trucks, ground equipment, fuel farm and adherence to airport regulations.

Quality Control Plan
The Clay Lacy Aviation quality control plan is based upon ATA 103 and NATA quality control standards and executed according to the responsibilities outlined below.
- Line Service Supervisors: responsible for daily quality control of fuel operation and fuel load delivery paperwork and inspections.
- Line Service Manager with oversight of Quality Control Manager: responsible for monthly, quarterly and annual fuel operations requirements; airport inspections and requirements for fuel facilities, filter changes, fire department regulations, and local and federal regulations; quality control paperwork, checklists and record-keeping documents.
- SNA General Manager is responsible for auditing training and quality control records to ensure they are up-to-date and in compliance with Clay Lacy standards and government requirements.

Plan for Initial and Recurring Training
Clay Lacy Aviation utilizes the NATA Safety First training program because it incorporates industry best practices, on-the-job training, and skill-specific training required to certify personnel for various duties ranging from Basic Airport Safety and Security to Wing Walking and Tug Driving/Towing.

Testing of On-Site Fuel Tanks and Leak Prevention
Clay Lacy Aviation takes a multi-faceted approach to prevent leaks of hazardous materials, and from those materials entering the storm water system.
• A third party accredited Designated Operator (DO) performs monthly fuel farm inspections, provides training to new employees within the first 30-days of employment on the proper operation of the fuel farm; in addition to the use and test of the leak detection system.

• The NATA Safety First training in use by Clay Lacy Aviation includes six modules to ensure employees are equipped and tested on the best practices re: (i) Quality Control in Aviation Fuels; (ii) Quality Control Record Keeping and Documentation; (iii) White Bucket Test; (iv) American Petroleum Institute (API) Gravity Test; (v) Free Water Test; and (vi) Filter Membrane Test.

• Employees receive Part 139 training on fuel handling, emergency procedures, and fire prevention every two years in accordance with Part 139 requirements.
## Initial and Recurring Training Schedule

<table>
<thead>
<tr>
<th>Team</th>
<th>Initial Training</th>
<th>Recurring Training</th>
</tr>
</thead>
</table>
| Line Service | • Human Resources Training  
 | | • Safety Management System Indoctrination  
 | | • Facility & Fuel Farm Familiarization  
 | | • NATA Safety First and Air Elite Training  
 | | • FBO Manual Training  
 | | • Switchboard Training  
 | | • Airside Safety Training and Evaluation  
 | | • Departmental Shadowing  
 | | • Company Policies, Airport Rules/Regulations  | • Annual Safety Training  
 | | | • NATA Safety First (Annually for Supervisors, Every Other Year for All Others) |
| Client Service | • Human Resources Training  
 | | | • Safety Management System Indoctrination  
 | | | • Facility Familiarization  
 | | | • NATA Safety First and Air Elite Training  
 | | | • FBO Manual Training  
 | | | • Switchboard Training  
 | | | • Airside Safety Training and Evaluation  
 | | | • Departmental Shadowing  
 | | | • Company Policies  
 | | | • Airport Rules/Regulations  | • Annual Safety Training  
 | | | • NATA Safety First (Annually for Supervisors, Every Other Year for All Others) |
| Facilities | • Human Resources Training  
 | | | • Safety Management System Indoctrination  
 | | | • Facility Familiarization  
 | | | • NATA Safety First and Air Elite Training  
 | | | • FBO Manual Training  
 | | | • Switchboard Training  
 | | | • Airside Safety Training and Evaluation  
 | | | • Departmental Shadowing  
 | | | • Company Policies  
 | | | • Airport Rules/Regulations  | • Annual Safety Training  
 | | | • NATA Safety First (Annually for Supervisors, Every Other Year for All Others) |
| Administration | • Safety Training  
 | | | • Company Policies  
 | | | • Airport Rules/Regulations  | • Annual Safety Training |
Section 8c | FBO Marketing and Customer Service Plan

Clay Lacy Aviation is built upon a well-established and respected global brand familiar to pilots, owners and corporate flight departments, having operated in Southern California for over 50 years. We do not rest on reputation alone, attracting new customers with modern marketing practices such as geofencing and targeted digital campaigns, each backed by measurable goals and key performance indicators (KPIs). We are a company of aviators passionate about what we do, and ready to serve.

Our marketing approach is guided by the “PESO” model, and we are particularly focused on Earned Media and Shared Media – the elements that rely upon and demonstrate our outstanding relationships with our customers, community partners and other stakeholders.

Our Marketing & Customer Service Plan identifies how CLA will attract and retain general aviation business at JWA. The plan includes the following:

- A dedicated webpage to provide stakeholders with easy-to-find information about the development plan, including contact information, construction updates, a forum to submit questions or concerns, and an opportunity to sign up for news alerts,
- Coordination with JWA to complement their existing communications, such as the Airport’s website, e-newsletters, JWA Direct Blog and social media platforms (Twitter, Instagram & Facebook), to ensure that interested parties accessing those platforms are fully aware of development plans and processes as well as services provided, and
- Reiteration to stakeholders that any questions or concerns related to Clay Lacy Aviation are best handled through by contacting our General Manager, Customer Service team or through our website, as opposed to funneling FBO-related questions through JWA.
## 2020

| JUL | AUG | SEP | OCT | Nov | DEC | JAN | FEB | MAR | APR | MAY | JUN |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|

### PAID: Targeted content you pay for and strategically place
- Paid print and digital advertising (GA/BA focused pubs, Banner Ads, Orange County Business Journal, FlightAware and GA/BA focused pubs, Programmatic Ads)
- Paid social media: Facebook, Twitter, LinkedIn, Instagram
- Quarterly contests

### EARNED: Content created by an outside source at no cost
- Press release: Opening
- Editorial pitch: Lifestyle pubs (green build, technology, etc.)
- Influencer relations: Targeting flight departments, Social pilots association, aircraft manufacturers, aircraft brokers, aviation tax advisors and financiers, World fuel newsletter, Paragon aviation network newsletter

### SHARED: Content that stakeholders create and distribute on channels you don’t own
- Weekly social media posts: Facebook, Twitter, LinkedIn, Instagram
- World Fuel Services - Air Elite Network Membership
- Paragon Aviation Network: Obtain membership with the Paragon Aviation Network of independent FBOs to extend awareness and network benefits globally
- CAA Preferred Status: Win vote as the preferred FBO at PWA with Corporate Aircraft Association representing corporate flight departments throughout North America

### OWNED: Content you create and distribute on your own channels
- Brand identity: Photo shoot of the facility; popularized and unpipulated
- Collateral Development: Photo shoot of the facility; popularized and unpipulated
- Collateral available: Online, for mailing, and email distribution
- Landing Page: SEO optimized
- Drip campaign: Dependable on location and list available
- Grand opening event: Ribbon cutting, VIP guest invite, photo ops

### Develop point of purchase surveys
- Deploy point of purchase surveys
- Ongoing content creation: Testimonial videos, infographics, facility benefits and amenities, blogs, social posts, etc.
- Advertise real estate opportunities: Hangar space, office rental, etc.

### COMMUNITY: Engagement, education, philanthropy, and economic growth
- Community Engagement: Attend and leave engaging dialogue with civic aviation committees, and local airport groups. Develop positive working relationships. Sponsor and exhibit at local job fairs.
- Education & Philanthropy: Continue existing pilot scholarships with Orange Coast College. Continue speaking engagements and job shadow opportunities with local high school, colleges, and aviation organizations. Charity events - events, donations
- Economic Growth: Continue participation sponsorship of Orange County Business Council to encourage economic growth, workforce development, and workforce retention

### CUSTOMER SERVICE: Training, learning, customer profiles
- Initial and Ongoing Training: Company indoctrination training, safety and emergency response, training, phone and email etiquette, basic food handling
- Learning & Root Cause Analysis: When our customer service falls short of expectations, we implement a root cause analysis protocol to identify the reasons for the failure, and take corrective actions to prevent the service failure from recurring. Similar to a safety management system protocol.
- Customer Profiles: Comprehensive customer profiles are maintained without our CRM system to track important data, preferences, client relationships, and service history. Updated regularly by Client Service Representatives and Cabin Attendants.

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Note: Font type/size in this file is as developed in other application.
Our Commitment to Serving Special-Needs Community

Clay Lacy Aviation is also committed to serving the needs of customers with special needs, such as those with autism, visual and hearing disabilities or mobility limitations. We will have dedicated parking for individuals with special needs, our facilities will be wheelchair-accessible, and we will have the proper equipment to help passengers in wheelchairs board the aircraft. We will also accommodate animals, whether service animals or pets, and will have an outdoor pet relief area. We understand that aircraft travel can be difficult for individuals with special needs, and we will embody the spirit of JWA’s existing programs such as Helping Hands to provide individuals with a personalized, streamlined travel experience.

Community Engagement

Ongoing, two-way communication is necessary to foster positive, productive relationships with the communities near the airport. As an FBO in Orange County, we will:

- Establish an online presence to provide development updates and construction timelines
- An online forum to collect and respond to community questions
- Maintain a dialogue with cities and organizations interested in airport developments
- Support and continue our membership with the Orange County Business Council (OCBC)
- Participate in local career fairs

“Our dedication to be a good neighbor encompasses many facets including community engagement, sustainability, pilot education, scholarships, and partnering with local Orange County based businesses, artists, and musicians.”
Sustainability
Clay Lacy Aviation, in collaboration with our fuel provider World Fuel Services and the Kinect Energy Group, is taking a multifaceted approach to reducing our carbon footprint and that of our customers. As an FBO in Orange County, we will:

• Provide Gold Standard.org carbon offsets bundled with bulk fuel purchases and aircraft charters
• Integrate carbon offset purchases with our point of sale software
• Develop a sustainability program specifically for our Orange County FBO facility
• Provide sustainable alternative jet fuel (SAJF) as availability becomes available
• Utilize electric powered ground service equipment
• Provision facilities for electric and alternative fuel aircraft
• Eliminate all single use plastics and only utilize LED light fixtures
• Require our construction contractors to use biodiesel in heavy equipment.
• We have partnered with Van Nuys Airport in their path to becoming accredited as a carbon neutral airport through the AirportCarbonAccreditation.org program, and we will actively support and participate if John Wayne Airport chooses to pursue this internationally recognized accreditation.

Pilot Education
The John Wayne Airport General Aviation Noise Ordinance is unique, and therefore it is important for Full-Service FBO to promote awareness and compliance with the noise ordinances. As an FBO in Orange County, we will:

• Create awareness of JWA’s GANO in the pilot lounge and planning rooms
• Provide an introduction with JWA’s GANO when confirming inbound reservations
• Establish hours of operations for the GAF to match the established noise curfew hours
Scholarships and Giving Back
For over 50 years, Clay Lacy Aviation has given back to organizations that promote careers in aviation and to local organizations that do great work in our local communities. We will continue this work that we have been doing in Orange County:

- Orange Coast College annual pilot scholarships, providing fund to help students achieve their dream of a career as a pilot.
- Fullerton’s Love of Orange County kids whose mission is to end the cycle of child homelessness in Orange County by supporting children identified through the McKinney-Vento Act with financial resources to participate in school events, provide clothing, computers, and allow them just to be kids.

Partner with OC Based Businesses, Artists, and Musicians
Orange County is a creative center, a hub for innovation, and a beautiful place to live and work. As the gateway for business and leisure travelers in Orange County, the Clay Lacy Aviation FBO at John Wayne will partner with local businesses, artists and musicians to highlight their talents and products within our Full-Service FBO.

- Bring attention to businesses and products unique to Orange County.
- Highlight the talents of local artists and musicians for the enjoyment of our FBO guests.
They should be the same as the commercial airlines hours...7am to 11pm.

James Tucker
2821 Pebble Drive
Corona Del Mar, CA

Sent from my iPad
To Board of Supervisors—Or.Co

Please add the 3 provisions to the GAF lease agreement that Newport Beach has requested. Newport Beach’s lives and property are impacted by JWA, and we feel that these provisions are more than fair. Thanks you
S. Wayne
September 4, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the September 15, 2020, Board Hearing.

Agency: John Wayne Airport

Subject: Approve Lease Agreements for Two Full-Service Fixed Base Operators at John Wayne Airport

Districts: 2

Reason for supplemental: This item needs to be heard at the next available Board date in order to have the lease agreements for the selected Fixed Base Operators for general aviation services in place as soon as possible. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
    County Executive Office
    County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 9/15/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 2
SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport
DEPARTMENT HEAD REVIEW: 
Department Head Signature
DEPARTMENT CONTACT PERSON(S): Barry A. Rondinella (949) 252-5183
Dave Pfeiffer (949) 252-5291

SUBJECT: Approve Lease Agreements for Two Full-Service Fixed Base Operators at John Wayne Airport

CEO CONCUR COUNTY COUNSEL REVIEW CLERK OF THE BOARD

Budgeted: Yes Current Year Cost: N/A Annual Cost: N/A
Staffing Impact: N/A Number of Positions: 0
Current Fiscal Year Revenue: See Financial Impact Section Sole Source: N/A
Funding Source: See Financial Impact Section County Audit in last 3 years No

Prior Board Action: 08/11/2020 #11, 09/10/2019 #18, 06/25/2019 #45, 05/22/2018 #39

RECOMMENDED ACTION(S)

1. Find that Final Environmental Impact Report (EIR) No. 627, previously certified by the Board of Supervisors on June 25, 2019, reflects the independent judgment of the County of Orange and satisfies the requirements of CEQA for the leases being considered herein, which is a necessarily included element contemplated as part of the whole of the action.

a. The circumstances of the project are substantially the same as described in EIR No. 627, which adequately addressed the impacts of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken and no new information of substantial importance to the project which was not known or could not have been known when EIR No. 627 was adopted has become known, and no further environmental review is required.

b. EIR No. 627 is adequate to satisfy the requirements of CEQA for the lease agreements.
c. The CEQA Findings of Fact, Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations have been incorporated into the project and all mitigation measures are fully enforceable pursuant to CEQA (Public Resources Code) Section 21081.6(b) and have either been adopted as conditions, incorporated as part of the project design, or included in the procedures of project implementation.

2. Approve and execute lease with Clay Lacy Aviation, Inc. for a Full-Service Fixed Operation on the Northwest parcel for a term of 35 years commencing January 1, 2021, through December 31, 2055.

3. Approve and execute lease with Aviation Consultants, Inc., doing business as ACI Jet, for the Full-Service Fixed Base Operation on the Northeast parcel for a term of 35 years commencing January 1, 2021, through December 31, 2055.

4. Authorize the Airport Director or designee to make minor modifications and amendments to the agreements that do not materially alter the terms or financial obligations to the County, and perform all activities specified under the terms of the leases.

5. Authorize the Airport Director or designee to provide 30 days’ written notice to terminate the existing Southeast Fixed Based Operation Interim Lease with Newport FBO Two, LLC dba Atlantic Aviation.

SUMMARY:

Approval of the leases with two Full-Service Fixed Based Operators will allow John Wayne Airport to move forward with its General Aviation Improvement Plan to develop self-sustaining general aviation operations and enhance service, safety, security and efficiency for general aviation services and activities at John Wayne Airport.

BACKGROUND INFORMATION:

On March 13, 2018, the Board of Supervisors (Board) approved the traditional land lease financial development model lease for the General Aviation Improvement Plan to allow John Wayne Airport (JWA) to develop a self-sustaining General Aviation (GA) operation. On March 29, 2018, JWA issued a Request for Qualifications for Full- and Limited-Service Fixed Base Operators (FBO) to qualify to participate in the FBO Request for Proposal (RFP) process to manage GA services at JWA. On May 22, 2018, the Board approved a slate of nine qualified Respondents to participate in the RFP process.

On June 25, 2019, the Board certified Final Program Environmental Impact Report 627 (EIR 627), including related CEQA Findings of Fact, Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations, and approved the Proposed Project with certain specified land use requirements. On September 10, 2019, the Board authorized issuance of the RFP and model leases for FBOs for: Parcel (1) Northeast Full-Service FBO; Parcel (2) Northwest Full-Service FBO; and Parcel (3) Southwest Limited-Service FBO. Nine proposals were received on December 19, 2019. Five panel members participated in the review and scoring of the proposals received.

Selection of Full- and Limited-Service Fixed Base Operators

On August 11, 2020, the Board considered the proposals received and evaluated by the panel members, and selected three FBOs to negotiate with: Clay Lacy Aviation, Inc. (Clay Lacy) for the Northwest Full-Service
FBO, Aviation Consultants, Inc., doing business as ACI Jet (ACI Jet) for the Northeast Full-Service FBO and Jay's Aircraft Maintenance, Inc. for the Southwest Limited-Service FBO.

After selection by the Board, JWA met with each FBO to negotiate and finalize the lease terms and phasing plan for the development of each parcel. Leases for the two Full-Service FBOs have been finalized, reflecting 35-year terms commencing on January 1, 2021, and continuing through December 31, 2055. Negotiations with Jay’s Aircraft Maintenance, Inc. are continuing and upon completion the lease for the Southwest Limited-Service FBO will be brought to the Board for approval.

Following lease execution, but prior to lease commencement, the County must receive all items required by the lease agreements, including, but not limited to, the required security deposits and evidence of insurance.

Northwest Full-Service FBO: Clay Lacy

In 2018, Clay Lacy celebrated 50 years in the aviation industry and provided the following statement in its RFP proposal, “A southern California-based aviation pioneer, visionary, and industry leader for more than 50 years, Clay Lacy Aviation is the most experienced, most financially secure, and most highly regarded operator of business jets in the world.” Some of the services Clay Lacy will provide include the following: (i) FBO services; (ii) sale of aviation fuel, engine oil and lubricants; (iii) into-plane delivery of fuel; (iv) aircraft repair and maintenance; (v) aircraft charter; (vi) flight training; (vii) sale and lease of aircraft; (viii) aircraft wash; and (ix) management of transient parking and hangar, storage and tie-down facilities.

Clay Lacy’s proposal on the west parcel (approximately 14 acres) provides for an initial capital investment in the amount of $57,897,531. Their development includes approximately 110,429 square feet of hangar space, over 300,000 square feet of ramp space and a state-of-the-art two-story FBO facility with over 43,000 square feet of office space.

Clay Lacy is required to offer a right of first refusal to the Orange County Sheriff’s Department (OCSD) and Orange County Fire Authority (OCFA) to sublease an Air Support Facility, which will be constructed and maintained by Clay Lacy on the leased premises in accordance with a mutually agreed design providing for operations and administrative support functions, an aircraft hangar and apron area for OCSD’s and OCFA’s helicopters and auto parking.

Northeast Full-Service FBO: ACI Jet

ACI Jet is a locally-owned, California-based, Full-Service FBO and has served the Orange County community since 2017. As stated in their proposal, ACI Jet’s Mission is, “To help people, businesses and communities reach their full aviation potential.” In their proposal, ACI Jet highlighted that it puts its Mission statement into action through its Core Values, which include: Integrity, Safety, Perseverance and Service. Some of the services ACI Jet will provide include the following: (i) aviation fuel, engine oil and lubricants and into-plane delivery of fuel; (ii) manage hangar storage operations and tie-downs; (iii) provide aircraft repair and maintenance services; (iv) provide and manage transient parking; (v) provide charter operations; (vi) manage fueling operations; and (vii) provide aircraft wash facilities. ACI Jet also plans to build a General Aviation Facility for customs clearance of international general aviation arrivals between the hours of 5 a.m. and 12 a.m.

ACI Jet’s proposal on the east parcel (approximately 31 acres) provides for an initial capital investment in the amount of $86,508,650. Their development includes approximately 287,480 square feet of hangar space,
close to 400,000 square feet of ramp space and a premier FBO facility, which includes over 32,000 square feet of office space. ACI Jet is required to submit an operational plan on managing the existing County waiting list for hangar spaces within 15 days of the lease commencement date.

Development and Construction

Federal Aviation Administration (FAA) approval of JWA’s Airport Layout Plan and National Environmental Policy Act documentation is required prior to any FBO construction activities.

Clay Lacy’s development and construction of the proposed project is estimated to take 24 months to complete, in addition to time for pre-construction planning and permitting. Clay Lacy and the Limited-Service FBO on the west side of JWA are scheduled to commence construction first. Upon completion, ACI Jet will commence its development and construction, which is estimated to take 66 months, in addition to time for pre-construction planning and permitting. To address the operational needs of JWA, the development and phasing plan for construction may be modified or amended by the Airport Director in consultation with the FBOs.

Assurance of Construction Completion

Within nine months of the commencement date of the lease agreements, the FBOs must furnish a completion bond or irrevocable letter of credit (or combination of both) that assures the County the total estimated construction cost of their first phase will be available to the FBO to complete the first phase of construction.

Rent Calculation

Rent shall consist of Minimum Annual Rent and Additional Rent. The Minimum Annual Rent is defined as the sum of Ground Rent and Building Rent. Additional Rent includes a percentage of Gross Receipts, rent-a-car fees, a percentage of advertising receipts and fuel flowage and lubricant fees as defined and set forth in Article IV of the leases.

<table>
<thead>
<tr>
<th>FBO Parcels</th>
<th>Approximate Parcel Area</th>
<th>Annual Ground Rent*</th>
<th>Approximate Building Area</th>
<th>Annual Building Rent*</th>
<th>Percentage Rent of Gross Receipts**</th>
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<tbody>
<tr>
<td>ACI Jet</td>
<td>1,358,299 SF</td>
<td>$1.77 PSF</td>
<td>270,393 SF</td>
<td>$8.16 PSF</td>
<td>5% and .25%</td>
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<tr>
<td>Clay Lacy</td>
<td>635,178 SF</td>
<td>$1.77 PSF</td>
<td>99,816 SF</td>
<td>$8.76 PSF</td>
<td>5% and .25%</td>
</tr>
</tbody>
</table>

* Annual Ground and Building Rents are based on appraised values.
** Defined more fully in Article IV of the leases.

Regularly Scheduled Commercial Operations

To provide general aviation with the ability to use and operate at JWA at a level, and in a manner, consistent with declared County policy on general aviation use of JWA, and not interfere with the safe and efficient operation of JWA, and taking into account the JWA passenger service goals of the County, the leases contain a provision prohibiting the operation of Regularly Scheduled Commercial Users from the FBOs, as defined in Section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation.
Acceptance of Existing Liability

The leased premises described in the RFP have been used for GA FBO purposes and related activities. The prior activities include aircraft tie-down areas, fuel storage parcels that include underground fuel storage tanks and underground oil and water separator/clarifiers. Historical assessments identify the presence of environmental constituents both on and off the leased premises associated with the FBOs.

As part of the terms and conditions of the leases, Clay Lacy and ACI Jet are required to agree and acknowledge that they may be subject to liability and costs associated with environmental conditions by entering into a lease. Clay Lacy and ACI Jet are required to indemnify and hold the County harmless both during and after the term of the lease for environmental conditions related to the leased premises and will be required to provide the County with environmental liability/pollution insurance coverage.

Land Use Requirements

Article V, Section 5.01 of the leases requires compliance with the “Green” and “Yellow” land use designations set forth by the Board that define where the FBOs must park or store aircraft. Due to each FBO’s staggered construction and phasing schedule, the land use requirements will be implemented upon completion of each phase of construction. The lease for the Northeast parcel requires full implementation of the uses depicted in Exhibit C to the lease no later than seven years from the initial date of demolition.

Accidents and Incidents

Article V, Section 5.08 of the leases requires Clay Lacy and ACI Jet to report to the Airport Director any accidents or incidents for which they are wholly or partially responsible, which occur on the leased premises and are reportable to the FAA or other governmental or regulatory agencies. Clay Lacy and ACI Jet would be required to pay to the County administrative costs in the amount of $1,000 per such reportable accident or incident.

Property Taxes and Tax Revenue

Property taxes, regular, special or utility assessments, and all taxes related to the leased premises are the sole responsibility of Clay Lacy and ACI Jet. The FBOs are responsible for paying any possessory interest tax that may become due for the land and improvements as fully set forth in the lease. As part of their proposals, the FBOs were required to submit a projected 10-year tax revenue report to the County based on the estimated number and type of based aircraft at the FBO site locations.

Compliance with CEQA: This project is a necessarily included element of the project considered in Final EIR No. 627, certified by the Board on June 25, 2019, which adequately addressed the effects of this action. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken and no new information of substantial importance to the project that was not known or could not have been known when the Final EIR No. 627 was certified has become known; therefore, no further environmental review is required.

FINANCIAL IMPACT:

ACI Jet and Clay Lacy will assume full responsibility for redevelopment and construction costs related to the complete development of their leased premises. For ACI Jet, over the 35-year lease term, it is estimated that the total ground lease rent payment to JWA will be approximately $132,057,803 and Clay Lacy will pay approximately $61,753,868. This includes an estimated 2.5 percent annual Consumer Price Index
escalation. The Building Rent shall only be payable on the existing enclosed structures and shall not be payable to JWA on any new improvements that ACI Jet and Clay Lacy construct through the development of their parcel. The Building Rent shall be prorated beginning upon initiation of demolition of enclosed structures located on the leased premises, and shall be adjusted each month, as more fully specified in Article IV, Section 4.01. The Building Rent is highly dependent on the phasing, permitting, pre-construction and design aspects of the development and is not included in the estimated revenue to JWA. Similarly, the Gross Receipts revenue to JWA is not included in the calculation of forecasted revenue to the County.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Northeast Full-Service FBO Lease with Aviation Consultants, Inc. dba ACI Jet
Attachment B – Northwest Full-Service FBO Lease with Clay Lacy Aviation, Inc.
Attachment C – Real Property Conveyance Questionnaire
NORTHEAST FULL-SERVICE FIXED BASE OPERATION (FBO) LEASE

Dated _____________

between

County of Orange

and

Aviation Consultants, Inc., doing businesses as ACI Jet

LESSEE
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EXHIBIT DISCLAIMER

Some information contained in the Exhibits to this Lease has been obtained by COUNTY’s representatives and/or third parties. The information is believed to be reasonably correct, but the COUNTY does not warrant either the completeness or accuracy of such information. It is the responsibility of the LESSEE to verify all such information.
THIS FBO Lease ("Lease") is made and entered into this _____ day of ______________, 20__, by and between the COUNTY OF ORANGE, a political subdivision of the State of California ("COUNTY"), and AVIATION CONSULTANTS, INC. doing business as ACI Jet ("LESSEE").

RECITALS

WHEREAS, COUNTY, through its Board of Supervisors, is the owner and airport proprietor of John Wayne Airport ("JWA" or "Airport"), located in the County of Orange, State of California, and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public; and

WHEREAS, JWA is in the process of implementing a comprehensive General Aviation Improvement Program ("GAIP") with the intent to improve service, safety, security and efficiency for general aviation services and activities at JWA; and

WHEREAS, on June 25, 2019, COUNTY certified the GAIP Environmental Impact Report ("EIR") 627 and selected the Proposed Project, providing a framework for general aviation improvements at the Airport and a comprehensive update of JWA’s general aviation facilities; and

WHEREAS, JWA conducted a competitive Request for Proposal ("RFP") process and COUNTY selected LESSEE to develop and operate an updated Fixed Based Operator ("FBO") facility at the Airport under this long-term Lease;

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter contained to be observed and performed by the respective parties hereto,

THE PARTIES HERETO COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

ARTICLE I - DEFINITIONS

The following words, terms and phrases whenever used in this Lease shall have the meaning and significance attached to them in this Article, unless otherwise apparent from context.

SECTION 1.01 AIRPORT

“Airport” or “JWA” shall mean the John Wayne Airport, Orange County, California.

SECTION 1.02 AIRPORT DIRECTOR

“Airport Director” or “Director” shall mean the Director of John Wayne Airport, County of Orange, as appointed by the County Executive Office, or Director's designee.
SECTION 1.03 AIRPORT FUEL FARM

“Airport Fuel Farm” or “Fuel Farm” shall mean the area located at the Southeast corner of the Airport located at the intersection of Campus Drive and Bristol Street, which contains COUNTY and LESSEE fueling facilities consisting of above ground sump tanks, underground fuel storage tanks, piping and associated fueling apparatus of which LESSEE’S Fuel Storage Parcel comprises a portion.

SECTION 1.04 BEST MANAGEMENT PRACTICES

“Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, safety plans, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment measures, operating procedures, and practices to control erosion, facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include any type of pollution prevention and pollution control measure necessary to achieve compliance.

SECTION 1.05 BOARD OF SUPERVISORS

“Board of Supervisors” shall mean the members of the Board of Supervisors of the County of Orange, as governing body of the County and proprietor of the Airport through its Airport Director, or designees, as appropriate.

SECTION 1.06 COUNTY

“COUNTY” shall mean the County of Orange, a political subdivision of the State of California.

SECTION 1.07 DOT

“DOT” shall mean the United States Department of Transportation.

SECTION 1.08 ENVIRONMENTAL LAWS

of 1986 ("Proposition 65"); (ix) California Health and Safety Code §§25100, 25395.7, 25915 et seq.; (x) the Porter-Cologne Water Quality Control Act (California Water Code); (xi) California Civil Code § 3479 et seq.; (xii) Storm Water Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (xiii) the Carpenter-Presley-Tanner Hazardous Substances Account Act; (xiv) the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; (xv) the Safe Drinking Water Act, 24 U.S.C. § 300f, et seq.; (xvi) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (or most current); (xvii) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ; (xviii) The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Areawide Urban Storm Water Runoff Orange County Municipal Separate Storm Sewer System (MS4) Permit Order No. R8-2009-0030 (National Pollutant Discharge Elimination System No. CAS618030) as amended by Order No. R8-2010-0062; (xix) South Coast Air Quality Management District Regulations and Rules; and (xx) all other federal, State, and local laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (a) emissions, discharges, releases, and/or threatened releases of Hazardous Materials into the environment (including, but not limited to, ambient air, surface water, groundwater, land surface, or subsurface strata); and (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials, as such laws are amended, and the regulations and administrative codes applicable thereto.

SECTION 1.09 FAA

“FAA” shall mean the Federal Aviation Administration created under the Federal Aviation Act of 1958, or such successor agency as may from time to time have similar jurisdiction over LESSEE or its business, and the Airport.

SECTION 1.10 HAZARDOUS MATERIALS

“Hazardous Materials” shall mean any pollutant, contaminant, chemical, compound, substance, hazardous or toxic substance, material, waste, and/or any other matter, which is or shall become regulated by any governmental entity, including, but not limited to COUNTY acting in its governmental capacity, the State of California, and/or the United States Government. The term “Hazardous Materials” includes, without limitation, any material or substance which is: (i) defined or listed as a “hazardous waste,” “extremely hazardous waste,” “restrictive hazardous waste” or “hazardous substance” or considered a waste, condition of pollution, nuisance, and/or is controlled or governed under any Environmental Law; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos-containing materials; (iv) flammable or explosive substances; (v) mold-containing materials; poly-chlorinated biphenyl compounds; and/or (vi) substances designated by any governmental entity to cause cancer and/or reproductive toxicity.
SECTION 1.11 NON-STORM WATER DISCHARGE

“Non-Storm Water Discharge” shall mean any discharge to storm sewer systems that is not entirely composed of storm water. “Non-Storm Water Discharge” includes “Unauthorized Non-Storm Water Discharges” and “Authorized Non-Storm Water Discharges” as defined by the California Environmental Protection Agency State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities and Construction Activities.

SECTION 1.12 NPDES PERMIT

“National Pollutant Discharge Elimination System (NPDES) Permit” means the currently applicable discharge permit(s) issued by the Regional Water Quality Control Board, Santa Ana Region, which establish waste discharge requirements applicable to storm runoff within the County and Airport.

SECTION 1.13 POLLUTANT

“Pollutant” means any chemical, compound, substance, liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

a. Artificial materials (such as floatable plastics, wood products or metal shavings);
b. Household waste (such as trash, paper, and plastics; cleaning chemicals, yard wastes, animal fecal materials, used oil and fluids from vehicles, lawn mowers and other common household equipment);
c. Metals and nonmetals, including compounds of metals and nonmetals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic) with characteristics which cause an adverse effect on living organisms;
d. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
e. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;
f. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;
g. Materials which contain base/neutral or acid extractable organic compounds;
h. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act;
i. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus, or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial use of the receiving waters, flora or fauna of the State; and
j. Any substance listed under Health and Safety Code, §25316.
SECTION 1.14    PROHIBITED DISCHARGE

“Prohibited Discharge” shall mean any discharge that contains any pollutant, from public or private property to (i) the storm water drainage system; (ii) any upstream flow, which is tributary to the storm water drainage system; (iii) any groundwater, river, stream, creek, wash or dry weather arroyo, wetlands area, marsh, or coastal slough; or (iv) any coastal harbor, bay, or the Pacific Ocean.

SECTION 1.15    STORM WATER

“Storm Water” shall mean storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

SECTION 1.16    STORM WATER DRAINAGE SYSTEM

“Storm Water Drainage System” means street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of a tributary to the county-wide storm water runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of storm water. The Airport storm drain system shall mean any gutter, channel, storm drain, constructed drain, wash area, inlet or outlet or other facility that flows into, onto, through or out of the Airport property.

SECTION 1.17    TERMINAL

“Terminal” means the Thomas F. Riley commercial passenger terminal at John Wayne Airport.

SECTION 1.18    TSA

“TSA” shall mean the Transportation Security Administration of the United States Department of Homeland Security, the federal agency responsible for regulation of airport security, or any similar successor agency.

ARTICLE II - TERM OF LEASE

SECTION 2.01    TERM OF LEASE

The term of this Lease shall be thirty-five (35) years commencing on January 1, 2021 (“Commencement Date”), and continuing through December 31, 2055.

SECTION 2.02    HOLDING OVER

In the event LESSEE shall continue in possession of the Leased Premises after the term of this Lease, such possession shall not be considered an extension or renewal of this Lease but a tenancy from month-to-month and shall be terminable upon 30 days’ written notice and otherwise governed
by the conditions and covenants contained in this Lease. The Minimum Annual Rent used as the basis to calculate monthly rents for any month-to-month holdover period shall be subject to the terms in Section 4.01 of this Lease.

ARTICLE III - LEASED PREMISES

SECTION 3.01  LEASED PREMISES

COUNTY leases to LESSEE that certain real property as shown in Exhibits A and B hereinafter referred to as “Leased Premises” and incorporated herein by this reference. Said Leased Premises are being leased to LESSEE in their “as-is” and “where-is” condition.

LESSEE further acknowledges that COUNTY has made no representation or warranty regarding the condition of the Leased Premises or the suitability of such Leased Premises for the operation or conduct of LESSEE’s use thereon or for any other purpose. The taking of possession of the Leased Premises by LESSEE shall conclusively establish that the Leased Premises is acceptable to LESSEE and in satisfactory condition for LESSEE’s use at such time. LESSEE further, by taking possession of the Leased Premises, expressly acknowledges and represents to COUNTY that LESSEE is accepting LESSEE’s interest in, and possession of, the Leased Premises in their present condition “as-is” and “where-is” including, but not limited to, the physical condition and environmental condition of the Leased Premises and all applicable laws affecting or related to the Leased Premises, or any part thereof, including, but not limited to, building and safety codes, zoning ordinances, land use restrictions and regulations, Environmental Laws, and other such matters. LESSEE acknowledges and represents to COUNTY that neither COUNTY nor any agent or representative of COUNTY has made any representation, warranty or promise with respect to the Leased Premises, or any part thereof; that LESSEE has satisfied itself with the condition of the Leased Premises and the suitability of the Leased Premises for LESSEE’s intended use; and that LESSEE has made all such investigations as LESSEE deems necessary with reference to the Leased Premises and assumes all responsibility therefor as the same relates to LESSEE’s occupancy thereof.

SECTION 3.02  NATURE OF LESSEE’S ESTATE

LESSEE acknowledges and agrees to all of the following:

A. COUNTY has granted to LESSEE a leasehold interest in the Leased Premises only.

B. COUNTY retains a fee ownership for federal income tax purposes in and to the Leased Premises, as well as all other ownership burdens and benefits connected with such fee ownership.

C. LESSEE has not been granted any direct or indirect right or option to purchase the Leased Premises from COUNTY at any time during or after the termination and/or expiration of this Lease.
SECTION 3.03 INSTALLATION OF EQUIPMENT OUTSIDE THE LEASED PREMISES

LESSEE shall not make any alteration or install any fixture or equipment of any kind outside the Leased Premises unless authorized in writing by the Airport Director prior to installation.

ARTICLE IV - RENT

SECTION 4.01 RENT, FEES, AND CHARGES

Rent shall consist of Minimum Annual Rent and Additional Rent, as defined and adjusted from time to time as set forth hereinafter.

A. Minimum Annual Rent

For purposes of this Lease the “Minimum Annual Rent” is defined as the sum of Ground Rent and Building Rent. The Minimum Annual Rent shall be payable in twelve (12) equal monthly installments on or before the first (1st) day of each calendar month beginning on the Commencement Date. Said amount shall be subject to annual adjustment as set forth in that section of the Lease entitled “REVISION OF RENT, FEES AND CHARGES.”

1) Ground Rent

Ground Rent shall consist of $1.77 price per square foot (psf) for the square footage of all land that makes up the Leased Premises.

\[ \text{Ground Rent} = \$200,349.10 \text{ per month} \]

2) Building Rent

Subject to the provisions of Sections 4.01(B)(5) and 4.01(B)(6) below, Building Rent shall consist of $8.16 price per square foot (psf) for the square footage of all enclosed structures located upon the Leased Premises on the Commencement Date.

\[ \text{Building Rent at Commencement Date} = \$183,867.24 \text{ per month} \]

LESSEE shall pay 150% of Minimum Annual Rent during any holdover period, which shall be calculated based on the most current month prior to holdover period commencement.

B. Additional Rent

Additional Rent shall include Percentage Rent of Gross Receipts, Rent-a Car Fees, Advertising Fees, Fuel Flowage Fees, and Lubricant Fees as defined below. Additionally, NSF Check Fees, Charges for Late Payments, Penalty Fees, and Unauthorized Use and
Services Fees, and all other monetary obligations under this Lease shall be deemed Additional Rent. Further, COUNTY has the right to make any payment to any third-party on any delinquent obligation which LESSEE is obligated to pay under this Lease and recover that amount from LESSEE as Additional Rent.

LESSEE agrees to pay all Additional Rent monthly, in arrears, on or before the fifteenth day of each month, up to and including the last day of the preceding month.

1) Percentage Rent of Gross Receipts

LESSEE shall pay an amount equal to five percent (5%) of all Gross Receipts (as defined in Section 4.02) realized by LESSEE from its business operations on or from the Leased Premises including any amounts received by LESSEE from subtenant(s), sublessee(s), or licensee(s), as more fully set forth in Section 4.02, below.

LESSEE shall pay an amount equal to one-quarter of one percent (.25%) of all Gross Receipts realized by LESSEE for aircraft charter operations, the sale of aircraft, the sale of aircraft parts, and third-party aircraft maintenance services.

2) Rent-A-Car Fees

LESSEE shall pay its percentage of reportable Gross Receipts from rental car activities equal to the percentages paid by other rental car companies operating on Airport, which on the Commencement Date equals ten percent (10%), and which is subject to adjustment from time to time.

3) Advertising Receipts

LESSEE shall pay fifty percent (50%) of its Gross Receipts from all third-party advertising activities conducted on the Leased Premises. At least fifteen (15) days in advance of any advertising activity, LESSEE shall submit all advertising creatives and programs to JWA for Airport Director’s prior written approval.

4) Fuel Flowage Fees and Lubricant Fees

LESSEE shall pay a fuel flowage fee of six cents ($0.06) per gallon of fuel delivered to the Airport and lubricant fees of ten cents ($0.10) per gallon or as otherwise set by COUNTY’s Board of Supervisors.

All fuel flowage fees shall be applied to all fuel handlers without unjust discrimination. All such fees shall be calculated upon deliveries made to LESSEE at the airport. The fuel gallonage shall be computed on the basis of net gallonage delivered and invoiced to LESSEE. Oil gallonage and lubricant weights shall be based on delivery invoices as supplied by the oil delivery company to LESSEE.
5) Building Rent Adjustment During Construction

Beginning upon the initiation of demolition of enclosed structures located on the Leased Premises as of the Commencement Date, Building Rent shall be adjusted each month to reflect, on a pro-rata basis, the maximum square footage of usable space of such buildings at any point during the prior month. Ground Rent and Additional Rent shall remain unchanged during the course of any demolition or construction activities.

6) No Building Rent for New Improvements

In recognition that LESSEE will be constructing or causing new improvements to be constructed without cost to COUNTY and that LESSEE will be obligated to pay the property taxes, insurance, and other costs that become payable with respect to the Leased Premises, including any new improvements, and that all new improvements will revert to COUNTY at the expiration or termination of this Lease, no Building Rent will be due or payable by LESSEE for such new improvements.

C. Fuel Pricing

LESSEE’s highest fuel prices for aircraft fuel sold at JWA shall be established with reference to a regional average of the following airports: McClellan–Palomar Airport (CRQ), Van Nuys Airport (VNY), Hollywood Burbank Airport (BUR) and Long Beach Airport (LBG), and shall not be more than ten percent (10%) above the median retail price of fuel sold at those four airports, as published weekly by Airnav.com.

LESSEE may also provide other discounts and shall seek to maintain competitive fuel pricing for customers purchasing fuel at JWA.

Fuel pricing shall be accessible and subject to inspection or audit by Airport Director or designee upon request.

Notwithstanding anything in this Lease to the contrary, all amounts payable by LESSEE to or on behalf of COUNTY under this Lease, whether or not expressly denominated as Minimum Annual Rent, Ground Rent, Building Rent, or Additional Rent, shall also constitute rent for the purposes of the Bankruptcy Code, 11 United States Code Section 502(b). Rent payments shall be made in accordance with the provisions with that section of the Lease entitled “PAYMENT PROCEDURE.”

SECTION 4.02 DEFINITION OF GROSS RECEIPTS

As used in this section, the term “LESSEE” shall include LESSEE, its officers, directors, employees, agents, affiliates, assigns, and successors. The term “Gross Receipts” upon which five percent (5%) of Gross Receipts is to be calculated, shall include the following:
A. All business activities that generate income or revenue for LESSEE on or from the Leased Premises, which shall include but not be limited to, the sale price of all goods, services, wares, and products sold, performed or traded on or from the Leased Premises, whether for cash or credit and whether payment is actually made or not (provided, however, that it is expressly understood that the activities encompassed in this Subsection 4.02(A) do not include those activities that are covered by the separate percentage (.25%) provided for in the second paragraph of Subsection 4.01(B)(1);

B. All admission, entry, rental and other fees of any nature or kind charged by LESSEE;

C. The fair rental value of facilities on the Leased Premises used by LESSEE or its employees for purposes other than the business purposes for which the Leased Premises are leased;

D. The value of all consideration received by LESSEE including, without limitation, non-monetary considerations, including trades, for the items sold, leased, rented or services rendered.

E. Any rent, consideration or other amounts paid to LESSEE by subtenant(s), sublessee(s), or licensee(s), or any person acting under contract with LESSEE based on LESSEE’s operations at JWA.

F. Revenue from box hangars.

Gross Receipts subject to the five percent (5%) payment amount shall exclude revenue from tie-downs, sunshades, and T-hangars; Rent-a-Car Fees; Advertising Receipts; Fuel Sales; Fuel Flowage Fees and Lubricant Fees; pass-through costs (which are understood to be expenses that LESSEE prepays on behalf of aircraft owners in the course of aircraft operations as a matter of convenience, and which are then reimbursed by said aircraft owners and on which LESSEE charges no markup), and all sales and excise taxes as defined by federal, State, county or municipal government tax codes, and that are paid by LESSEE as a direct result of operations under this Lease.

Refunds for goods returned shall be deducted from current Gross Receipts upon return. Bad debt losses, including but not limited to NSF checks and uncollectible credit card charges, shall not be deducted from Gross Receipts.

Discounts including but not limited to allowances, deductions, rebates, trades, kickbacks, hidden credit, promotional sales, or any other reductions shall not be deducted from Gross Receipts, unless the Airport Director provides written approval for such a discount.

SECTION 4.03 CHARGE FOR UNAUTHORIZED SERVICES AND USES

In the event LESSEE breaches this Lease by using or permitting the Leased Premises to be used in any manner other than as expressly permitted under this Lease or by providing unauthorized services on the Airport outside of the Leased Premises, LESSEE shall pay COUNTY a sum equal
to one hundred percent (100%) of the Gross Receipts for any such service or use. Said payment shall be subject to the charge for late payment in that section of the Lease entitled “CHARGE FOR LATE PAYMENT.” As used in this section, the term “LESSEE” shall include LESSEE, its employees, agents, successors, assigns, affiliates, sublessees, concessionaires, licensees, or any person acting under contract with LESSEE, or on LESSEE’s behalf. All charges for unauthorized services and uses are due and payable as Additional Rent. Furthermore, this Lease may be subject to termination by the COUNTY for LESSEE’s unauthorized services or uses, which termination would be governed by the provisions of Section 9.02.

SECTION 4.04  REVISION OF RENT, FEES AND CHARGES

A. Minimum Annual Rent

The Minimum Annual Rent specified in that section of the Lease entitled “RENT, FEES AND CHARGES” shall be subject to automatic annual adjustments in proportion to changes in the Consumer Price Index for Los Angeles-Long Beach-Anaheim, CA (All Urban Consumers - All Items 1982-1984=100) promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor.

The automatic adjustment shall be effective on each anniversary of the Commencement Date of the Lease and shall be calculated by means of the following formula:

\[ A = \frac{B \times C}{D} \]

where:
- \( A \) = Adjusted Rent
- \( B \) = Minimum Annual Rent as originally set forth in that section of the Lease entitled “RENT, FEES AND CHARGES”
- \( C \) = Monthly index for the fourth month prior to the month in which each rental rate adjustment is to become effective
- \( D \) = Monthly index for the month in which this Lease becomes effective

In the event that the Consumer Price Index (CPI) ceases to use 1982-84 = 100 as the basis of calculation, or if, in COUNTY’s sole judgment, a substantial change is made in the method used by the federal government to determine the CPI or the items used to calculate the CPI, then the CPI shall be converted to the figure that would have been calculated (or as close to such figure as shall be practicable) had the manner of calculating the CPI in effect at the date of this Lease not been altered.

In the event that the CPI is not issued or published for the period for which such minimum annual rent is to be adjusted and computed hereunder, or in the event that the Bureau of Labor Statistics of the United States Department of Labor should cease to publish said index figures, then any similar index published by any other branch or department of the United States Government shall be used and if none is so published, then another index generally recognized as authoritative shall be substituted by COUNTY.
Notwithstanding the foregoing, in no event shall the rent be reduced by reason of any such adjustment.

B. **Fees and Charges**

The fuel flowage and lubricant fees shall be adjusted periodically by COUNTY based on the latest schedule established by Board of Supervisors. The rent-a-car percentage fees shall be the same as the percentage fees paid by other rental car companies operating on Airport.

**SECTION 4.05 PAYMENT PROCEDURE**

A. **Place of Payment and Filing.** Payments and statements required by Section 4.01 “RENT” shall be delivered to the County of Orange, John Wayne Airport Accounting Services, 3160 Airway Avenue, Costa Mesa, California 92626. The designated place of payment, filing and reporting may be changed at any time by COUNTY upon ten (10) days' written notice to LESSEE. Payments may be made by check payable to the County of Orange. LESSEE assumes all risk of loss if payments are made by mail.

B. **Form of Payment.** All sums due under this Lease shall be paid in lawful money of the United States of America without offset or deduction or prior notice or demand. No payment by LESSEE or receipt by COUNTY of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and COUNTY shall accept such check or payment without prejudice to COUNTY's right to recover the balance of the amount due or pursue any other remedy in this Lease. All Electronic Funds Transfer (EFT) payments must be remitted by Automated Clearing House (ACH) / direct deposit to the COUNTY’s designated bank account, or any future mode prescribed by the COUNTY. Any fees assessed to the COUNTY’s bank account due to the use of other form of payment (e.g. wire transfer) not prescribed or approved by the COUNTY, shall be passed through to the LESSEE plus $25 processing fee.

C. In the event the obligation to pay rent begins or terminates on some day other than the first or last day of the month, the rent shall be prorated to reflect the actual period of use on the basis of a thirty (30) day month. The rent for any partial calendar month during which this Lease becomes effective will be payable on such effective date.

D. **NSF Check Fees.** In the event a check submitted by LESSEE is returned for non-sufficient funds (“NSF”), LESSEE agrees to pay COUNTY a fee in the amount of twenty-five dollars ($25) for the first check, and thirty-five dollars ($35) for each subsequent check. All NSF check fees are due and payable as Additional Rent. LESSEE will be liable for treble the amount of the check under certain circumstances described by California Civil Code Section 1719.
SECTION 4.06   CHARGE FOR LATE PAYMENT

LESSEE hereby acknowledges that the late payment of rent or any other sums due hereunder will cause COUNTY to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, increased accounting costs, lost interest income.

Accordingly, if any payment of rent as specified in that section of the Lease entitled “RENT, FEES AND CHARGES” or of any other sum due COUNTY is not received by COUNTY by the due date, a late charge of one and one-half percent (1.5%) of the payment due and unpaid plus one hundred dollars ($100) shall be added to the payment, and the total sum shall become immediately due and payable to COUNTY. An additional charge of one and one-half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid. All charges for late payments are due and payable as Additional Rent.

LESSEE and COUNTY hereby agree that such late charges represent a fair and reasonable estimate of the costs that COUNTY will incur by reason of LESSEE's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by COUNTY shall in no event constitute a waiver of LESSEE's default with respect to such overdue payment, or prevent COUNTY from exercising any of the other rights and remedies granted hereunder.

SECTION 4.07   PROVISION AGAINST SET-OFFS

It is the obligation of LESSEE to pay all rents, fees, and charges, free of any set-offs or claims, in the amount and at the times specified in this Lease. In the event that LESSEE desires to contest the validity or amount due and owing, LESSEE shall first pay the same to COUNTY and may then seek a refund in any appropriate forum.

SECTION 4.08   SECURITY DEPOSIT

No less than thirty (30) days prior to the Commencement Date of this Lease, LESSEE shall deposit with COUNTY a security deposit subject to the provisions for adjustment as provided hereinafter. Concurrently with each revision of the rent pursuant to that section of the Lease entitled “RENT, FEES, AND CHARGES,” the security deposit to be provided by LESSEE shall be adjusted to six (6) times the total monthly building and ground rent to guarantee the faithful performance by LESSEE of its obligations under this Lease and the payment of all rents, fees and charges due hereunder. Any increased security deposit is due within ten (10) business days of such adjustment.

The security deposit shall take one of the forms set out below and shall guarantee LESSEE's full and faithful payment and performance of all the terms, covenants, and conditions of this Lease:

A. An instrument or instruments of credit from one or more financial institutions, subject to regulation by the State of California or Federal government, pledging that funds necessary to secure performance of the Lease terms, covenants, and conditions are on deposit and guaranteed for payment, and agreeing that said funds shall be trust funds securing
LESSEE's performance and that all or any part shall be paid to COUNTY, or order upon demand by Airport Director. Both the financial institution(s) and the form of the instrument(s) must be approved by Airport Director.

B. A Faithful Performance Bond executed by a surety company or financial institution qualified and admitted to do business in the State of California and issued in a form, approved by the COUNTY. Under the bond, the surety company shall guarantee to COUNTY full and complete payment and performance of all the terms, conditions and covenants herein to be performed on the part of the LESSEE, including the payment of use fees, charges, rents, as well as any and all other payments. Said bond shall be maintained at the cost of the LESSEE throughout the existence of this Lease. Said Surety shall give Airport Director a minimum (30) days' prior written notice of cancellation or material change in said bond. Such cancellation or material change without Airport Director's prior written consent shall constitute a default under this Lease.

Regardless of the form in which LESSEE elects to make said security deposit, all or any portion of the principal sum shall be available unconditionally to the COUNTY for correcting any default or breach of this Lease by LESSEE, its successors or assigns, or for payment of expenses incurred by COUNTY as a result of the failure of LESSEE, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this Lease.

Any instrument or bond shall have the effect of releasing depository or creditor therein from liability on account of the payment of any or all of the principal sum to COUNTY, or order upon demand by Airport Director.

In the event Airport Director withdraws all or any portion of the security deposit as provided herein, LESSEE shall, within ten (10) days of any withdrawal by Airport Director, replenish the security deposit to maintain it at amounts herein required throughout the Lease term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Lease.

LESSEE shall be obligated to maintain the security deposit in effect until all obligations of LESSEE under this Lease have been fully paid and/or performed. LESSEE shall deliver to the COUNTY an original copy of all instruments obtained under this Section including renewals and amendments as applicable.

The security deposit, after deduction of all amounts due COUNTY, shall be rebated, reassigned, released or endorsed by the COUNTY to LESSEE or order, as applicable, after one hundred twenty (120) days have elapsed following the expiration date of the Lease term, provided LESSEE has fully and faithfully performed each and every term, covenant, and condition of this Lease.
ARTICLE V - USE

SECTION 5.01 USE

LESSEE's use of the Leased Premises shall be for operation of a Full Service FBO. LESSEE shall furnish all services on a reasonable, and not unjustly discriminatory, basis to all Airport users, and shall charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that LESSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Any use or provision of services on Airport is specifically subject to rules and regulations as may be promulgated from time to time by COUNTY.

LESSEE shall ensure that aircraft fueling or self-fueling facilities (as applicable), aircraft storage (hangars and tie-downs), aircraft charters, and aircraft maintenance and repair services are provided from the Leased Premises throughout the term of this Lease. LESSEE shall designate an area for transient aircraft self-service activity as approved by Airport Director in his/her reasonable discretion.

Other required services and operations include, without limitation:

A. Maintenance, repair, overhaul, and modification of general aviation aircraft, aircraft engines, airframes, automatic flight systems, instruments, radio, electronic equipment, propellers and other aircraft components under cover or indoors.

B. All taxing and movement of aircraft must be accomplished in a manner that does not disturb or damage other aircraft or pavement outside the Leased Premises. Aircraft must be parked so that no portion of the aircraft extends outside the Leased Premises. Any takeoff and landing of rotorcraft may only be from an area approved by both the Airport and FAA for such use.

C. Effective upon LESSEE’s completion of a given phase of construction, as approved by the Airport Director, LESSEE shall park or store aircraft affected by such construction phase on the Leased Premises in strict accordance with the uses depicted on Exhibit C for the remaining term of the Lease. Full implementation of Exhibit C shall occur no later than seven (7) years from the initial date of demolition.

For purposes of the uses depicted on Exhibit C, the following definitions shall apply:

a. The green area marked as “SMALL GA” on Exhibit C shall only be used for the parking or storage of aircraft that meet at least one of the following criteria:

   i. The aircraft has a wingspan of less than 49 feet in accordance with FAA Airplane Design Group I (see Advisory Circular AC 150/5300-13A regarding Airport Design, updated September 28, 2012); or

   ii. The aircraft is a “small aircraft” with a maximum certificated takeoff weight of
12,500 pounds or less in accordance with Title 14 CFR § 1.1.

b. The yellow area marked as “MIXED USE” may be used for the parking or storage of aircraft of any size.

Any modification to the parking areas depicted on Exhibit C shall be permitted only with Airport Director’s prior written approval and shall not increase the acreage allotted for MIXED USE.

For each violation of this provision, LESSEE shall pay to COUNTY liquidated damages in the amount of $1,000 per occurrence, per day. LESSEE agrees this amount is reasonable in light of the anticipated harm to COUNTY for each such occurrence, which would otherwise be difficult to calculate with certainty.

D. Storage of aircraft-related supplies, parts and equipment necessary for support of said aircraft.

E. Retail and wholesale sales of aircraft fuel by into-plane full service fueling, engine oil, and lubricants. LESSEE acknowledges that COUNTY has installed a hydrant fueling system and fuel storage tanks to serve commercial airline aircraft, and LESSEE’s fuel storage improvements and wholesale deliveries will be serving only general aviation aircraft.

F. Line service for the purpose of fueling, supplying engine oil, checking tire pressures, and use of auxiliary power units for starting and/or on-the-ground utility service on the Leased Premises or in the public transit area.

G. Flight instruction (schools or individual instructors), including flight training and demonstration of aircraft for sale or charter.

H. Towing of disabled aircraft.

I. Maintenance and servicing of general aviation automotive ramp equipment (under cover or indoors), and the sale of aircraft fuel, subject to Airport Director approval.

J. Installation of food vending equipment and/or a coffee bar for the purpose of serving LESSEE’s employees and customers. Sale or vending of tobacco products is prohibited. Use of tobacco products is prohibited within any building on the Leased Premises.

K. Provision of aircraft washing beginning at such time as appropriate facilities are constructed and operational on the Leased Premises.

L. Office space incidental to LESSEE’s operations permitted herein.
Other allowed services and operations may be provided, including:

A. Sale, lease, and rental of new and used aircraft (both retail and wholesale).

B. Sale of aircraft parts and accessories (retail or wholesale).

C. Sale of new and used radio and other electronic equipment, including aircraft instruments.

D. Sale of navigational and aviation supplies and accessories.

E. Aircraft chartering, operation, and management services.

F. Financing, leasing, and insuring of aircraft.

G. Rent-a-car service.

H. Upholstery and maintenance of aircraft interiors.

I. Operation of a general aviation facility for customs clearance of international general aviation arrivals by United States Customs and Border Protection between the hours of 5:00 a.m. and 12:00 a.m.

J. Such other services or uses as Airport Director may approve in writing.

Additional Use Requirements and Prohibitions:

LESSEE shall provide on-site management personnel for hangars, tie-downs, and other uses permitted above. On the Commencement Date of this Lease, LESSEE shall accept the assignment from COUNTY to LESSEE of all aircraft parking and storage licenses (including all tie-down, sunshade, and hangar licenses) on the Leased Premises, and LESSEE shall assume responsibility for any waitlists for formerly COUNTY-operated facilities on the Leased Premises. LESSEE shall offer aircraft storage and maintain any waitlists for aircraft storage in a fair and transparent manner. Within fifteen (15) days of the Commencement Date, LESSEE shall submit to JWA an operational plan on managing the existing COUNTY waiting list for the COUNTY hangar spaces.

LESSEE shall provide the Airport with copies of all subleases and/or agreements with subtenants and/or third parties for the leasing of office space or another portion of the Leased Premises, community hangars, box hangars, flight instruction, maintenance and servicing of aircraft, wash and wax services, and rent-a-car services, within fifteen (15) days following execution of this Lease (in the case of pre-existing subleases and agreements), or within fifteen (15) days following the execution of any new such subleases or agreements.

LESSEE shall make restroom facilities available for general aviation users, as well as allow Airport Security personnel staffing perimeter gates to use such facilities closest to the gate they are staffing.
LESSEE shall comply with all applicable federal, State, and local laws and regulations. LESSEE agrees not to use the Leased Premises for any unauthorized commercial airline aviation purposes or to engage in or permit any activity not enumerated by this section within or from the Leased Premises. Additionally, LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time. LESSEE agrees not to conduct or permit to be conducted any public and/or private nuisance (as defined in Civil Code, §§3479 – 3481, et seq.) at, in, on, or from the Leased Premises, or to commit or permit to be committed any waste in, on or from the Leased Premises.

However, LESSEE may be permitted to provide certain commercial aviation ramp services and other contract ground services to commercial airlines pursuant to a separate Airline Related Services License.

SECTION 5.02 USE OF PUBLIC AIRPORT FACILITIES

COUNTY grants the LESSEE a license for the non-exclusive use of all public Airport facilities including, but not limited to, taxiways, runways, navigational aids and facilities relating thereto for purposes of landings, takeoffs and taxiing of LESSEE's aircraft. All such use shall be in accordance with the laws of the United States of America, the State of California, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all reasonable and applicable rules, regulations, and ordinances of COUNTY now in force or hereafter prescribed or promulgated by ordinance or by law. The use of these areas shall be subject to the control and regulation of Airport Director, in his/her sole discretion. This license for non-exclusive use is subject to all rights reserved by the COUNTY to license, permit, authorize, regulate, and relocate concessionaires and other Airport lessees.

SECTION 5.03 RULES AND REGULATIONS

During the term of this Lease, the COUNTY may adopt and enforce rules and regulations which LESSEE agrees to observe and obey with respect to the use of the Airport and its appurtenances, facilities, improvements, equipment and services; provided that such rules and regulations shall not be inconsistent with safety and with rules, regulations, and orders of the FAA and TSA with respect to all operations of the Airport. Except in the case of emergency, the COUNTY shall give LESSEE written notice and opportunity to comment on any proposed changes or additions to the rules and regulations that could impact LESSEE's operations at the Airport before such proposed rules and regulations are adopted by the COUNTY. If requested, the COUNTY shall promptly provide a copy of such rules and regulations to LESSEE.

LESSEE must comply with the Minimum Standards promulgated by the Airport and presently in effect at the Commencement Date or in effect at such time as this Lease is amended.

LESSEE shall comply with all Airport Rules and Regulations, the Airport’s General Aviation Minimum Standards, and shall observe, obey, comply with and not otherwise hinder or obstruct any and all rules, regulations, laws, ordinances, statutes or orders of any governmental authority,
whether federal, State, or local, lawfully exercising authority over the Airport or the activities thereon, including compliance with FAA, TSA and Airport security rules, regulations, grant assurances, and plans. The Airport Rules and Regulations contain environmental and sustainability requirements that LESSEE agrees to make reasonable efforts to participate in, help facilitate, and cooperate with, including those related to air quality, waste, and water and energy conservation.

To the fullest extent authorized by law, LESSEE shall be liable to COUNTY for any and all claims, losses, expenses, demands, damages, fines or penalties of any nature whatsoever which may be imposed upon COUNTY due to LESSEE's violation of any governmental rules, regulations, or standards as now or may hereafter be promulgated or enacted, including, but not limited to, the payment of any fines or penalties for any breach of security, arising from the unauthorized entry of any person or vehicle onto Airport, or from any other violations caused directly or indirectly by the act, omission, negligence, abuse, or carelessness on the part of LESSEE, its employees, sublessees, agents, or suppliers.

COUNTY shall not be liable to LESSEE for any diminution or deprivation of possession, or of its rights hereunder, on account of the exercise of such right or authority as in this section provided, nor shall LESSEE be entitled to terminate the whole or any portion of the Leasehold estate herein created, by reason of the exercise of such right or authority, unless the exercise thereof shall so interfere with LESSEE's use and occupancy of the Leased Premises so as to constitute a termination in whole or in part of this Lease by operation of law in accordance with the laws of the State of California.

SECTION 5.04 FUEL STORAGE PARCEL

The Leased Premises includes an area designated as “Fuel Storage Parcel” which is described in the Exhibits attached hereto. LESSEE shall not use any other fuel storage tanks or facilities at the Airport without the prior written approval of the Airport Director, subject to any conditions described therein.

A. Use

The use of said Fuel Storage Parcel shall be limited to the storage and transfer of fuel, the installation and maintenance of all auxiliary equipment, and facilities required to handle such fuel storage and parking of aircraft refueling vehicles. Except as approved by Airport Director in writing, parking of fuel delivery or other vehicles is prohibited. LESSEE is prohibited from replacing, altering, or modifying the fuel storage tanks located on LESSEE’s designated Fuel Storage Parcel without the prior written approval of the Airport Director.

B. Fuel Storage Parcel Access

COUNTY agrees to provide LESSEE with access to the Fuel Storage Parcel from the ramp and runway areas which will not require LESSEE’s fuel handling equipment to travel upon
a public roadway. COUNTY reserves the right to access groundwater and/or soil below the Fuel Storage Parcel, for monitoring, assessment, evaluation, remediation, or as otherwise deemed necessary by the Airport Director.

C. Liability

LESSEE acknowledges that said Fuel Storage Parcel was under control and operation of prior lessees during a previous lease with COUNTY which expired. As set forth in this Lease, and without releasing any other party that may be legally responsible and/or financially liable for the environmental conditions that exist upon execution of this Lease, LESSEE agrees that LESSEE shall be liable and assume responsibility for the environmental conditions associated with the fuel storage tanks on the Leased Premises and for the cleanup of any Hazardous Materials in, at, on, under, and/or emanating from said Fuel Storage Parcel which were present during that prior occupancy or control and to indemnify and hold COUNTY harmless for any such condition as required by the “ENVIRONMENTAL INDEMNIFICATION” section of this Lease.

D. Termination for Non-Use

In the event LESSEE ceases all use and activity on said Fuel Storage Parcel for a period of six (6) months, as shown by fuel not being delivered or withdrawn from the fuel storage tanks on said parcel for that period, then Airport Director, may elect to terminate that portion of the Lease relating to the Fuel Storage Parcel. Termination shall occur upon the date the Notice of Termination is issued. LESSEE shall not be entitled to any compensation for termination of the portion of the Leased Premises covering the Fuel Storage Parcel if said termination occurs due to non-use by LESSEE.

Airport Director shall also notify LESSEE whether to leave the existing improvements on the Fuel Storage Parcel or to remove all or a portion of said improvements. LESSEE agrees that should the Fuel Storage Parcel of this Lease be terminated for non-use under the provisions of this section, LESSEE shall leave the Fuel Storage Parcel in such condition as is required to conform with federal, State, and local regulations, particularly those regulations relating to underground storage tanks and the cleanup of Hazardous Materials.

If LESSEE’s use of the Fuel Storage Parcel is terminated, the monthly rent required under this Lease shall be reduced in proportion to the square footage eliminated from the total Leased Premises.

SECTION 5.05 LIMITATION OF THE LEASEHOLD

This Lease and the rights and privileges granted LESSEE in and to the Leased Premises are subject to all covenants, conditions, restrictions, and other exceptions of record. Nothing contained in this Lease or in any document related hereto shall be construed to imply the conveyance to LESSEE of rights in the Leased Premises which exceed those owned by COUNTY, or any representation or warranty, either expressed or implied, relating to the nature or condition of the Leased Premises.
or COUNTY’s interest therein. LESSEE acknowledges that LESSEE has conducted a complete and adequate investigation of the Leased Premises and that LESSEE has accepted the Leased Premises in “as is” condition.

SECTION 5.06 PROVISION OF SUFFICIENT PARKING

LESSEE shall provide sufficient vehicular parking to accommodate LESSEE’s operation within the Leased Premises consistent with applicable building or zoning regulations. Should LESSEE need off-site parking to meet the parking requirements for its operations or improvements on the Leased Premises, then LESSEE shall first obtain the approval of the Airport Director and, if approved, agrees that any future sale or assignment of this Lease shall also include an assignment of LESSEE’s off-site parking or provision of a comparable alternate off-site parking area outside the Airport perimeter fence to be available for use during the remaining term of the Lease.

COUNTY has no obligation whatsoever to make vehicular parking available to accommodate LESSEE’s operation.

SECTION 5.07 RECORDS AND ACCOUNTS

A. Records. LESSEE shall, at all times during the term of this Lease, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents.

B. The Accounting Year. The accounting year shall be twelve full calendar months. The accounting year may be established by LESSEE, provided LESSEE notifies the COUNTY in writing of the accounting year to be used. Said accounting year shall be deemed to be approved by COUNTY unless COUNTY has objected to LESSEE's selection in writing within sixty (60) days of LESSEE's written notification.

In the event LESSEE fails to establish an accounting year of its choice, regardless of the cause, the accounting year shall be synonymous with the twelve-month period contained in the first one-year term of the Lease.

Any portion of a year that is not reconciled, should the accounting year and the anniversary year of the Commencement Date not be the same, shall be accounted for as if it were a complete accounting year.

Once an accounting year is established, it shall be continued through the term of the Lease unless COUNTY specifically approves in writing a different accounting year. COUNTY shall only approve a change in accounting years in the event of undue hardship being placed on either the LESSEE or COUNTY, and not because of mere convenience or inconvenience.
C. Financial Statements.

1) Annual Balance Sheet and Income Statement

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY a detailed balance sheet and income statement prepared in accordance with generally accepted accounting principles reflecting all business transacted by the LESSEE on or from the Leased Premises during the preceding accounting year. The LESSEE shall attest in writing that the balance sheet and income statement submitted are true and accurate representation of LESSEE’s records. LESSEE shall also provide standalone audited financial statements of the LESSEE’s business entity if they are available from LESSEE’s corporate audit or upon request of the COUNTY. The COUNTY has the option to require LESSEE’s submission of audited financial statements.

2) CPA-Audited Gross Receipts

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY an audited statement of total Gross Receipts and total gallons of fuel delivered to LESSEE. This statement must include a breakdown schedule of all total gallons and all total Gross Receipts by type and month. At a minimum, Gross Receipts should be divided into the categories as set forth in Section 4.01(B). This statement must be prepared by a Certified Public Accountant (CPA) who is a member in good standing with the American Institute of Certified Public Accountants (AICPA) or the California Society of CPA's. The audit must be performed in accordance with Generally Accepted Auditing Standards (GAAS) authorized by the AICPA. The reference for this is Statement on Auditing Standards (SAS) #95. The audited statement of fuel and lubricant deliveries and Gross Receipts shall include total Gross Receipts for the accounting year classified according to the categories of business established for fuel flowage and lubricant fees and for rent-a-car fees as listed in Section 4.01 of this Lease entitled “RENT, FEES AND CHARGES.”

A reviewed statement of Gross Receipts may be requested by LESSEE instead of an audited statement of fuel deliveries and Gross Receipts if undue hardship is placed on the LESSEE to obtain an audited statement. LESSEE must request and obtain written approval for a reviewed statement from the COUNTY prior to the start of the financial statement engagement for the year to be audited. If a reviewed statement of Gross Receipts is approved by the COUNTY, COUNTY retains the right to require an audited statement of Gross Receipts for future years.

LESSEE shall provide COUNTY with copies of any CPA audit or review report and audited or reviewed financial statements prepared in conjunction with their audit of LESSEE’s operations from the leased premises. Copies of reports and/or...
financial statements shall be provided directly to COUNTY by the CPA at the same
time LESSEE's copy is provided to LESSEE.

LESSEE acknowledges its understanding that any and all of the “Financial
Statements” submitted to COUNTY pursuant to this Lease become public records
subject to public inspection as required by California Government Code Section
6250 et seq.

D. **Failure to Submit Financial Statements.** In addition to any other remedies available to
COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to submit
any financial statements by the due date listed in Section 5.07 “RECORDS AND
ACCOUNTS”, Airport Director may require LESSEE to pay the greater of:

1) Five thousand dollars ($5,000); or

2) Any and all costs incurred by COUNTY for the Certified Public Accountant hired
by the COUNTY to prepare the required financial statements, including an
administrative fee equal to fifteen percent (15%) of those costs.

E. **Audits.** All LESSEE's books of account and records and supporting source documents
related to this Lease or to business operations conducted within or from the Leased
Premises shall be kept and made available at one location within the limits of the County
of Orange. COUNTY shall, through its duly authorized agents or representatives, have the
right to examine and audit said books of account and records and supporting source
documents at any and all reasonable times.

The COUNTY, upon request of LESSEE and at said COUNTY’s sole discretion, may
authorize the above-referenced books and records and supporting source documents to be
kept in a single location outside the limits of Orange County provided LESSEE shall agree
to pay all expenses including but not limited to transportation, food, and lodging necessary
for COUNTY to send a representative to audit said books and records. Said right shall not
be exercised by COUNTY more than once each accounting year.

The full cost of said audit, as determined by COUNTY, shall be borne by LESSEE if either
or both of the following conditions exist:

1) The audit reveals an underpayment of more than two percent between the rent due
as reported and paid by LESSEE in accordance with this Lease and the rent due as
determined by said audit;

2) LESSEE has failed to maintain true and complete books, records, accounts and
supporting source documents in accordance with Section A “Records” above. The
adequacy of records shall be determined at the sole discretion of COUNTY in
accordance with the provisions of a letter of agreement between LESSEE and
COUNTY.
Otherwise, COUNTY shall bear the cost of said audit, excluding the aforementioned expenses related to audit of documents kept outside the limits of Orange County.

Upon the request of COUNTY, LESSEE shall promptly provide, at LESSEE's expense, necessary data to enable COUNTY to fully comply with any and every requirement of the State of California or the United States of America for information or reports relating to this Lease and to LESSEE's use of the Leased Premises. Such data shall include, if required, a detailed breakdown of LESSEE's receipts and expenses.

F. Environmental Compliance Audits. LESSEE shall provide the COUNTY Airport Environmental Resources Manager with any documentation of environmental compliance audits, inspections, and violations within 5 days. LESSEE is responsible for correcting environmental conditions to address the findings, paying fines/fees to maintain compliance, and responding to the oversight agency. A copy of correspondence shall be submitted to the Airport’s Environmental Resources Manager within 5 days.

G. Failure to Maintain Adequate Records. In addition to any other remedies available to COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to maintain and keep books, records and accounts of Gross Receipts from business operations conducted on or from the Leased Premises and/or source documents relating thereto, or to make the same available to COUNTY for examination and audit, or to record sales and/or to maintain registers to record sales, or to provide financial statements and other information to COUNTY regarding gross sales as required by this Lease, COUNTY, at COUNTY’s option, may:

1) Perform such examinations, audits and/or investigations itself or through agents or employees as COUNTY and/or its auditors may deem appropriate to confirm the amount of percentage rents payable by LESSEE under this Lease and any and all costs and/or expenses incurred by COUNTY in connection therewith shall be promptly reimbursed to COUNTY by LESSEE upon demand.

2) Provide accounting services and/or a system for recording retail sales and charges, including without limitation, cash registers, for use by LESSEE in business transactions upon or from the Leased Premises, and, at COUNTY’s option, maintain personnel on the Leased Premises to observe and/or record such sales during LESSEE's business hours, or from time to time, all at LESSEE’s sole cost and expense and, in such event, LESSEE shall promptly reimburse COUNTY for any and all costs incurred by COUNTY in connection therewith; and/or

3) Require that LESSEE pay percentage rents based on COUNTY’s best good faith estimate of LESSEE's Gross Receipts from business operations conducted on or from the Leased Premises and any such determination made by COUNTY shall be conclusive and binding upon LESSEE.

The above costs payable by LESSEE shall include reimbursement to COUNTY of
COUNTY provided services at such rates as COUNTY may from time to time, in good faith, establish for such services. In the case of services provided by COUNTY's employees, such rates shall be sufficient to reimburse COUNTY for employee salaries, including employee taxes and benefits and COUNTY's overhead or, at COUNTY’s option, may be the rate for such services that would be charged by a qualified third-party or parties, approved by COUNTY, if engaged by COUNTY to perform such services.

H. **Review Period.** COUNTY or its designee may conduct such audits or inspections throughout the term of this Lease and for a period of three (3) years after final payment or longer if permitted by law.

I. **Methodology.** COUNTY or designee may, without limitation by LESSEE, conduct verifications including, but not limited to, inspection of LESSEE's Records, observation of LESSEE's employees in or about the Leased Premises, and verification of information and amounts through interview and/or written communications with LESSEE's employees or sub-contractors.

J. **Record Retention.** All of LESSEE's Records shall be retained by LESSEE for a period of the balance of the fiscal year in which the Record was created, recorded, or otherwise prepared, plus five (5) years regardless of when this Lease expires or is terminated.

K. The Airport is developing a tenant portal/revenue system for daily automated reporting of operations, revenues and data exchange. Airport shall have the right to implement such system that can provide daily reports to Airport. If Airport exercises such right, LESSEE must, at its cost, purchase and install the necessary equipment, train its employees, and thereafter use, such equipment to take part in such system. Until such time as the system is implemented, LESSEE shall comply with the following:

1) **Sales Recording System.** LESSEE shall prepare a description of its cash handling and sales recording systems and equipment which shall be submitted to Airport Director, or designee for approval no later than thirty (30) days after Commencement Date. Following approval by Airport Director, or designee, such systems and equipment shall be utilized by LESSEE. LESSEE shall accurately record each transaction on a system that can generate daily electronic reporting. LESSEE shall report on a daily basis and in an electronic format all business activities. Such system shall be sufficient to supply an accurate record of all sales.

2) **Electronic Reporting Requirements.** LESSEE shall install in the Leased Premises an electronic reporting system which shall meet current industry standards for transmitting, capturing and recording transactions, and data in a secure fashion while protecting Card Holder Data, and shall register every transaction made in, on, about or from the Premises, including every type of Gross Revenue daily automated reporting. Said system shall be accessible to and subject to inspection or audit by Director or designee upon request. All cash receipts must include LESSEE’s identification thereon. Customer must be issued a
receipt or sales slip for each transaction, which transaction must be recorded either on or serially numbered sales slip or digital record produced. COUNTY should have the right during business hours to examine the totals of the electronic reporting system used in the Leased Premises and to inspect for compliance with this section. LESSEE shall ensure a capability for the installation of Airport and Airport partner applications that can be integrated with LESSEE’s system to exchange data. Any sales captured from third-party applications, LESSEE branded applications, cell phone applications must be provided to the COUNTY as part of the monthly sales reporting.

SECTION 5.08 MAINTENANCE AND OPERATION OF LEASED PREMISES

At LESSEE’s sole cost and expense, LESSEE shall keep and maintain the Leased Premises in good working order, and in a safe, clean, wholesome, sanitary condition in compliance with all applicable laws, rule, regulations, and ordinances, and as provided in LESSEE’s maintenance plan attached hereto as Exhibit H. At LESSEE’s sole cost and expense, LESSEE shall be responsible to make all necessary replacements and/or repairs required to maintain the Leased Premises and improvements in good condition and working order. In addition to the building facilities, drainage facilities (storm and sanitary sewer), above and below ground utilities, lighting, and security (i.e. gates, fencing, etc.), this includes routine maintenance, replacements, and/or repairs of all pavements (including subgrade) and below-ground improvements including underground storage tanks, wash racks, and/or clarifiers that may be on the Leased Premises. All repairs and/or replacements shall be of a quality equal to or exceeding the original. All repairs, replacements, and improvements made by the LESSEE to the Leased Premises shall be submitted to JWA for review and approval prior to construction, require JWA inspection upon completion of construction, and shall be in compliance with all current federal, State, and local ordinances and building codes, fire codes, zoning, safety, all Airport Regulations, and with the requirements of Title III of The Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, et seq., and the regulations issued pursuant thereto (Codes). The Codes encompass all fire, life, and safety aspects and apply to the construction, alteration, moving, demolition, repair, replacement, and use of the Leased Premises. LESSEE is prohibited from engaging in any activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment of the leased premises. All devices or safeguards which are required by the Codes shall be maintained in conformance with the edition of the Codes under which it was installed.

LESSEE shall engage the services of an independent and qualified State of California licensed and registered professional engineer who shall conduct an annual pavement inspection of all paved areas used by aircraft within the Leased Premises in compliance with FAA Advisory Circular 150/5380-6 Guidelines and Procedures for Maintenance of Airport Pavements (“FAA AC 150/5380-6”), as amended from time to time, and ASTM D 5340 Standard Test Method for Airport Pavement Condition Index Surveys (“ASTM D 5340”) as amended from time to time. A detailed report signed, stamped, and sealed by the professional engineer shall be submitted to the COUNTY on each anniversary of the Commencement Date. The report shall meet Airport Director’s requirements, including, as applicable, complete plans, specifications, and schedules for repair or replacement of any found defects or deficiencies in accordance with FAA AC 150/5380-6 and ASTM D 5340.
LESSEE shall immediately notify Airport Director and the Airport Operations Center at 949-252-5000 of any fire, emergency, accident, release, discharge, and/or reportable spill of fuel, lubricants, solvents and/or Hazardous Materials. Reportable spills or releases are those that require notification to a government entity by any fire code or Environmental Law as defined in this Lease. In addition to reimbursing County the costs of all services provided by third parties to mitigate such spills, LESSEE shall pay to County administrative costs in the amount of one thousand dollars ($1,000) per incident.

LESSEE shall further notify the Airport’s Environmental Services Manager within 24 hours of any release, discharge, leak or spill of any fuel, lubricants, solvents and/or Hazardous Materials that LESSEE knows or reasonably should have known about within the Leased Premises.

LESSEE shall report to Airport Director any accidents or incidents for which LESSEE is wholly or partially responsible, which occur on the Leased Premises and are reportable to the FAA or other governmental or regulatory agencies. LESSEE shall pay to COUNTY administrative costs in the amount of one thousand dollars ($1,000) per such reportable accident or incident.

LESSEE further agrees to provide approved containers for trash, garbage, recyclables, and regulated waste and to keep the Leased Premises free and clear of rubbish, litter, and hazardous waste. The Airport Director shall have the right to enter upon and inspect the LESSEE’s Leased Premises and other Airport facilities at any time for cleanliness, safety and maintenance inspections. LESSEE shall designate in writing to Airport Director an on-site representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness and general order.

If LESSEE fails to maintain or make repairs or replacements as required herein, Airport Director shall notify or attempt to notify the LESSEE in writing of said failure. Should LESSEE fail to correct the failure within fifteen (15) days or as otherwise specified in the notice, Airport Director shall have the right, but not the obligation, to enter the Leased Premises to make the necessary correction, repair, and/or replacement, or cause it to be made and the cost thereof, including but not limited to the cost of labor, materials and equipment shall be charged to LESSEE as Additional Rent. Thereafter, an administrative fee equal to fifteen percent (15%) of the sum of such items also shall be paid by LESSEE within ten (10) days of receipt of a statement of said cost from Airport Director as Additional Rent. Airport Director may, at Director's option, choose other remedies available herein, including termination, or as provided by law.

LESSEE expressly waives any and all claims against the COUNTY for compensation for any and all loss or damage to LESSEE's property sustained by reason of any defect, deficiency or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, internet, electrical supply system or electrical apparatus, cable or wires serving the Leased Premises, except to the extent caused by the COUNTY’s negligence or willful misconduct.
SECTION 5.09  PAYMENT OF AND RESPONSIBILITY FOR UTILITIES

LESSEE shall be responsible for and pay, prior to the delinquency date, all charges for utility connections and services supplied to the Leased Premises. COUNTY shall not be liable in damages or otherwise for any failure or interruption of any utility service, and no such failure or interruption shall entitle LESSEE to terminate this lease or abate the rent due hereunder.

SECTION 5.10  REPORTING OF BASED AIRCRAFT

LESSEE shall submit to COUNTY with its monthly payment of rents a listing of all Based Aircraft parked on the Leased Premises. For purposes of this Section, “Based Aircraft” shall mean an aircraft that is operational and airworthy, and which is based at the Airport for a majority of the year. Therefore, LESSEE must track the daily activity of aircraft parked on the Leased Premises and determine, on a rolling basis, which aircraft have been parked on the Leased Premises for at least 183 days out of the prior 365 days. The monthly listing shall be provided to the Airport using a JWA-approved Microsoft Excel template.

ARTICLE VI - ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION

SECTION 6.01  LIABILITY FOR EXISTING ENVIRONMENTAL CONDITIONS

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE understands and agrees that it may be found legally responsible and/or financially liable for existing environmental conditions on, under, and/or emanate from the Leased Premises upon entering into this Lease, including, but not limited to, associated costs and expenses related to Hazardous Materials, fuel storage tanks, including underground storage tanks, and compliance with all Environmental Laws.

SECTION 6.02  HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE

LESSEE shall comply with all Environmental Laws, including laws regulating Hazardous Materials, and shall not engage in any activity on or about the Airport that violates any Environmental Law. In conducting its operations and maintenance on the Airport under this Lease, LESSEE shall comply with such regulations regarding the storage, distribution, processing, handling, release, removal, and/or disposal, including the storm water discharge requirements, of Hazardous Materials including, but not limited to, gasoline, aviation fuel, jet fuel, diesel fuel, lubricants and/or solvents, whether the obligation for such compliance is placed on the owner of the land, owner of the improvements or user of the improvements. Violation by LESSEE or any of its agents, assigns, successors, sublessees, subcontractors, or employees of any Environmental Law are grounds for termination of this Lease in accordance with Article IX of this Lease, and for termination of all operations by LESSEE at or on the Airport.

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE shall at its sole cost and expense investigate, evaluate, assess, remove, and/or remediate any and all Hazardous Materials that may be required or ordered by any governmental agency or Environmental Law. In
conducting a clean-up of a Hazardous Material release under this Lease, LESSEE shall comply with all applicable Environmental Laws. LESSEE shall not use the COUNTY hazardous waste generator ID for waste disposal.

SECTION 6.03 STORM WATER CONTROL AND CONTAMINATION

Storm Water Laws and Regulations. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency (U.S. EPA) (40 CFR Parts 122, 123, and 124). The U.S. EPA, through the NPDES permitting program, regulates discharges of potentially contaminated wastewater and storm water into waters of the United States. California has been delegated NPDES general permitting authority by the U.S. EPA. California's State Water Board has issued NPDES permits to regulate municipal, industrial, and construction storm water discharges under the NPDES permitting program.

Section 402(p) of the Clean Water Act (CWA) requires NPDES permits for storm water discharges from municipal separate storm sewer systems (MS4s). The County of Orange is the principal permittee for Orange County's MS4 Permit Order No. R8-2009-0030 (or currently effective permit) No. CAS 618030 (MS4 Permit). As a facility owned and operated by the County of Orange, the Airport implements requirements in the MS4 permit and is responsible for discharges into the system. One of the MS4 Permit requirements is to establish the legal authority to control discharges. The County's Water Quality Ordinance (OCCO Title 4, Division 13, Sections 4-13-10 et. seq.) regulates non-storm water discharges into the MS4 to reduce the discharge of pollutants into the waters of the State. The CWA and the resulting MS4 permit require the County to take steps to reduce pollutants leaving its systems to the maximum extent practicable. The MS4 permit requires the County to develop and implement a Local Implementation Plan (LIP) describing the programs and procedures required by the MS4 permit.

COUNTY will provide the required annual training for LESSEE as part of the MS4 LIP training program requirements. LESSEE shall have all personnel who may affect discharges to the storm system or who work within the airside portion of John Wayne Airport attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials.

LESSEE shall not have prohibited discharge to the MS4 system or on-site storm drains. Some non-storm water discharges (i.e., fire sprinkler tests) require additional permits with the Regional Water Quality Control Board (RWQCB). LESSEE is responsible for obtaining and implementing monitoring requirements associated with any non-storm water discharge permits. LESSEE shall notify COUNTY prior to any non-storm water discharge.

In the furtherance of these regulations and Section 402 of the Clean Water Act (CWA), the State of California has adopted a General Permit for discharges of Storm Water associated with industrial activities: "State Water Resources Control Board (State Water Board) Water Quality Order No. 2014-0057-DWQ, NPDES General Permit No. CAS 000001 (Industrial General Permit or IGP).” JWA has applied for and received coverage to discharge storm water and authorized non-storm water discharges pursuant to the general permit for industrial activities and are subject to the permit’s requirements, conditions, and penalties. The permit requires the development and
implementation of an effective Industrial Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Implementation Plan (MIP). This plan is developed by COUNTY and covers LESSEE. The airside portion of JWA where industrial activities take place is covered by the IGP. Industrial activities include maintenance, fueling, equipment cleaning, storage areas, and material handling activities.

LESSEE shall comply with applicable storm water discharge requirements for industrial facilities, including numeric effluent limits (NELs) and numeric action levels (NALs), as may be promulgated, updated, or amended from time to time. The current IGP includes NELs for copper, zinc, and lead. LESSEE shall, to the extent possible:

A. Separate industrial storm water flows off their leasehold from the airfield non-industrial flows. The LESSEE drainage system must consolidate storm water flows and allow for monitoring of storm water quality by JWA at the LESSEE discharge location(s) to the JWA storm water drainage system.

B. Install and implement appropriate BMPs to meet the COUNTY’s WQMP requirements and to meet pollutant discharge limits identified in the IGP at their discharge point(s) to the JWA storm drain system. LESSEE shall consider space planning, policies, and practices to reduce storm water flow from industrial activities that would require management and treatment to meet NALs and NELs under the IGP.

C. COUNTY will coordinate design and construction of the Airport’s responsible portion of the industrial storm water system with LESSEE’s phasing plan.

COUNTY will provide the required annual training for LESSEE personnel that work on the airfield as part of the airport-wide IGP SWPPP requirements. LESSEE shall have all personnel working within the airside portion of JWA to attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials. LESSEE shall implement BMPs in accordance with the COUNTY’s IGP SWPPP.

LESSEE shall submit a Water Quality Management Plan (WQMP) for approval for significant redevelopment projects, defined as the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site to address post-construction urban runoff and storm water pollution.

When LESSEE engages in a constructed project with an approved WQMP, LESSEE shall implement post-construction BMPs, including operation and maintenance (O&M) requirements, described in the WQMP. LESSEE shall notify the COUNTY at least five (5) days prior to any O&M conducted for post-construction BMPs. LESSEE shall provide the O&M records to the COUNTY within 30 days of completing the maintenance.

LESSEE activities may require additional separate permits, which LESSEE may be responsible for, and which will be clarified with COUNTY at the time of planning and design. LESSEE shall contact COUNTY prior to new construction activities, operational changes, and/or prior to any
activity that may result in a non-storm water discharge. LESSEE will comply with all applicable NPDES storm water permit requirements for LESSEE activities.

LESSEE shall not allow or cause the entry of any materials, waste, or hazardous materials under its control into the Airport Storm Water Drainage System unless authorized by Environmental Law and the Airport's Storm Water Discharge Permit. LESSEE shall not allow or cause the entry of any Unauthorized Non-Storm Water Discharge that is under its control into the Storm Water Drainage System of the Airport or into the Storm Water Drainage System of any of its surrounding communities, unless such substances are first properly treated by equipment installed with the approval of COUNTY for that purpose, and LESSEE complies with recommendations made by the California and/or U.S. Environmental Protection Agency and the Airport's Storm Water Discharge Permit requirements. LESSEE shall bear all costs and any other expenses related to unauthorized non-storm water discharges.

LESSEE shall assure the protection of storm water from aircraft maintenance and washing activities, including GA self-service activities, through implementation of policies or Best Management Practices. Wet washing of aircraft is only allowed in designated wash rack areas. Only dry wash methods are allowed for cleaning aircraft outside of the designated wash rack areas. Aircraft maintenance can only occur in designated areas; these areas must be protective of storm water through covering or other means.

**Spill Control and Hazardous Materials**

Within 60 days following the Commencement Date of this Lease, LESSEE shall furnish COUNTY with an updated Spill Prevention, Control, and Countermeasures (SPCC) Plan and Hazardous Material Disclosure/Business Emergency Plan for activities that will be performed at the Airport for JWA’s review and approval. LESSEE shall register on the Orange County Health Care Agency/Certified Unified Program Agency (OCHCA/CUPA) E-Submit Business Portal, upload the updated Plans, and show proof of submittal to the COUNTY within 90 days of the Commencement Date. Any modifications to SPCC Plans and/or Hazardous Material Disclosure/Business Emergency Plans shall be submitted as soon as practicable following the change, but no later than 30 days from the correction.

The SPCC Plan shall meet the applicable requirements of 40 CFR Part 112. LESSEE will take necessary steps to prevent spills and, if a spill does occur, will minimize the impacts to human health and the environment. LESSEE shall commit the necessary resources to maintain spill prevention systems, provide appropriate security, respond to spills, inspect storage areas, test storage equipment, make required notifications, maintain records, and provide training for personnel. LESSEE shall meet the General Secondary Containment Requirements for refueling vehicles, §112.7(c), without relying on the Oil Water Separators installed at JWA.

The Hazardous Material Disclosure/Business Emergency Plan shall be updated if there is a substantial change in quantities, storage locations, or material types. LESSEE shall include details on the emergency contacts, training, mitigation, abatement, and evacuation procedures that will be followed in an emergency. Maps and chemical inventories shall be accurate and kept up-to-date.
SECTION 6.04 GENERAL HEALTH AND SAFETY CONDITIONS

Precaution shall be exercised at all times by LESSEE for the health, safety, and welfare of persons, including employees and property. The safety provisions of applicable laws and building and construction codes shall be observed. Work, materials, and equipment used shall comply with the Occupational Safety & Health Administration (OSHA) requirements including but not limited to OSHA Hazard Communication Standard 29 CFR 1910.1200, and federal and State safety orders.

LESSEE shall comply with all material usage limitation, permit record keeping, and reporting requirements imposed by federal, State, and local laws and regulations. LESSEE shall properly post Manufacturer’s Safety Data Sheets as required by law and shall use and dispose of all materials in conformance with all applicable codes, rules, regulations, and manufacturer’s recommendations.

LESSEE shall submit to the Airport’s Environmental Resources Manager, annually on December 31, a report on compliance with and the status of all required permits including, but not limited to, Fire, OSHA, Air Quality Management, and Health Care Agency. The report must summarize all spills, leaks or permit violations for the previous year. The annual report must also contain copies of all reports and annual testing reports (such as fuel tank tightness testing) sent to any regulatory agency and documentation of required maintenance and inspection of fire and safety fixtures and equipment and an updated inventory of all Hazardous Materials used or stored on site.

LESSEE shall provide all notices required pursuant to the Environmental Laws. LESSEE shall provide prompt written notice to COUNTY within five (5) days of receipt of any written notices of violation of any Environmental Law received by LESSEE.

The annual report and all written notices must be submitted to COUNTY by the due date. Liquidated damages of five hundred dollars ($500) will be assessed against LESSEE for each day the annual report or written notice of violation is late.

SECTION 6.05 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the LESSEE shall indemnify, defend, and hold the COUNTY, its officers, directors, agents, and employees and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless for compliance with all Environmental Laws, from and against any and all Environmental Law claims, judgments, damages, penalties, actions, fines, costs, liabilities, losses, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants) arising from the Leased Premises, and/or out of or related to any actions or omissions of LESSEE, the LESSEE’s operations at the Airport or any action arising from and which involve the LESSEE’s officers, agents, successors, assigns, sublessees, subcontractors, and employees (whether or not they are negligent, intentional, willful or unlawful), including defense expenses arising therefrom, including, but not limited to, the following:
(1) The historical environmental conditions at, on, under, and/or emanating from the Leased Premises that LESSEE may be required to pay.

(2) The LESSEE’s placement, disposal, allowing, or releasing of Hazardous Materials upon or within the Airport including any such claims, demands, liabilities, cost, expenses, and/or obligations related to LESSEE's release or threatened release of Hazardous Materials on, at, and/or under the Airport.

(3) The LESSEE’s release or threatened release of Hazardous Materials at, on, under, and/or emanating from the Airport.

(4) The LESSEE’s noncompliance with any Environmental Law, except that LESSEE's obligations under this paragraph shall not extend to remediation conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, sublessee, assignee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE.

(5) The LESSEE’s causing or allowing any prohibited discharge into the Airport Drainage System.

This indemnification includes, without limitation, reasonable fees, costs, and expenses for attorneys, experts, expert consultants, and all other costs incurred by COUNTY in connection with any investigation, evaluation, assessment, and/or monitoring of the environmental conditions at the Leased Premises or any cleanup, remedial, removal, and/or restoration work required by any federal, State, or local governmental or regulatory entity because of any Hazardous Materials being present in the soil, surface water, or groundwater at, on, under, or about the Airport. However, LESSEE’s indemnity obligation shall not apply in the event of any claims for any loss, damage, or expense arising from the sole negligence or willful misconduct of COUNTY or its officers, employees, agents, or contractors.

In the event the indemnitees as described herein are parties in any proceeding (legal, administrative, or otherwise), the LESSEE shall, at the request of the COUNTY, defend the indemnitees with qualified counsel approved in writing by COUNTY, unless the COUNTY, in its sole and absolute discretion, undertakes legal representation, in which event the LESSEE shall reimburse the COUNTY for the expenses incurred by it in defending such proceeding, including reasonable attorneys’ fees, expert and/or consultant fees, and investigative and court costs.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney’s fees in any action to enforce the terms of this Lease.
The rights and obligations set forth in this indemnification shall survive the termination and expiration of this Lease.

SECTION 6.06 CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS

In the event that any of the terms of the environmental requirements codified in this Article conflict with any other terms of this Lease, the environmental requirements contained in Article VI shall apply.

SECTION 6.07 EXISTING ENVIRONMENTAL CONDITIONS AND HISTORICAL ASSESSMENTS

COUNTY and others have conducted environmental assessments on portions of the Leased Premises which provide a historical assessment of the environmental condition on portions of the Leased Premises regarding Hazardous Materials (the “Historical Conditions”). A list of references is provided in Exhibit D.

LESSEE hereby expressly acknowledges that it has reviewed the Historical Conditions and agrees that it shall be responsible for remediation of any and all Hazardous Materials at, on, and/or under the Leased Premises including and in excess of the Historical Conditions. Without releasing any other party that may be legally responsible and/or financially liable for the environmental conditions that exist upon execution of this Lease, LESSEE agrees to be legally responsible and/or financially liable for the environmental conditions related to Hazardous Materials and underground storage. LESSEE further agrees that it shall also be responsible for any release, threatened release, and/or disposal of Hazardous Materials which occur on or off the Leased Premises as a result of LESSEE’s acts or omissions or by those who are affiliated with LESSEE. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, assign, sublessee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE. LESSEE shall not be responsible to remediate conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport.

LESSEE agrees to provide COUNTY and COUNTY’s consultants with complete access to the Leased Premises for the purpose of investigation and remediation of contamination. LESSEE agrees to preserve all existing and future remediation infrastructure including, without limitation, any groundwater monitoring wells, groundwater extraction wells, and related piping.

SECTION 6.08 ANTI-IDLING POLICY

Within six months of LEASE execution, LESSEE must develop, implement and submit to the Airport Director for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling period. LESSEE’s policy shall also include airfield GSE, ground transportation vehicles, and all sublessee and third-party vehicles that enter Airport property at the direction of the LESSEE.
SECTION 6.09 ENVIRONMENTAL STEWARDSHIP

Environmental stewardship is one of the key pillars in JWA’s mission to be a good neighbor. JWA is committed to upholding best practices in environmental responsibility and has been an industry leader in implementing policies that provide both sustainability and cost-effectiveness. JWA has adopted a variety of environmental policies and practices.

LESSEE shall support JWA's Environmental Stewardship program by complying with JWA's Tenant Design Guidelines and shall make reasonable efforts to participate in, help facilitate, and cooperate with JWA's sustainability efforts.

The LESSEE shall support the COUNTY’s Environmental Stewardship program through participation in various efforts or implementation of plans, as amended from time to time, and the following requirements. Full implementation of this program shall be applicable to all GSE effective on January 1, 2023, and will apply to all facilities and capital improvements as they are constructed.

1) Climate Action Plan
2) Waste and Recycling Plan
3) SWPPP
4) Air Quality Improvement Plan and Memorandum of Understanding with the South Coast Air Quality Management District
5) Ground Support Equipment (“GSE”)
   a. LESSEE shall employ Zero Emission Vehicle (“ZEV”) GSE where available (e.g. tugs, water carts, lavatory carts, other ramp service equipment/vehicles) for 90 percent or greater of the GSE operating hours.
   b. Where ZEVs are not available, vehicles shall meet Ultra Low Emission Vehicle (“ULEV”) requirements.
   c. Where ULEVs are not available, and only diesel fuel engine trucks are available, the diesel-fueled truck shall comply with the On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation.
   d. LESSEE shall maintain monthly records regarding GSE type, make, model, year, fuel type, horsepower (if non-electric), and hours in-use. Monthly records are subject to audit and verification by JWA. These records shall be provided to JWA annually in December.
6) Conservation
   a. LESSEE shall use ENERGY STAR and EPA Water Sense appliances.
b. LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.

c. LESSEE shall adopt a Waste and Recycling Plan meeting CALGreen Tier 1 requirements, or better, and acceptable to LESSOR. LESSEE shall provide waste diversion data quarterly and annually to COUNTY Airport Environmental Resources Manager.

d. LESSEE shall install Electric Vehicle chargers in public and employee parking areas, provide preferential parking for vehicles powered by low emission sources, and provide secure bicycle racks.

e. LESSEE shall practice water conservation through design, construction, and ongoing maintenance activities.

f. LESSEE shall include over 50% of solar-ready roof-top on new construction; COUNTY maintains the option to lease any solar-ready areas not covered by owner's solar arrays and to install renewable energy equipment.

g. LESSEE shall implement the following conservation measures:
   i. Use high-efficiency light fixtures and bulbs (including compact fluorescents) when replacing or installing new fixtures and bulbs
   ii. Install sensors in office areas to turn off when unoccupied
   iii. Install energy-efficient heating and cooling equipment when replacing or upgrading
   iv. Purchase and use energy-efficient computers and servers
   v. Select equipment with variable speed motors and fan drives, when possible

7) Environmental Policies

a. LESSEE shall adopt the COUNTY’s Environmentally Preferable Purchasing Policy (2008) or develop a similar policy that addresses the LESSEE’s procurement of goods and services. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

b. LESSEE shall develop an Environmental Sustainability Policy that covers water and power conservation, waste diversion, and pollution prevention. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

c. LESSEE shall provide reports necessary for environmental compliance, regulatory requirements, and airport mitigation measure obligations upon request from COUNTY, including but not limited to GSE data, fuel delivery and usage, spills, and business emergency plans.
ARTICLE VII - CONSTRUCTION AND IMPROVEMENTS

SECTION 7.01 IMPROVEMENTS BY LESSEE

LESSEE shall cause to be designed and constructed, at no cost to COUNTY, those initial improvements shown on the conceptual plans attached hereto as Exhibit F. The development and phasing of said construction shall proceed as described in Exhibit G, and may be subject to reasonable modification or amendment by the Airport Director in consultation with LESSEE. All costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The minimum cost of LESSEE’s Initial Capital Investment shall be $86,508,650, and excludes the cost of any and all refurbishments or improvements made pursuant to Section 7.11. In the event the minimum cost of Initial Capital Investment exceeds the actual construction costs of all LESSEE improvements itemized in accordance with Section 7.06 of this Lease, LESSEE’s savings resulting from lower actual construction costs will be shared equally between LESSEE and COUNTY, and LESSEE shall pay to COUNTY one half (50%) of the difference between the minimum cost of Initial Capital Investment and the actual construction costs within 30 days of LESSEE’s submittal of itemized costs required by Section 7.06.

The term “cost of improvements” shall mean direct construction costs, including costs paid to contractors, architects, engineers, laborers and suppliers, premiums for bonds required by COUNTY, and permit and developer fees required by governmental agencies, but shall exclude indirect costs, such as costs of financing, and administrative and overhead expenses.

LESSEE shall not perform any construction upon the Leased Premises nor shall LESSEE modify, alter or remove any permanent improvements lying within the Leased Premises without prior written approval of COUNTY.

A. COUNTY and Federal Approvals Required. No structures, improvements, or facilities shall be constructed, erected, altered, removed or made within the Leased Premises without prior written consent of COUNTY, which consent may be withheld or conditioned in COUNTY’s sole and absolute discretion.

FAA approval of JWA’s Airport Layout Plan (“ALP”) is required prior to any FBO construction activities. The ALP shows the boundaries and proposed additions to all areas of the Airport, the location and nature of existing and proposed Airport facilities and structures, and the location on the Airport of existing and proposed non-aviation areas and improvements thereon, and shall incorporate LESSEE’s development plans, which must be submitted to the FAA for review. LESSEE shall provide CADD/GIS files of the LESSEE’s development plans to JWA. Airport-approved development plans will not be released for permitting until the ALP is approved.

National Environmental Policy Act (“NEPA”) approval by the FAA is required prior to any FBO construction activities. As the Airport Sponsor, JWA will prepare all required NEPA documentation for submission to the FAA. LESSEE shall provide CADD/GIS files
of the LESSEE’s development plans to JWA. Upon receipt of NEPA approval, JWA will invoice LESSEE for JWA’s actual costs associated with NEPA review and approval of LESSEE’s project, and LESSEE shall reimburse such costs within thirty (30) days of such invoice. If a facility for the screening of international general aviation arrivals is part of LESSEE’s project, then such facility may also require additional NEPA approval by U.S. Customs and Border Protection, Department of Homeland Security. Airport-approved development plans will not be released for permitting until the ALP is approved and NEPA approval has been received.

B. Compliance with Plans, Schedule, Design and Construction Standards. LESSEE shall construct (or cause to be constructed) all improvements within the Leased Premises in strict compliance with detailed plans and specifications complying with the Airport’s Tenant Design Guidelines, including all other available John Wayne Airport Design and Construction Standards, and approved in writing by Airport Director. LESSEE shall submit to JWA for review plans and specifications at the 50% complete, 90% complete, and 100% complete milestones, which are prepared by a State of California licensed and registered Architect and Engineer (A/E) firm with qualifying experience for the intended improvements at an airport setting. Submittals shall include all required reports, basis of designs, studies, exhibits, and calculations. Upon completion of JWA’s review of the plans and specifications, and when approved in writing by the Airport Director, the LESSEE shall submit the construction documents to the County of Orange Public Works Department and any other required agencies for approval and permitting.

The plans and specifications shall include detailed phasing and sequencing plans which clearly show the extent of work within each phase of demolition and construction, the area of each phase, and the number and type of aircraft to be located within each completed phase. The plans shall include an operational plan which identifies the number and type of aircraft to be displaced during each phase and to where displaced aircraft will be relocated. The plans shall show the capacity of the relocation site(s).

LESSEE shall begin coordination of the fire-life safety designs with the Orange County Fire Authority as early as practicable.

Along with plans and specifications for proposed improvements, LESSEE shall provide to Airport Director a detailed project critical path method (CPM) schedule (in Primavera P6 format) enumerating, at a minimum, all activities affecting the baseline schedule of work from mobilization through substantial completion of construction. The schedule shall include 90-day transitional plan, design and construction documents preparation, reviews and permits, NEPA processes and approvals, bidding and awards, inspections and occupancy certifications, closeout, commissioning, activations and start-up of operations. The schedule shall match the plans and specifications and shall be organized in a manner that clearly shows the phasing and sequencing of each phase of the development, identifying the beginning and completion dates for each phase of the work. In order to facilitate phasing of construction projects among multiple Airport tenants, said schedule shall be subject to Airport Director’s approval, and work shall not
commence until Airport Director provides a notice to proceed, which notice may be conditioned or delayed at Airport Director’s sole discretion without cost or liability to COUNTY. Upon receipt of the Airport Director’s notice to proceed with the work, LESSEE must maintain compliance with its baseline schedule. Except as otherwise agreed in writing by Airport Director, liquidated damages in the amount of two thousand dollars ($2,000) will be assessed for each day beyond the substantial completion date identified in the schedule that the work has not been substantially completed. At a minimum, LESSEE shall provide to JWA monthly updates of the schedule, including a summary report of any changes.

All construction shall be conducted in a good and workmanlike manner and shall conform to applicable building codes, rules, regulations and Airport’s architectural standards as contained in reference document “John Wayne Airport, Architect and Engineer Guide,” including all other available John Wayne Airport Design and Construction Standards, which can be provided by Airport upon request. All work shall be done in conformity with Airport approved plans, valid building and other necessary permits, and shall be acceptable to COUNTY and the appropriate governmental entity inspecting such work. LESSEE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

All improvements constructed by LESSEE, including the plans and specifications therefor, shall conform in all respects to the applicable statutes, ordinances, building codes, rules and regulations of the COUNTY and such other governmental authority as may have jurisdiction. The Airport Director's approval shall not constitute a representation or warranty as to such conformity, which shall remain LESSEE's responsibility. LESSEE, at its own cost and expense, shall procure all permits necessary for such construction.

As applicable depending on the type of project, all design and construction shall meet CALGreen Tier 1 requirements, or better (at time of permit submittal), include documentation for construction requirements (i.e. waste management, low emissions vehicles, etc.), and meet the most recent applicable Envision Gold certification requirements, or better, at permit submittal. LESSEE shall use the Envision pre-assessment checklist to guide the sustainability efforts early in project planning and strive to achieve a level of Gold; certification shall be required if applicable to the project type.

LESSEE shall participate in the COUNTY’s storm water site development plan, if available, or obtain approval from COUNTY for LESSEE’s water quality management plan as required by COUNTY for significant redevelopment projects. Architectural coatings applied to pavement surfaces shall be marked using low VOC coatings. Specifically, with paint that contains less than 50 grams of VOC emissions per liter of paint. If needed, LESSEE shall use heavy-duty, off-road, diesel-powered construction equipment to meet or exceed the USEPA’s Tier 4 off-road emissions engine standards during Airport construction to reduce construction-related NOx emissions.
C. Performance of Work. LESSEE agrees that any improvement being constructed by or under the direction of LESSEE shall be constructed in substantial compliance with COUNTY-approved plans, which requires those improvements to be constructed as if such improvements had been constructed under the direction and supervision, or under the authority, of COUNTY. In satisfaction of the requirements of the COUNTY, LESSEE shall be required to secure the faithful performance of construction and completion of construction of the improvement by appropriate contractor’s bonds and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided by the California Labor Code and California Department of Industrial Relations.

D. Insurance Requirements. LESSEE shall be required to carry comprehensive public liability insurance during construction. If the construction is done by an independent contractor, insurance shall be procured by the contractor in LESSEE's and COUNTY's name. All insurance shall be in the limits and coverages acceptable to COUNTY's Risk Management Services in its reasonable discretion. LESSEE shall indemnify COUNTY and hold COUNTY harmless for any and all claims, demands, damages, costs or expenses of any nature, including defense costs by reason of construction or alteration by LESSEE.

E. Noninterference. LESSEE warrants that it or its contractor shall in no way delay, cause delays to or interfere with any Airport operations or other contractors working in the Terminal or on the Airport. LESSEE agrees to hold COUNTY harmless from the cost of any time lost by COUNTY or any damages to COUNTY due to the actions or failure to act of LESSEE or its contractor.

F. Trailers and Modular Structures. All improvements constructed by LESSEE shall be of a permanent nature. Trailers and modular buildings are prohibited on the Leased Premises. This provision shall not apply to the use of COUNTY approved temporary modulars or trailers during construction. LESSEE shall maintain restroom facilities and provide existing or comparable restrooms to customers, guests, and flight crew personnel throughout the redevelopment of the Leased Premises. Upon completion of construction, all trailers or modulars must be immediately removed from the Leased Premises.

G. LESSEE's Cost and Expense. All renovation or construction by LESSEE pursuant to this Section shall be at LESSEE's sole cost and expense. LESSEE shall keep the Leased Premises and the improvements constructed thereon free and clear of all liens, except for construction or take-out financing with respect solely to LESSEE’s improvements, and shall pay all costs for labor and material arising out of such construction and shall hold COUNTY harmless from any liability in respect thereto. Nothing contained herein shall be understood to foreclose the right of contractors, suppliers or laborers to file preliminary notices with respect to the Leased Premises (and not the COUNTY’s underlying fee interest) in connection with construction performed on the Leased Premises and the filing of such preliminary notices shall not constitute a violation of LESSEE's obligations under
this Section, and LESSEE shall also hold COUNTY harmless from any liability based on the filing of such notice.

H. Utilities. LESSEE shall bear sole financial responsibility for all connection fees, design, construction, removal, relocation, and installation of utilities related to the development of its facilities, as well as any costs related to compliance with local governmental or utility provider requirements when utilities are impacted as a result of the development. All impacts to utilities shall be brought to the attention of Airport Director for review and approval. All energy and water utilities to the Leased Premises shall be separately metered. Those utilities not separately metered shall be specified in writing and COUNTY and LESSEE shall reach agreement, either in this Lease or in a separate written agreement, on the proration of utility expenses. Those payments may include, without limitation, restrictions on or special allocation provisions with respect to excess utility usage upon the Leased Premises for exceptional equipment, ventilation or cooling requirements. LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.

I. Damage during Construction. LESSEE shall repair all damage to Airport facilities caused by LESSEE's construction within seven calendar days, unless other arrangements are approved by Airport Director. Damages or conditions which impact safety must be corrected immediately by LESSEE. All Airport roads must be maintained as open and passable by emergency equipment at all times during construction and shall not conflict with normal Airport operation.

J. Ownership of Improvements. All improvements and facilities, exclusive of trade fixtures, constructed or placed within the Leased Premises by LESSEE must, upon completion, be free and clear of all liens, claims, or liability for labor or material and at COUNTY's option shall become the property of COUNTY at the expiration of this Lease or upon earlier termination hereof. COUNTY retains the right to require LESSEE, at LESSEE's cost, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof.

SECTION 7.02 CONSTRUCTION AND/OR ALTERATION BY COUNTY

In the event COUNTY should require any portion of the Leased Premises in connection with construction of improvements, future expansion, and/or alterations by the Airport, Airport Director may, upon sixty (60) days’ written notice (or immediately should Airport Director determine in Director's sole discretion that an emergency exists) make his/her best effort to substitute alternate space for that portion of the Leased Premises necessary to accommodate the construction. Airport Director will make every reasonable effort to provide replacement space during the construction period that will furnish LESSEE the same utility as the space replaced. In the event alternate space is not available, LESSEE will be reimbursed pursuant to Section 7.03.
SECTION 7.03 LESSEE REIMBURSEMENT

In the event COUNTY should require the Leased Premises, or any portion thereof, for any Airport purpose, COUNTY may terminate this Lease as to all or any portion of the Leased Premises. In that event, if this Lease is terminated in its entirety, COUNTY shall reimburse LESSEE for improvements to the Leased Premises completed during the term of this Lease.

Compensation for improvements located on the Leased Premises shall be calculated by means of the following formula:

\[
\text{COMPENSATION} = \frac{B \times A}{C}
\]

A = LESSEE’s actual Leased Premises improvement construction costs submitted in accordance with the Section in this Lease entitled “RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS,” plus any amounts paid to COUNTY by LESSEE in accordance with Section 7.01.

B = Number of full months remaining in the Lease term.

C = Number of full months between the date LESSEE completed construction of Leased Premises improvements and the date the Lease would expire by its terms if COUNTY did not exercise its right to early termination.

LESSEE shall submit to COUNTY within sixty (60) days of completion of construction of any Leased Premises improvement, notifications of completion of construction and submit detailed supporting documentation of construction costs together with “as-built”/record documents as required elsewhere in this Lease. LESSEE acknowledges and agrees if LESSEE fails to submit notifications and supporting documentation for any such Leased Premises improvements in a timely manner, LESSEE waives its right to compensation for such improvements.

SECTION 7.04 LESSEE'S ASSURANCE OF CONSTRUCTION COMPLETION

A. Within nine (9) months of the Commencement Date of this Lease, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE to complete the first phase of Initial Capital Investment as described in Exhibit G. The amount of money available shall be at least $13,905,700, the total estimated construction cost of this first phase. Such evidence may take one of the following forms:

   a. Completion Bond issued to COUNTY as obligee.

   b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction or until the assurances required by sub-section B, hereafter, have been provided.
c. Any combination of the above to equal total estimated cost of construction for the first phase.

In the event that LESSEE complies with sub-section B, below, within nine (9) months of the full execution of this Lease, LESSEE shall not be required to comply with this sub-section A.

B. Notwithstanding the requirements of Section 7.04(A), above, prior to commencement of demolition of existing facilities and construction of approved facilities, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE and COUNTY to complete the proposed construction. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms:

a. Completion Bond issued to COUNTY as obligee.

b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction.

c. Any combination of the above to equal total estimated cost of construction.

The assurances required by sub-section A, above, shall no longer be required once LESSEE complies with this sub-section B.

All bonds and letters of credit pursuant to this Section must be issued by a surety company, financial institution or advising bank qualified and admitted to do business in the State of California and issued in an approved form approved by the COUNTY. All bonds and letters of credit pursuant to this Section shall insure faithful and full observance and performance by LESSEE of all terms, conditions, covenants and agreements relating to the construction of improvements within the Leased Premises.

It is not the intent of the contracting parties herein to create a third-party beneficiary, and nothing in this Section shall be construed to do so.

SECTION 7.05 MECHANICS LIENS OR STOP NOTICES

LESSEE shall at all times indemnify and hold COUNTY harmless from all Mechanics Liens, Stop Notices, claims, losses, demands, damages, cost, expenses or liability costs for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the Leased Premises undertaken by LESSEE, and from the cost of defending against such claims, including attorneys' fees and costs.

In the event a mechanics lien or stop notice is imposed upon the Leased Premises, LESSEE shall either:
A. Record a valid Release of Lien, or

B. Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the Leased Premises from the claim of the lien or stop notice and from any action brought to foreclose the lien.

Should LESSEE fail to accomplish either of the two optional actions above within fifteen (15) days after the filing of such a lien or stop notice, the Lease shall be in default and shall be subject to immediate termination. LESSEE shall indemnify, defend, and hold COUNTY harmless from and against any and all claims, damages, liabilities, costs and expenses (including attorneys' fees and costs) arising out of or related to any mechanic's liens recorded against any portion of the Leased Premises caused by LESSEE, or its agents, employees, contractors, sublessees, successors, and/or assigns, and any and all monetary amounts incurred by COUNTY to obtain a lien release shall be due and payable as Additional Rent. This indemnity shall survive the expiration or earlier termination of this Lease.

SECTION 7.06 RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS

Within sixty (60) days following completion of any improvement within the Leased Premises, the LESSEE shall furnish the Airport Director a complete package of “As-Built Documents” and “Record Documents,” which include but are not limited to construction documents, specifications, cost estimates, engineering studies and calculations. The aforementioned information shall be submitted on two (2) thumb drives containing digital copies of the “As-Built Documents” and “Record Documents,” organized in a detailed, logical, and comprehensible folder structure, which is in a form that is usable and accepted by the COUNTY, to the COUNTY's satisfaction, as described below, unless otherwise allowed by the Airport Director.

Drawings and Models:
- All 2-D and 3-D architectural, engineering, design, and/or construction drawing and/or modeling files for the project shall be completed using AutoCAD 2019 and REVIT 2019 or a newer version of either software if approved by John Wayne Airport.
- All geographic data, spatial analysis, geographic information system (GIS) mappings, drawings, exhibits, and/or figures for the project shall be completed using Environmental Systems Research Institute (ESRI) ArcGIS.
- All 2-D and 3-D drawing and/or modeling files created via computer aided design and drafting (CADD), building information modeling (BIM), and/or GIS for the project shall conform to the John Wayne Airport CADD/BIM/GIS standards and specifications.
- In addition to the 2-D and 3-D drawing and/or modeling files indicated above, a PDF format (scaled to ARCH E1 format where applicable) of those drawings, exhibits, figures, etc. shall be generated and submitted digitally.

Documents and Reports:
- All specifications, reports and/or studies (e.g. geotechnical report, etc.), calculations, and other project information (e.g. construction submittals, operations and maintenance (O&M) manuals, warranties, etc.) for the project shall be completed using MS Office suite applications and also generated and submitted digitally in a PDF format.

Note: “Record Documents,” e.g. record drawings, specifications, calculations, etc., shall be prepared, stamped, signed by the Architect and/or Engineer of Record for the project and shall reflect all updates and/or modifications that were approved during design and construction, i.e. separate from the as-built documents, which include contractor redlines, contract changes, etc. Refer to the “John Wayne Airport Construction Standards” for additional information.

In addition, two (2) sets of hard prints of the stamped and signed record drawings for the project, as described above, must be furnished by the LESSEE with the thumb drives containing the “As-Built Documents” and “Record Documents.” Basic specifications, standards, and requirements for BIM, CADD, and/or GIS produced information at the Airport can be located on the www.ocair.com website or provided by the Airport upon request. Additional requirements for digital record files are described in Exhibit E.

Furthermore, within 90 days of the date the LESSEE begins to use such improvements (“Date of Beneficial Occupancy”), the LESSEE shall furnish to the Airport Director an itemized statement of the actual, direct construction costs of any such improvement. All such costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The construction costs may include actual, direct fees paid to contractors, architects, engineers, surveyors, laborers, and suppliers, or permit fees required by governmental agencies to allow construction. Construction costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, bond premiums, or developer fees. The statement of cost shall be sworn to and signed by the LESSEE or its responsible agent under penalty of perjury. The LESSEE must obtain the Airport Director’s approval of acceptance of the “As-Built Documents” and “Record Documents” and the form and content of the itemized statement for the release of any construction bond.

SECTION 7.07    DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

In the event of damage to or destruction of LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises or in the event LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, LESSEE shall, within thirty (30) days, commence and diligently pursue to completion the repair, replacement, or reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the Leased Premises for the purposes required by the Lease. Repair, replacement, or reconstruction of improvements within the Leased Premises shall be accomplished in a manner and according to plans approved by Airport Director. Except as otherwise provided herein, termination of this Lease shall not reduce or nullify LESSEE’s obligation under this paragraph. With respect to damage or destruction to be repaired by COUNTY or which COUNTY
elects to repair, LESSEE waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).

In the event that (a) such damage or destruction to LESSEE-owned or constructed buildings, facilities or improvements ("improvements") located within the Leased Premises occurs, or (b) said improvements are declared unsafe or unfit for use and occupancy, within one (1) year of the expiration date of this Lease, COUNTY and LESSEE may mutually agree to terminate this Lease, in which case, COUNTY may, at COUNTY’s sole option, accept monetary consideration from LESSEE in lieu of LESSEE’s reconstruction of improvements located on the Leased Premises, and after such termination, neither party shall have any further obligations under this Lease, except for obligations that expressly survive the termination or expiration of the Lease hereunder.

SECTION 7.08 CONSTRUCTION HEALTH AND SAFETY

LESSEE’s contractor for demolition and/or construction ("the Contractor") shall have at the work site copies of or suitable exacts of “Construction Safety Orders” and “General Industry Safety Orders” issued by the California State Division of Industrial Safety. The Contractor shall comply with the provisions of these and all other applicable laws, ordinances, and regulations.

Contractor’s Safety Plan. The Contractor shall submit for approval, prior to beginning construction, a comprehensive Safety Plan ("the Safety Plan") outlining code of safe work practices and procedures as listed in Appendix C: Code of Safe Practices in the Guide to Developing Your Workplace Injury and Illness Prevention Program, CCR Title 8, Section 1509, Industrial and Illness Prevention Program, Subchapter 4, Construction Safety Orders, Article 3, General, for all construction activities including, but not limited to, trenching and shoring, fall protection, confined space entry, hazardous materials, night work, and lockout/block-out. The plan shall provide a list of competent persons for activities for which competent persons are defined and are required by state law. The plan shall also describe Airport security procedures.

The Safety Plan(s) must be site-specific and job task(s) specific. They must identify job/site-specific workplace hazards as part of an Injury and Illness Prevention Program. The plan(s) must outline the site-specific Code of Safe Work Practices and Procedures for all equipment used or work activities performed at the Airport, and for all materials and “HAZARDOUS MATERIALS” used or stored onsite. The plan(s) must include the JWA worksite specific emergency contact lists, and emergency response and personnel training procedures.

The Safety Plan shall contain directions to the closest hospital and provide a map showing the Airport and the location of hospitals. Information regarding spill response and hazardous materials is to be included. The plan shall be reviewed and signed by all personnel entering Airport property. The plan shall identify the projects included in the Safety Plan, describe operational safety during construction, construction activity and aircraft movement, and limitations of construction. It shall list safety considerations to be discussed at the preconstruction conference and safety meetings. The Contractor shall prepare and distribute to JWA three complete bound booklets identified as “SAFETY PLAN.”
SECTION 7.09 CONSTRUCTION STORMWATER PLAN

LESSEE’s Contractor shall submit for Airport approval, prior to beginning construction, its Construction SWPPP or Erosion and Sediment Control Plan (“ESCP”) concerning BMP implementation including how Storm Water run-off will be controlled, how the discharge of unauthorized Non-Storm Water Discharges will be contained and prevented, and how soil erosion and sedimentation of surface run-off will be prevented at the site. Projects disturbing one (1) or more acres of soil or projects that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to develop a SWPPP and obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity – General Permit Order 2009-0009-DWQ (“Construction General Permit”). Projects disturbing less than one acre of soil and not required a Construction SWPPP shall develop an ESCP.

A. The SWPPP or ESCP shall be site-specific and shall be approved by the Airport Director before the start of construction. It shall be incorporated into the design and planning phases of the project.

B. Contractor shall select BMPs for the site-specific SWPPP or ESCP. The plan must cover the construction area, construction lay-down areas, haul routes, and off-site migration or tracking of contaminants such as mud. This includes keeping Aircraft Operating Areas (“AOA”) clear of mud and debris. The plan must minimize potential soil and water quality impacts, including impacts resulting from total suspended solids (“TSS”), oil and grease, total petroleum hydrocarbons (“TPH”), or chemicals or materials used for construction. The plan must also include leak or spill cleanup.

SECTION 7.10 CONSTRUCTION WASTE MANAGEMENT PLAN

LESSEE’s Contractor shall submit for approval, prior to the beginning of construction, its Construction Waste Management (“CWM”) Plan detailed how waste generated during construction activities will be contained, stored, labeled, tracked, and disposed of. The plan should address waste diversion for recyclables and organic waste and meet the requirements of CALGreen Tier 1. CWM forms can be found in the Guide to the 2019 California Green Building Standards Code published by the California Building Standards Commission and the International Code Council.

A. The CWM Plan shall be project-specific and cover all the construction activities.

B. The CWM Plan shall be incorporated into the design and planning phases of the project and shall be approved by the Airport Director before the start of construction.

C. LESSEE’s Contractor shall use the CWM Worksheet and Acknowledgement forms to report waste disposal monthly and at the conclusion of the construction project.
SECTION 7.11 TEN-YEAR REFURBISHMENTS

Every ten (10) years from date LESSEE begins to use its improvements to the Leased Premises ("Date of Beneficial Occupancy"), LESSEE shall make refurbishments to its facilities for the purpose of keeping the FBO contemporary and competitive with current FBO industry standards; provided, however, that no program of refurbishment, renovation or capital improvement shall be mandated or compelled so long as LESSEE maintains its facilities and improvements in good working order and condition. LESSEE shall consult with the Airport Director prior to making any such refurbishments and, in particular, shall consult with the Airport Director on or before the tenth (10th), twentieth (20th) and thirtieth (30th) anniversaries of the Commencement Date to discuss such refurbishment of facilities as may be necessary or appropriate to satisfy the requirements of this Section. LESSEE’s refurbishments must provide for a capital reinvestment in facilities on the Leased Premises meeting the following requirements, where the amount of the reinvestment will be reasonably determined by Airport Director with consideration given to the conditions of the facilities at each reinvestment milestone.

Should the Airport Director and LESSEE disagree on the necessary improvements required, the parties shall engage a third-party, selected and agreed to by COUNTY and LESSEE, at LESSEE’s sole cost and expense, to assess the condition of the premises relative to industry standards and to make a determination as to what improvements shall be required. In no case will the cost of such improvements exceed the amounts specified below relative to each reinvestment milestone.

A. On or before the tenth (10th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

B. On or before the twentieth (20th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

C. At such time that five (5) years remain on the term of this Lease, LESSEE may be required by JWA to make a reinvestment of up to ten percent (10%) of its Initial Capital Investment.

Prior to reaching each reinvestment milestone, and with sufficient time for all required review and approval in accordance with this ARTICLE VII but in no event later than one hundred eighty (180) days prior to the milestone date, LESSEE shall provide to JWA its plans and specifications for the refurbishment project, as well as a breakdown of the costs for design, construction, upgrades, and installations of new fixtures or equipment proposed for the refurbishment project. LESSEE shall complete each refurbishment project within one hundred eighty (180) days from the date of its final approval by JWA unless otherwise approved in writing by Airport Director. Failure to complete the refurbishment within the prescribed time will subject LESSEE to liquidated damages in the amount of two thousand dollars ($2,000) per day until the refurbishment has been completed to the satisfaction of the Airport Director.

Within sixty (60) days following the completion of each refurbishment project, LESSEE shall
provide certified documentation of the capital investment actually expended in the project, together with “as-built”/record documents as required by this ARTICLE VII. In the event of a shortfall between the required reinvestment amount and the actual refurbishment cost, LESSEE shall pay to COUNTY an amount equal to the shortfall as of one hundred eighty (180) days after completion of the refurbishment project. The amount spent for refurbishment shall be exclusive of any amount spent for normal repair and maintenance as reasonably determined by Airport Director.

ARTICLE VIII – ASSIGNMENT, SUBLETTING, AND ENCUMBERING

SECTION 8.01 ASSIGNING, SUBLETTING, AND TRANSFERRING

The provisions of this Section are subject to the limitations of Section 5.01 “USE.”

A. Transfers. Except as provided by this Article, LESSEE shall not voluntarily, involuntarily, or by operation of law transfer, assign, sublet, encumber, or hypothecate (hereinafter referred to as “Transfer”) any interest of the LESSEE in the Leased Premises without the prior written approval of the COUNTY. Occupancy of the Leased Premises by a prospective transferee prior to approval shall constitute a breach of this Lease. LESSEE shall give the COUNTY sixty (60) days’ prior written notice of all proposed Transfers. The LESSEE shall not make any such Transfers for a period longer than the remaining term of the Lease. All subleases of hangar space, ramp parking space, and office/facility space shall be between LESSEE and sublessee; sub-subleases are prohibited and shall constitute a breach of this Lease. LESSEE shall provide Airport Director copies of all subleases within fifteen (15) days following their approval.

If the COUNTY approves any Transfer, such approval does not constitute a waiver of any of the terms of the Lease. LESSEE agrees that a Transfer of this Lease shall not release LESSEE from any of the obligations found in this Lease. All Transfer documents shall be consistent with the terms, covenants, and conditions of the Lease, and in the event of any inconsistency, the provisions of this Lease shall govern. LESSEE must submit all required COUNTY forms with backup documentation, and include payment to COUNTY of a $3,000 administrative charge, for COUNTY to process such request.

If the LESSEE is a corporation, an unincorporated association, or a partnership, Transfers include the acquisition by any person other than the LESSEE of any stock or interest in said corporation, unincorporated association, or partnership in the aggregate amount of fifty-one percent (51%) or more.

Except as provided by this Article, the failure by the LESSEE to obtain the prior written approval by the COUNTY of any Transfer of the Lease or any interest in the Leased Premises shall constitute a material breach of this Lease by, and shall not confer any Leasehold rights upon the transferee. Such failure shall be grounds for termination of this Lease for default per Article IX, Section 9.02.
B. Conditions of COUNTY Approval. COUNTY agrees that it will not arbitrarily withhold consent to any Transfer, but COUNTY and LESSEE expressly agree it shall be reasonable for COUNTY to withhold consent to any Transfer for the following reasons:

(1) LESSEE, its successors or assigns are in default of any term, covenant or condition of this Lease, whether notice of default has or has not been given by COUNTY.

(2) The prospective sublessee, assignee or transferee has not agreed in writing to keep, perform and be bound by all the terms, covenants, and conditions of this Lease.

(3) The prospective sublessee, assignee or transferee is not financially capable or not experienced in performing the Lease obligations, as determined by the Airport Director.

(4) Sublessee's use is in conflict with the terms of this Lease.

(5) All the terms, covenants and conditions of Transfer, including the consideration therefor, of any and every kind, have not been revealed in writing to Airport Director. On the first day of each month, LESSEE shall submit a monthly rent roll of all its existing sublessees indicating the sublessee/customer name, sublessee type, start date, end date, square footage and monthly rent.

(6) Any construction required of LESSEE as a condition of this Lease has not been completed to the satisfaction of COUNTY.

(7) LESSEE has not provided Airport Director with a copy of all documents relating to the Transfer, including, but not limited to, appraisals, notes, trust deeds, title reports, and escrow instructions.

(8) LESSEE attempts to hypothecate the Leasehold for an amount greater than the cost of new improvements to be constructed on the Leased Premises. Hypothecation of the Leasehold shall not be permitted for any reason other than to obtain loan proceeds necessary to construct new improvements on the Leased Premises.

(9) If a release or threatened release of Hazardous Materials is materially increased as a result of a Transfer or if COUNTY does not receive reasonable assurances that a prospective sublessee, assignee or transferee has the experience and/or the financial ability to remedy a violation of Environmental Laws related to Hazardous Materials and/or fulfill all obligations under this Lease.

C. Bankruptcy Transaction. If LESSEE assumes this Lease and proposes to assign the same pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, et seq., then notice of such proposed assignment shall be given to COUNTY.

(1) The name and address of proposed assignee,
(2) All of the terms and conditions of such offer, and

(3) Adequate assurance to COUNTY of the proposed assignee's future performance under the Lease, including, without limitation, the assurance referred to in the United States Bankruptcy Code, 11 U.S.C. §365(b)(3).

Any person or entity to which this Lease is assigned pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §101, et seq., shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to COUNTY an instrument confirming such assumption.

SECTION 8.02 LEASEHOLD MORTGAGES

A. LESSEE’s Right to Encumber Leasehold Estate; No Right to Encumber COUNTY’s Fee Interest. LESSEE may, at any time during the Term of this Lease (with the consent of COUNTY after prior written notice providing evidence that all requirements of this Lease applicable at the time have been complied with) encumber all or any portion of LESSEE’s leasehold estate in and to this Lease, including LESSEE’s rights, title and interest in and to the Leased Premises and Improvements, or any applicable portion thereof or interest therein (“Leasehold Estate”) with one (1) or more mortgage, deed of trust, security deed, conditional deed, deed to secure debt or any other security instrument (including any assignment of leases and rents, security agreement and financing statements) held by an institutional lender by which LESSEE’s Leasehold Estate is mortgaged to secure a debt or other obligation, including a purchase money obligation (“Leasehold Mortgages”); provided, however:

1) Such Leasehold Mortgage(s) (as of the date recorded) shall not exceed 80% of the costs of the improvements and facilities to be constructed by LESSEE prior to completion and 80% of the Leasehold Estate value after completion;

2) That LESSEE shall not have the power to encumber, and no Leasehold Mortgage shall encumber, COUNTY’s fee interest in the property underlying the Leased Premises (“COUNTY’s Fee Interest”);

3) The Leasehold Mortgage and all rights acquired under it shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Lease and to all rights and interests of COUNTY hereunder, except as otherwise provided in this Lease;

4) Nothing in this Lease shall be construed so as to require or result in a subordination in whole or in part in any way of the COUNTY’s Fee Interest to any Leasehold Mortgage; and

5) In the event of any conflict between the provisions of this Lease and the provisions of any such trust Leasehold Mortgage, the provisions of this Lease shall control.
B. Notification to COUNTY of Leasehold Mortgage. LESSEE or any Leasehold Mortgagee shall, prior to making any Leasehold Mortgage, provide COUNTY with notice of such Leasehold Mortgage and the name and address of the Leasehold Mortgagee. At the time of notice, LESSEE shall furnish to Airport Director a complete copy of any trust deed and note to be secured thereby, together with the name and address of the holder thereof. Thereafter, LESSEE or any Leasehold Mortgagee shall notify COUNTY of any change in the identity or address of such Leasehold Mortgagee.

SECTION 8.03 SUCCESSORS IN INTEREST

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all parties hereto, all of whom shall be jointly and severally liable hereunder.

ARTICLE IX - TERMINATION AND DEFAULT

SECTION 9.01 TERMINATION OF PRIOR AGREEMENTS

This Lease creates a new Leasehold concerning all or any portion of the Leased Premises. Upon the Commencement Date of this Lease, any prior agreement with relation to the Leased Premises between the parties shall terminate and be of no further force and effect, and shall be superseded and replaced in its entirety by this Lease.

SECTION 9.02 TERMINATION FOR DEFAULT

The COUNTY may terminate this Lease and all of its obligations hereunder with or without prior notice to LESSEE and may exercise all rights of entry for default and breach if the LESSEE fails to perform on any of its obligations under this Lease, including but not limited to the following:

A. Payment of all rents, fees, and charges if not cured within ten (10) days following written notice from COUNTY;

B. A general assignment for the benefit of creditors and any Transfer in violation of Article VIII, above;

C. The issuance of any execution or attachment against LESSEE at the Airport which is undischarged within sixty (60) days of levy or seizure or if the Leased Premises are occupied by someone other than LESSEE;

D. The voluntary vacation or abandonment by LESSEE of the conduct of a fixed base operation at the Airport;
E. The violation by LESSEE of any of the terms of any insurance policy referred to in this Lease, the remedies for which are provided in that section of the Lease entitled “INSURANCE”;

F. If LESSEE is found by the FAA, TSA, other government regulatory or successor agency to have violated safety standards in the conduct of LESSEE's business, it being understood that this requirement pertains specifically to a substantial and material breach of the standards and policies established and administered by the FAA's Office of Safety Standards (to the extent they are applicable to fixed base operations), and/or those standards established by the TSA specifically pertaining to airport safety pursuant to its authority arising under Title 49 Code of Federal Regulations (“CFR”) § 1542. Citations, enforcement actions, and proceedings related to minor violations shall not constitute a breach of this Lease.

G. The violation of any written directions of the Airport Director if not cured within three (3) business days following written notice from Airport Director;

H. The appointment of a receiver to take possession of all, or substantially all, the assets of LESSEE located at the Leased Premises or of LESSEE's Leasehold interest in the Leased Premises where such appointment or seizure is not discharged within sixty (60) days following the appointment of the receiver or seizure of assets; and,

I. All other violations not specified above if not cured within five (5) business days following written notice from COUNTY, provided that if the nature of such failure is such that it can be cured by LESSEE but that more than five (5) business days are reasonably required for its cure (for any reason other than financial inability), then LESSEE shall not be deemed to be in default if LESSEE shall commence such cure within said five (5) business days, and thereafter diligently prosecutes such cure to completion.

SECTION 9.03 COUNTY REMEDIES

In the event of any default by LESSEE, then, in addition to any other remedies available to COUNTY at law or in equity, COUNTY shall have the immediate option to terminate this Lease and all rights of LESSEE hereunder by giving written notice of such termination. In the event that COUNTY shall elect to so terminate this Lease, then COUNTY may recover from LESSEE:

A. The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

B. The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss LESSEE proves reasonably could have been avoided; plus
C. The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that LESSEE proves reasonably could be avoided; plus

D. Any other amount necessary to compensate COUNTY for all detriment proximately caused by LESSEE's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, plus

E. At COUNTY's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California Law.

As used above, the “worth at the time of award” is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1 percent.

SECTION 9.04 TERMINATION FOR NONUSE

COUNTY has entered into this Lease for the express purpose of having LESSEE provide those services and uses to the public at the Airport as authorized in that section of the Lease entitled “USE.” Should such services and uses of the Leased Premises be discontinued for thirty (30) consecutive calendar days or more, the Airport Director may terminate this Lease and all rights, but not the obligations, of LESSEE shall end at time of such termination subject to that section of the Lease entitled “LESSEE REIMBURSEMENT.” Said thirty consecutive calendar day requirement shall not include periods during which LESSEE performs demolition of existing facilities, construction of site improvements, remodeling, renovations, or repairs as approved by Airport Director.

SECTION 9.05 CONDITION OF LEASED PREMISES UPON TERMINATION

Except as otherwise provided by this Lease or approved in writing by COUNTY, upon termination of this Lease, LESSEE shall redeliver possession of the Leased Premises to COUNTY in substantially the same or better condition than existed immediately prior to LESSEE's entry thereon, reasonable wear and tear, flood, earthquakes, war and any act of war, excepted. References to the termination of the Lease in this Lease shall include termination by reason of expiration.

SECTION 9.06 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If LESSEE abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to LESSEE and left on the Leased Premises fifteen (15) days after such event shall be deemed to have been transferred to COUNTY. COUNTY shall have the right to remove and to dispose of such property without liability therefor to LESSEE or to any person claiming under LESSEE, and shall have no need to account therefor. Personal property left on the Leased Premises after termination, expiration, or abandonment of the Lease shall not be construed as giving LESSEE possession of the Leased Premises during the fifteen (15) days after termination, expiration, or abandonment of the Lease.
SECTION 9.07 QUITCLAIM OF LESSEE'S INTEREST UPON TERMINATION OR DEFAULT

Upon termination of this Lease for any reason, including, but not limited to, termination because of default by LESSEE, LESSEE shall execute, acknowledge, and deliver to COUNTY, within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title, and interest of LESSEE in the Leased Premises is quitclaimed to COUNTY. Should LESSEE fail or refuse to deliver the required deed to COUNTY, COUNTY may prepare and record a notice reciting the failure of LESSEE to execute, acknowledge and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all right of LESSEE or those claiming under LESSEE in and to the Leased Premises.

SECTION 9.08 COUNTY’S RIGHT TO RE-ENTER

LESSEE agrees to yield and peaceably deliver possession of the Lease Premises to COUNTY on the date of termination or default of this Lease, whatsoever the reason for such termination or default.

Upon giving written notice of termination or default to LESSEE, COUNTY shall have the right to re-enter and take possession of the Leased Premises on the date such termination or default becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination or default of the Lease and re-entry of the Leased Premises by COUNTY shall in no way alter or diminish any obligation of LESSEE under the Lease terms and shall not constitute an acceptance or surrender.

LESSEE waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Leased Premises for any lawful reason or in the event COUNTY re-enters and takes possession of the Leased Premises in a lawful manner.

ARTICLE X - SECURITY

SECTION 10.01 AIRPORT SECURITY

In addition to FAA safety regulations, the LESSEE must also comply with all Airport security rules, regulations and plans, Department of Homeland Security-Transportation Security Administration (TSA) regulations, United States Customs and Border Protection (USCBP) regulations, and all other applicable federal, State and local regulations regarding security during the term of this Lease. LESSEE is responsible for fines imposed by any regulatory agency as a result of LESSEE’s failure to comply with applicable rules and regulations regarding airport security.

LESSEE shall be required to obtain airport security clearance in order to operate on the Leased Premises pursuant this Lease. LESSEE must designate one or more Authorized Signatories to attend training by the Airport, and to be the primary point(s) of contact for Airport Issued I.D. security badge related correspondence and records management. LESSEE, its employees and
contractors must complete a background clearance, and a Security Identification Display Area (SIDA) class in order to obtain an Airport issued I.D. security badge for access to secure areas. All Airport Operations Area (AOA) drivers must also complete training to receive driver’s authorization to drive on the airfield.

A. Authorized Signatory

Authorized Signatories are individuals or designated representatives authorized to sponsor badge applicants and request Airport issued I.D. security badges on behalf of their organization. They are responsible for initiating and understanding the security I.D. badge application process, and certify applicant employment. Authorized Signatories are also the primary points of contact for the Airport I.D. Badge Office correspondence related to audits, changes to employee access authority, if an employee is arrested or convicted of a disqualifying criminal offense, and if an employee is terminated.

B. Airport Issued I.D. Security Badge Acquisition

Prior to issuance of I.D. security badge(s), LESSEE’s personnel must successfully complete the Airport issued I.D. security badge acquisition process. LESSEE personnel who will be working onsite, and engaged in the performance of work under this Lease, must be sponsored by a Lessee identified Authorized Signatory, pass Airport’s screening requirements, which includes, but may not be limited to, an F.B.I. Criminal History Records Check and a Security Threat Assessment, and shall pay any applicable fees. Upon successful completion of the background checks, LESSEE personnel will be required to attend a 3-hour SIDA class and pass a written test. Those personnel who may be permitted by the Airport to drive on the Airport Operations Area (AOA) perimeter road must also complete a Driver’s Training class and written test. The physical Airport issued I.D. security badges are not issued until LESSEE personnel have: 1) completed appropriate application forms and submitted proof of identity and employment eligibility, 2) passed all required background checks, 3) completed and passed appropriate classroom training and 4) paid an I.D. badge fee for each badged person. LESSEE should anticipate a minimum of five (5) business days to complete the Airport issued I.D. security badge process if all requirements listed above are fulfilled by individual applicants in a timely manner. LESSEE shall be responsible for all applicable fees and costs associated with the background checks and I.D. security badging process. The amount of such fees is subject to change without notice.

C. Airport Issued I.D. Security Badge Holder Requirements and Responsibilities

The Airport Security Plan (ASP) requires that each person issued an Airport issued I.D. security badge be made aware of his/her responsibilities regarding the privilege of access to SIDA, Secure, Sterile, and AOA areas of the Airport.

LESSEE and all its personnel within access controlled areas (AOA, SIDA, secured area or sterile area) are required to display on their person an Airport issued I.D. security badge,
unless they are escorted by a properly badged individual with escort privileges. When working in a SIDA, AOA, Sterile or Secure area, each badged person is responsible for challenging any individual who is not properly displaying an Airport issued or approved and valid I.D. badge. Any person who is not properly displaying or who cannot produce a valid Airport issued I.D. security badge must immediately be referred to the Sheriff’s Department – Airport Police Services Office for proper handling.

The Airport issued I.D. security badge is the property of the County of Orange and must be returned upon termination of employment and/or termination of the Lease. The loss of a badge shall be reported within 24 hours to the Sheriff’s Department – Airport Police Services Office by calling (949) 252-5000. LESSEE or its personnel who lose their badges shall be required to pay a fee before receiving a replacement badge. The charge for lost badge replacement will be posted in the Airport Administration Office and is subject to change without notice. A report shall be made before a replacement badge will be issued.

The Airport security badge is nontransferable. In the event that the LESSEE’s badge is not returned to the Airport upon termination of employment and/or termination of the Lease, the LESSEE and/or LESSEE personnel shall be liable to the County of Orange for a fine in the amount of $250 per unreturned badge. The amount of the fine is subject to change without notice. LESSEE’s security deposit may be applied to cover the cost of the fine.

ARTICLE XI - INSURANCE AND INDEMNITY

SECTION 11.01 INSURANCE

LESSEE agrees to purchase all required insurance at LESSEE’s expense and to deposit with the COUNTY certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this Lease have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY during the entire term of this Lease.

LESSEE agrees that LESSEE shall not operate on the Lease Premises at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Airport Director. In no cases shall assurances by LESSEE, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Airport Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. LESSEE also agrees that upon cancellation, termination, or expiration of LESSEE’s insurance, COUNTY may take whatever steps are necessary to interrupt any operation from or on the Lease Premises until such time as the Airport Director reinstates the Lease.

If LESSEE fails to provide Airport Director with a valid certificate of insurance and endorsements, or binder at any time during the term of the Lease, COUNTY and LESSEE agree that this shall constitute a material breach of the Lease. Whether or not a notice of default has or has not been sent to LESSEE, said material breach shall permit COUNTY to take whatever steps necessary to
interrupt any operation from or on the Lease Premises, and to prevent any persons, including, but not limited to, members of the general public, and LESSEE's employees and agents, from entering the Lease Premises until such time as Airport Director is provided with adequate evidence of insurance required herein. LESSEE further agrees to hold COUNTY harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the COUNTY'S action.

LESSEE may occupy the Leased Premises only upon providing to COUNTY the required insurance stated herein and maintain such insurance for the entire term of this Lease. COUNTY reserves the right to terminate this Lease at any time LESSEE’s insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. LESSEE shall pay COUNTY a fee of $300.00 for processing the reinstatement of the Lease. LESSEE shall provide to COUNTY immediate notice of said insurance cancellation or termination.

LESSEE shall ensure that all contractors performing work on behalf of LESSEE pursuant to this Lease and all tenants operating within the Lease Premises shall carry appropriate lines of insurance subject to the same terms and conditions as set forth herein for LESSEE. LESSEE shall not allow contractors or tenants to operate within the Lease Premises if they have less than an appropriate level of coverage required by the LESSEE under this Lease. It is the obligation of the LESSEE to provide written notice of the insurance requirements to every contractor and tenant and to receive proof of insurance prior to allowing any contractor or tenant to begin operations within the Lease Premises. Such proof of insurance must be maintained by LESSEE through the entirety of this Lease and be available for inspection by a COUNTY representative at any reasonable time.

All self-insured-retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of LESSEE’s current audited financial report. If LESSEE’s SIR is approved, LESSEE, in addition to, and without limitation of, any other indemnity provision(s) in this Lease, agrees to all of the following:

1) In addition to the duty to indemnify and hold the COUNTY harmless against any and all liability, claim, demand or suit resulting from LESSEE’s, its agents, employee’s or subcontractor’s performance of this Agreement, LESSEE shall defend the COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and

2) LESSEE’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the LESSEE’s SIR provision shall be interpreted as though the LESSEE was an insurer and the COUNTY was the insured.
Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the LESSEE shall provide the minimum limits and coverage as set forth below:

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<tbody>
<tr>
<td>Aviation General Liability (Including but not limited to General Liability, Contractual, Premises, Products/Completed Operations, Hangarkeepers and Vehicles/Mobile Equipment operated on restricted airport premises)</td>
<td>$10,000,000 per occurrence $10,000,000 aggregate</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers' Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Pollution Liability</td>
<td>$5,000,000 per claims-made or per occurrence</td>
</tr>
<tr>
<td>Commercial Property Insurance on an “All Risk” or “Special Causes of Loss” basis covering all, contents and any tenant improvements including Business Interruption/Loss of Rents with a 12 month limit. Property Schedule to include all assigned fuel storage tanks, piping, fittings, associated equipment, vaults and clarifiers.</td>
<td>100% of the Replacement Cost Value and no coinsurance provision.</td>
</tr>
</tbody>
</table>
Required Endorsements

The following endorsements must be submitted with the Certificate of Insurance:

1. The Aviation General Liability and Pollution Liability policies shall contain an Additional Insured endorsement providing coverage at least as broad as ISO forms CG 2010 or CG 2033 naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds. Blanket coverage may also be provided which will state - As Required by Written Agreement.

2. The Aviation General Liability and Pollution Liability policies shall contain a primary non-contributing endorsement evidencing that the LESSEE's insurance is primary and any insurance or self-insurance maintained by County of Orange shall be excess and non-contributing.

3. The Workers' Compensation policy shall contain a Waiver of Subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees. Blanket coverage may also be provided which will state - As Required by Written Agreement.

4. The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the COUNTY’S financial interest when applicable.

All insurance policies required by this lease shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Aviation General Liability policy shall contain a severability of interests clause, also known as a “separation of insureds” clause (standard in the ISO CG 001 policy).

If LESSEE’s Pollution Liability policy is a claims-made policy, LESSEE shall agree to maintain coverage for two (2) years following termination of the Lease.

Insurance certificates should be forwarded to the COUNTY address provided in the Clause (NOTICES) below or to an address provided by Airport Director. LESSEE has ten (10) business days to provide adequate evidence of insurance or this Lease may be cancelled.

COUNTY expressly retains the right to require LESSEE to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

COUNTY shall notify LESSEE in writing of changes in the insurance requirements. If LESSEE does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this Lease may be in breach without further notice to LESSEE, and COUNTY shall be entitled to all legal remedies.
The procuring of such required policy or policies of insurance shall not be construed to limit LESSEE's liability hereunder nor to fulfill the indemnification provisions and requirements of this Lease, nor in any way to reduce the policy coverage and limits available from the insurer.

SECTION 11.02 INDEMNITY

To the fullest extent authorized by law, the LESSEE shall indemnify, defend with counsel approved in writing by COUNTY, and hold the COUNTY, its officers, directors, employees, agents and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless from any and all claims, demands, or liability of any kind or nature arising out of or related to the LESSEE's operations at the Airport, including the cost of defense arising therefrom. LESSEE's indemnity obligations stated herein also apply to those actions arising out of or related to LESSEE's officers, agents, successors, assigns, sublessees, subcontractors, and employees. LESSEE's indemnity obligations stated herein shall not apply in the event of any loss, damage, or expense arising from the sole negligence and/or willful misconduct of the COUNTY or of the COUNTY’s officers, employees, agents, servants, or independent contractors. The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this Lease.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorneys’ fees in any action to enforce the terms of this Lease. The rights and obligations set forth in this paragraph shall survive the termination of this Lease.

ARTICLE XII - FEDERAL GRANT ASSURANCES AND REQUIREMENTS

SECTION 12.01 CIVIL RIGHTS AND NONDISCRIMINATION

A. LESSEE agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If LESSEE transfers its obligation to another, the transferee is obligated in the same manner as LESSEE.

B. LESSEE, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:

1) LESSEE will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2) LESSEE, with regard to the work performed by it during the Lease, will not discriminate on the grounds of race, color, or national origin, in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

3) In all solicitations, either by competitive bidding or negotiation made by LESSEE for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential subcontractor or supplier will be notified by LESSEE of the LESSEE’s obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4) LESSEE will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, LESSEE will so certify to the COUNTY or the FAA, as appropriate, and will set forth what efforts it has made to obtain this information.

5) In the event of LESSEE’s noncompliance with the non-discrimination provisions of this Lease, COUNTY will impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to: withholding payments under the contract until LESSEE complies, and/or cancelling, terminating, or suspending a contract, in whole or in part.

6) LESSEE will include the provisions of paragraphs one through six in every sublease or subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. LESSEE will take action with respect to any sublease, subcontract or procurement as the COUNTY or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if LESSEE becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, LESSEE may request the COUNTY to enter into any litigation to protect the interests of the COUNTY. In addition, LESSEE may request the United States to enter into the litigation to protect the interests of the United States.

C. LESSEE, for itself, personal representatives, 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) In the event facilities are constructed, maintained or otherwise operated on the Leased Premises for a purpose for which a FAA activity, facility, or program is
extended or for another purpose involving the provision of similar services or benefits, LESSEE will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2) No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

3) In the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.

4) LESSEE will use the Leased Premises in compliance with all other requirements imposed by or pursuant to List of discrimination Acts and Authorities.

D. LESSEE shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service.

E. LESSEE, for itself, its assignees, and successors in interest agrees to comply with the following Nondiscrimination Acts and Authorities, including without limitation:

(1) Title VI of the Civil Rights Acts of 1964, 42 U.S.C. § 2000d et seq. (prohibiting discrimination on the basis of race, color, national origin);

(2) 49 Code of Federal Regulations part 21, Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964;

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 (prohibiting unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects);

(4) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. (prohibiting discrimination on the basis of disability), and 49 CFR part 27;

(5) The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq. (prohibiting discrimination on the basis of age);
(6) Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47123 (prohibiting discrimination based on race, creed, color, national origin, or sex);

(7) The Civil Rights Restoration Act of 1987, Pub.L 100-209, (broadening the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients, and contractors, whether such programs or activities are federally funded or not;

(8) Titles II and III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12189, as implemented by 28 CFR parts 35 and 36, and 49 CFR parts 37 and 38 (prohibiting discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities);

(9) The FAA’s Nondiscrimination statute, 49 U.S.C. § 47123 (prohibiting discrimination on the basis of race, color, national origin, and sex);

(10) Executive Order 12898, Federal Actions to Address Environmental Justice in the Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

(11) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 70 Fed. Reg. at 74087 – 74100 (defining national origin discrimination to include discrimination because of limited English proficiency); and

(12) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (prohibiting discrimination because of sex in education programs or activities).

F. In the event of breach of any of the above nondiscrimination covenants, COUNTY shall have the right to terminate the Lease in accordance with the provisions of Section 9.02, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

SECTION 12.02 DEVELOPMENT/MAINTENANCE OF AIRPORT

COUNTY reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or view of LESSEE, and without interference or hindrance. COUNTY reserves 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 of the Airport, together with the right to direct and control all activities of LESSEE in this regard.
SECTION 12.03 LEASE SUBORDINATE TO AGREEMENT WITH U.S.A.

This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between COUNTY and the United States or any lawful requirement of the United States relative to the development, operation or maintenance of the Airport. In the event the FAA, or its successors, request modifications or changes to this Lease which may or may not be condition precedent to obtaining funds for the improvement of the Airport, LESSEE hereby consents to any and all such modifications and changes as may be requested and without further consideration, and LESSEE agrees to immediately execute an amendment to this lease to reflect the requested modifications or changes.

SECTION 12.04 USE TO CONFORM WITH FEDERAL AVIATION REGULATIONS

LESSEE agrees that LESSEE's use of the Leased Premises, including all construction thereon, shall conform to applicable Federal Aviation Regulations.

LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or such other regulation replacing Part 77 as may be adopted by Federal authority) prior to the construction of the improvements described herein and prior to the construction of any future structure or building upon the Leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

SECTION 12.05 NONEXCLUSIVE RIGHT

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to conduct aeronautical activities or provide aeronautical services to the public as prohibited by 49 U.S.C. § 40103(e) and 47107(a)(4), as amended from time to time, and the COUNTY reserves the right to grant others the privilege and right of conducting any or all activities of an aeronautical nature.

SECTION 12.06 RESERVATION OF AVIGATION EASEMENT

COUNTY hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the air space above the surface of the Leased Premises, together with the right to cause in said air space such noise, vibration, fumes, and soot as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport.

SECTION 12.07 HEIGHT LIMITATION OF STRUCTURES

LESSEE by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land Leased hereunder (if any) which would penetrate the imaginary surfaces as defined in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or as such
regulation replacing Part 77 may be adopted by Federal authority) or such other lesser altitude as
may be required by COUNTY. In the event the aforesaid covenants are breached, COUNTY
reserves the right to enter upon the land Leased hereunder and to remove the offending structure
or object and cut the offending tree, all of which shall be at the expense of LESSEE. LESSEE
shall be responsible for filing Form 7460 for any construction and/or height of construction
equipment with the FAA, if required.

LESSEE acknowledges that it accepts the Leased Premises in “as is” condition and by entering
into this Lease accepts liability, and agrees to indemnify COUNTY pursuant to Section 11.02 for
all existing conditions whether known or unknown on the Commencement Date.

SECTION 12.08 NONINTERFERENCE WITH AIRCRAFT

LESSEE by accepting this Lease agrees for itself, its successors and assigns that it will not make
use of the Leased Premises in any manner which might interfere with the landing and taking off
of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant
is breached, COUNTY reserves the right to enter upon the Leased premises and hereby cause the
abatement of such interference at the expense of LESSEE.

SECTION 12.09 WAR OR NATIONAL EMERGENCY

This Lease 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 Airport or the exclusive or nonexclusive use of Airport by the United
States during the time of war or national emergency.

SECTION 12.10 DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

It is the policy of the Department of Transportation that disadvantaged business enterprises (DBE)
as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance
of contracts financed in whole or in part with Federal funds under this Lease. To the extent
applicable to LESSEE’s operations at the Airport, LESSEE agrees to comply with all DBE
requirements.

SECTION 12.11 RESERVATION OF RIGHT OF ENTRY AND EASEMENT FOR
NAVIGATIONAL AIDS

COUNTY reserves the right to enter the Leased Premises for the installation and maintenance of
Airport navigational aids. Said navigational aids may be installed on land or improvements within
the Leased Premises. Said installation and any required maintenance shall be coordinated with
LESSEE so as to cause the least interference with LESSEE's use of the Leased Premises. All
installation and maintenance costs will be paid by COUNTY.

COUNTY also reserves the right to grant easements to provide utilities to serve the navigational
aids. All utility costs for the operation of navigational aids shall be the responsibility of COUNTY.
SECTION 12.12 ACCESS TO LEASED PREMISES

The COUNTY has exclusive access and control over the perimeter gates to the airfield. LESSEE shall not unlock, tamper or open any Airport perimeter gate on the Leased Premises unless specifically authorized by the COUNTY in writing. In order to meet reasonable requirements for Airport operation and traffic safety and control, COUNTY, at COUNTY’s sole discretion, shall determine and may from time to time change the location of ingress and egress connecting the Leased Premises to public road right-of-way or Airport on-site roads and taxiways. Access locations to the Leased Premises from public road right-of-ways shall be limited to a single location unless an additional access point is approved by COUNTY. Should it be necessary for COUNTY to change the location of said access point LESSEE shall be given sixty (60) days prior written notice.

SECTION 12.13 AIRPORT MAINTENANCE AND CONSTRUCTION BY COUNTY

COUNTY may, from time to time, need to perform construction, maintenance, repairs or installations on, near or under the Leased Premises. Such work may include, but is not limited to, construction and maintenance of Airport aprons, taxiways and access roads; repair or installation of utilities; and improvement or repair of Airport drainage. Should such work by COUNTY adversely affect LESSEE’s operations within or from the Leased Premises, LESSEE shall only be entitled to a reduction in rent payable to COUNTY during the period of interference which shall be reduced in proportion to the interference with LESSEE’s use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation, payment or damages.

SECTION 12.14 AMERICANS WITH DISABILITIES ACT

LESSEE shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 (“ADA”) in connection with: (a) the Leased Premises or any portion thereof and its operations thereon, LESSEE’s furnishings, trade fixtures and equipment; (b) removing physical barriers; (c) providing auxiliary aids and services for use of the LESSEE’s furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. LESSEE shall develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of disability complaints. LESSEE shall deliver to the COUNTY, upon the COUNTY’s request, a copy of each report and work plan. The COUNTY’s approval of or acceptance of any aspect of the LESSEE’s activities under this Lease shall not be deemed or construed in any way as a representation that such item, activity of practice complies with the ADA. LESSEE agrees to indemnify, defend, and hold the COUNTY harmless from and against any and all costs incurred by the COUNTY with respect to the LESSEE’s failure to comply with the ADA.
ARTICLE XIII - MISCELLANEOUS PROVISIONS

SECTION 13.01 TIME

Time is of the essence in this Lease.

SECTION 13.02 LEASE ORGANIZATION

The various headings and numbers herein, the grouping of provisions of this Lease into separate sections and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.

SECTION 13.03 AMENDMENTS

This Lease sets forth all of the agreements and understandings of the parties with regard to its subject matter and any modification must be written and properly executed by both parties.

SECTION 13.04 SIGNS

LESSEE agrees not to construct, maintain or allow any sign upon the Leased Premises except as approved by Airport Director. Unapproved signs, banners, flags, etc., may be removed by Airport Director without prior notice to LESSEE.

SECTION 13.05 PERMITS AND LICENSES

LESSEE shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with the operation of the Leased Premises as set forth herein. No permit approval or consent given hereunder by COUNTY in its governmental capacity shall affect or limit LESSEE's obligations hereunder, nor shall any approvals or consents given by COUNTY as a party to this Lease, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

LESSEE’s obligation under this section includes the responsibility to pay any and all fees associated with permitting, including any development fees due to the Transportation Corridor Agency which may be assessed at the time of permitting.

SECTION 13.06 TAXES AND ASSESSMENTS

This Lease may create a possessory interest which is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to possessory interest tax, personal property taxes, and taxes and fees associated with permitting, including without limitation any development fees due to the Transportation Corridor Agency) which become due and payable upon the Leased Premises or upon fixtures, equipment, or other
property installed or constructed thereon, shall be the full responsibility of LESSEE, and LESSEE shall cause said taxes and assessments to be paid promptly.

SECTION 13.07 CIRCUMSTANCES WHICH EXCUSE PERFORMANCE

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Section shall excuse LESSEE from the prompt payment of any rental or other charge required of LESSEE except as may be expressly provided elsewhere in this Lease.

SECTION 13.08 PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 13.09 WAIVER OF RIGHTS

The failure of COUNTY or LESSEE to insist upon strict performance of any of the terms, covenants or conditions of this Lease shall not be deemed a waiver of any right or remedy that COUNTY or LESSEE may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants and conditions of the Lease thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of this Lease. Any waiver, in order to be effective, must be signed by the party whose right or remedy is being waived.

SECTION 13.10 RESERVATIONS TO COUNTY

The Leased Premises are accepted “as is” by LESSEE subject to any and all existing easements and encumbrances. COUNTY reserves the right to install, lay, construct, maintain, repair and operate sanitary sewers, drains, storm water sewers, pipelines, manholes and connections; water, oil and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under and along the Leased Premises or any part thereof; and to enter the Leased Premises for any and all such purposes. COUNTY also reserves the right to grant franchises, easements, rights of way and permits in, over, upon, through, across, under and along any and all portions of the Leased Premises. No right reserved by COUNTY in this Section shall be so exercised as to interfere unreasonably with LESSEE’s operations hereunder or to impair the security of any secured creditor of LESSEE.

COUNTY agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original
condition upon the completion of any construction. COUNTY further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Leased Premises by LESSEE, LESSEE shall only be entitled to a reduction in the rent payable to COUNTY during the period of interference, which shall be reduced in proportion to the interference with LESSEE’s use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation.

SECTION 13.11 AUTHORITY OF LESSEE

If LESSEE is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with the by-laws of said corporation, and that this Lease is binding upon said corporation.

LESSEE has had access to legal advice from an attorney with respect to the advisability of entering into this Lease. COUNTY has made no statement or representation to LESSEE regarding any fact relied upon in entering into this Lease; and LESSEE did not rely upon any statement, representation, or promise of COUNTY in executing this Lease. LESSEE has made its own independent investigation of all facts pertaining to this Lease and the Lease Premises, and of all the matters pertaining thereto, as LESSEE deemed necessary. LESSEE expressly acknowledges it has read and understood the terms and conditions set forth in this Lease and has authority to execute this Lease.

SECTION 13.12 COUNTY REPRESENTATIVE

The Board of Supervisors hereby designates the Airport Director to be its designated representative for purposes of contact between the COUNTY and LESSEE in connection with this Lease, including, without limitation, the giving of consents and approvals in a timely manner and in accordance with the terms hereof. The Board of Supervisors may at any time, by notice given to LESSEE, remove the Director as the COUNTY’s representative and appoint another individual to act as the County’s representative.

SECTION 13.13 PUBLIC RECORDS

LESSEE understands that written information submitted to and/or obtained by COUNTY from LESSEE related to this Lease and/or the Leased Premises, either pursuant to this Lease or otherwise, may be open to inspection by the public as required by the California Public Records Act (Government Code § 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof.

SECTION 13.14 NATIONAL SECURITY

LESSEE agrees to follow all laws, rules, regulations, and/or executive orders of the United States promulgated to protect national security, including, without limitation, the following: (1) the Trading with the Enemy Act of 1917, 50 U.S.C. App. § 1, et seq., as amended; (2) the International Emergency Economic Powers Act of 1976, 50 U.S.C. § 1701, et seq., as amended; (3) the Anti-
Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405W, as amended; (4) Executive Order No. 13224 on Terrorist Financing (effective, September 24, 2001, as may be amended or supplemented); (5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56, as amended); and (6) the regulations of the United States Department of the Treasury Office of Foreign Assets Control (including the prohibitions against doing business with persons or entities named on the list of “Specially Designated Nationals and Blocked Persons,” as modified from time to time).

SECTION 13.15 RELATIONSHIP OF PARTIES

The relationship of the parties hereto is that of COUNTY and LESSEE, and it is expressly understood and agreed that COUNTY does not in any way or for any purpose become a partner of LESSEE in the conduct of LESSEE's business or otherwise, or a joint venturer with LESSEE; and the provisions of this Lease and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method by which rental payments are to be measured and ascertained. This Lease is intended for the sole benefit of the parties hereto and their successors, and, unless otherwise provided herein, or by law, no rights are created, or are intended to be created, for the benefit of, or enforceable by, any third parties.

SECTION 13.16 ATTORNEYS’ FEES

In any action or proceeding to enforce or interpret any provision of this Lease, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorneys’ fees, costs and expenses.

SECTION 13.17 PORT OF ENTRY DESIGNATION

LESSEE acknowledges the Airport’s desire to be granted USCBP Port of Entry status by the federal government, and will support Airport in any efforts to that end. LESSEE shall refrain from undertaking any action to diminish the likelihood of the Airport receiving a Port of Entry designation.

SECTION 13.18 TRAINING AND CUSTOMER SERVICE PLANS

LESSEE will implement a customer service plan and training plan as provided for in Training and Customer Service Plan, Exhibit I, attached hereto, which plans may be amended, updated, or superseded from time to time, with the concurrence of the Airport Director.

SECTION 13.19 LESSEE’S SERVICE OF ALCOHOL

LESSEE shall comply with all applicable federal, State, and local laws and regulations for the service of alcohol. LESSEE agrees to adhere to the guidelines of 14 CFR Part 91.17 in serving alcohol to aircraft crewmembers. LESSEE shall maintain appropriate insurance coverage for the
service of alcohol.

SECTION 13.20 NOTICES

All notices pursuant to this Lease shall be addressed to either party as set forth below and shall be sent through the United States Mail, in the State of California, duly registered or certified, return receipt requested with postage prepaid or by an overnight carrier service. If any notice is sent by an overnight carrier service, the same shall be deemed to have been served or delivered twenty-four (24) hours after mailing. Notwithstanding the above, COUNTY may also provide notices to LESSEE by personal delivery or by regular mail postage prepaid and any such notice so given shall be deemed to have been given upon the date of personal delivery or three (3) days after the date of deposit in the United States Mail, respectively.

TO: COUNTY

John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA 92626

TO: LESSEE

William R. Borgsmiller
President and Chief Executive Officer
ACI Jet
945 Airport Drive
San Luis Obispo, California 93401

With a copy (which shall not constitute notice) to:

Stephen R. Hofer
Aerlex Law Group
11900 West Olympic Boulevard
Suite 450
Los Angeles, California 90064-1171

Either party hereto may from time to time, by written notice to the other in the method described above, designate a different address which shall be substituted for the one above specified.

[Signature Page Follows.]
JOHN WAYNE AIRPORT
FBO LEASE

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

LESSEE, Aviation Consultants, Inc., doing business as ACI Jet

By: ____________________________

APPROVED AS TO FORM:
County Counsel
By: ____________________________

APPROVED AS TO AUDIT AND ACCOUNTING:
Auditor-Controller
By: ____________________________

RECOMMENDED FOR APPROVAL:
John Wayne Airport
By: ____________________________
Barry A. Rondinella
Airport Director

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. Sec. 25103, Reso 79-1535
Attest:

COUNTY
COUNTY OF ORANGE

Robin Stieler
Clerk of the Board of Supervisors
County of Orange

Chairwoman, Board of Supervisors

PM 1121-0223-0031
Northeast FBO Lease
NORTHWEST FULL-SERVICE
FIXED BASE OPERATION (FBO) LEASE

Dated ______________

between

County of Orange

and

Clay Lacy Aviation, Inc.

LESSEE
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EXHIBIT DISCLAIMER

Some information contained in the Exhibits to this Lease has been obtained by COUNTY’s representatives and/or third parties. The information is believed to be reasonably correct, but the COUNTY does not warrant either the completeness or accuracy of such information. It is the responsibility of the LESSEE to verify all such information.
THIS FBO Lease (“Lease”) is made and entered into this ____ day of ______________, 20__, by and between the COUNTY OF ORANGE, a political subdivision of the State of California (“COUNTY”), and CLAY LACY AVIATION, INC. (“LESSEE”).

RECITALS

WHEREAS, COUNTY, through its Board of Supervisors, is the owner and airport proprietor of John Wayne Airport (“JWA” or “Airport”), located in the County of Orange, State of California, and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public; and

WHEREAS, JWA is in the process of implementing a comprehensive General Aviation Improvement Program (“GAIP”) with the intent to improve service, safety, security and efficiency for general aviation services and activities at JWA; and

WHEREAS, on June 25, 2019, COUNTY certified the GAIP Environmental Impact Report (“EIR”) 627 and selected the Proposed Project, providing a framework for general aviation improvements at the Airport and a comprehensive update of JWA’s general aviation facilities; and

WHEREAS, JWA conducted a competitive Request for Proposal (“RFP”) process and COUNTY selected LESSEE to develop and operate an updated Fixed Based Operator (“FBO”) facility at the Airport under this long-term Lease;

NOW, THEREFORE, in consideration of the promises and the mutual covenants hereinafter contained to be observed and performed by the respective parties hereto,

THE PARTIES HERETO COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

ARTICLE I - DEFINITIONS

The following words, terms and phrases whenever used in this Lease shall have the meaning and significance attached to them in this Article, unless otherwise apparent from context.

SECTION 1.01 AIRPORT

“Airport” or “JWA” shall mean the John Wayne Airport, Orange County, California.

SECTION 1.02 AIRPORT DIRECTOR

“Airport Director” or “Director” shall mean the Director of John Wayne Airport, County of Orange, as appointed by the County Executive Office, or Director's designee.
SECTION 1.03 AIRPORT FUEL FARM

“Airport Fuel Farm” or “Fuel Farm” shall mean the area located at the Southeast corner of the Airport located at the intersection of Campus Drive and Bristol Street, which contains COUNTY and LESSEE fueling facilities consisting of above ground sump tanks, underground fuel storage tanks, piping and associated fueling apparatus of which LESSEE’S Fuel Storage Parcel comprises a portion.

SECTION 1.04 BEST MANAGEMENT PRACTICES

“Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, safety plans, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment measures, operating procedures, and practices to control erosion, facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include any type of pollution prevention and pollution control measure necessary to achieve compliance.

SECTION 1.05 BOARD OF SUPERVISORS

“Board of Supervisors” shall mean the members of the Board of Supervisors of the County of Orange, as governing body of the County and proprietor of the Airport through its Airport Director, or designees, as appropriate.

SECTION 1.06 COUNTY

“COUNTY” shall mean the County of Orange, a political subdivision of the State of California.

SECTION 1.07 DOT

“DOT” shall mean the United States Department of Transportation.

SECTION 1.08 ENVIRONMENTAL LAWS

of 1986 ("Proposition 65"); (ix) California Health and Safety Code §§25100, 25395.7, 25915 et seq.; (x) the Porter-Cologne Water Quality Control Act (California Water Code); (xi) California Civil Code § 3479 et seq.; (xii) Storm Water Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (xiii) the Carpenter-Presley-Tanner Hazardous Substances Account Act; (xiv) the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; (xv) the Safe Drinking Water Act, 24 U.S.C. § 300f, et seq.; (xvi) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ (or most current); xvii) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ amended by 2010-0014-DWQ & 2012-0006-DWQ; xviii) The County of Orange, Orange County Flood Control District and The Incorporated Cities of Orange County within the Santa Ana Region Areawide Urban Storm Water Runoff Orange County Municipal Separate Storm sewer System (MS4) Permit Order No. R8-2009-0030 (National Pollutant Discharge Elimination System No. CAS618030) as amended by Order No. R8-2010-0062; xix) South Coast Air Quality Management District Regulations and Rules; and (xx) all other federal, State, and local laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (a) emissions, discharges, releases, and/or threatened releases of Hazardous Materials into the environment (including, but not limited to, ambient air, surface water, groundwater, land surface, or subsurface strata); and (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of Hazardous Materials, as such laws are amended, and the regulations and administrative codes applicable thereto.

SECTION 1.09 FAA

“FAA” shall mean the Federal Aviation Administration created under the Federal Aviation Act of 1958, or such successor agency as may from time to time have similar jurisdiction over LESSEE or its business, and the Airport.

SECTION 1.10 HAZARDOUS MATERIALS

“Hazardous Materials” shall mean any pollutant, contaminant, chemical, compound, substance, hazardous or toxic substance, material, waste, and/or any other matter, which is or shall become regulated by any governmental entity, including, but not limited to COUNTY acting in its governmental capacity, the State of California, and/or the United States Government. The term “Hazardous Materials” includes, without limitation, any material or substance which is: (i) defined or listed as a “hazardous waste,” “extremely hazardous waste,” “restrictive hazardous waste” or “hazardous substance” or considered a waste, condition of pollution, nuisance, and/or is controlled or governed under any Environmental Law; (ii) petroleum or a petroleum product or fraction thereof; (iii) asbestos-containing materials; (iv) flammable or explosive substances; (v) mold-containing materials; poly-chlorinated biphenyl compounds; and/or (vi) substances designated by any governmental entity to cause cancer and/or reproductive toxicity.
SECTION 1.11 NON-STORM WATER DISCHARGE

“Non-Storm Water Discharge” shall mean any discharge to storm sewer systems that is not entirely composed of storm water. “Non-Storm Water Discharge” includes “Unauthorized Non-Storm Water Discharges” and “Authorized Non-Storm Water Discharges” as defined by the California Environmental Protection Agency State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities and Construction Activities.

SECTION 1.12 NPDES PERMIT

“National Pollutant Discharge Elimination System (NPDES) Permit” means the currently applicable discharge permit(s) issued by the Regional Water Quality Control Board, Santa Ana Region, which establish waste discharge requirements applicable to storm runoff within the County and Airport.

SECTION 1.13 POLLUTANT

“Pollutant” means any chemical, compound, substance, liquid, solid or semi-solid substances, or combination thereof, including but not limited to:

a. Artificial materials (such as floatable plastics, wood products or metal shavings);

b. Household waste (such as trash, paper, and plastics; cleaning chemicals, yard wastes, animal fecal materials, used oil and fluids from vehicles, lawn mowers and other common household equipment);

c. Metals and nonmetals, including compounds of metals and nonmetals (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic) with characteristics which cause an adverse effect on living organisms;

d. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);

e. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;

f. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;

g. Materials which contain base/neutral or acid extractable organic compounds;

h. Those pollutants defined in Section 1362(6) of the Federal Clean Water Act;

i. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus, or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial use of the receiving waters, flora or fauna of the State; and

j. Any substance listed under Health and Safety Code, §25316.
SECTION 1.14 PROHIBITED DISCHARGE

“Prohibited Discharge” shall mean any discharge that contains any pollutant, from public or private property to (i) the storm water drainage system; (ii) any upstream flow, which is tributary to the storm water drainage system; (iii) any groundwater, river, stream, creek, wash or dry weather arroyo, wetlands area, marsh, or coastal slough; or (iv) any coastal harbor, bay, or the Pacific Ocean.

SECTION 1.15 STORM WATER

“Storm Water” shall mean storm water runoff, snowmelt runoff, and storm water surface runoff and drainage.

SECTION 1.16 STORM WATER DRAINAGE SYSTEM

“Storm Water Drainage System” means street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility, which is a part of a tributary to the county-wide storm water runoff system and owned, operated, maintained or controlled by the County of Orange, the Orange County Flood Control District or any co-permittee city, and used for the purpose of collecting, storing, transporting, or disposing of storm water. The Airport storm drain system shall mean any gutter, channel, storm drain, constructed drain, wash area, inlet or outlet or other facility that flows into, onto, through or out of the Airport property.

SECTION 1.17 TERMINAL

“Terminal” means the Thomas F. Riley commercial passenger terminal at John Wayne Airport.

SECTION 1.18 TSA

“TSA” shall mean the Transportation Security Administration of the United States Department of Homeland Security, the federal agency responsible for regulation of airport security, or any similar successor agency.

ARTICLE II - TERM OF LEASE

SECTION 2.01 TERM OF LEASE

The term of this Lease shall be thirty-five (35) years commencing on January 1, 2021 (“Commencement Date”), and continuing through December 31, 2055.

SECTION 2.02 HOLDING OVER

In the event LESSEE shall continue in possession of the Leased Premises after the term of this Lease, such possession shall not be considered an extension or renewal of this Lease but a tenancy from month-to-month and shall be terminable upon 30 days’ written notice and otherwise governed
by the conditions and covenants contained in this Lease. The Minimum Annual Rent used as the basis to calculate monthly rents for any month-to-month holdover period shall be subject to the terms in Section 4.01 of this Lease.

**ARTICLE III - LEASED PREMISES**

**SECTION 3.01 LEASED PREMISES**

COUNTY leases to LESSEE that certain real property as shown in Exhibits A and B hereinafter referred to as “Leased Premises” and incorporated herein by this reference. **Said Leased Premises are being leased to LESSEE in their “as-is” and “where-is” condition.**

LESSEE further acknowledges that COUNTY has made no representation or warranty regarding the condition of the Leased Premises or the suitability of such Leased Premises for the operation or conduct of LESSEE’s use thereon or for any other purpose. The taking of possession of the Leased Premises by LESSEE shall conclusively establish that the Leased Premises is acceptable to LESSEE and in satisfactory condition for LESSEE’s use at such time. LESSEE further, by taking possession of the Leased Premises, expressly acknowledges and represents to COUNTY that LESSEE is accepting LESSEE’s interest in, and possession of, the Leased Premises in their present condition “as-is” and “where-is” including, but not limited to, the physical condition and environmental condition of the Leased Premises and all applicable laws affecting or related to the Leased Premises, or any part thereof, including, but not limited to, building and safety codes, zoning ordinances, land use restrictions and regulations, Environmental Laws, and other such matters. LESSEE acknowledges and represents to COUNTY that neither COUNTY nor any agent or representative of COUNTY has made any representation, warranty or promise with respect to the Leased Premises, or any part thereof; that LESSEE has satisfied itself with the condition of the Leased Premises and the suitability of the Leased Premises for LESSEE’s intended use; and that LESSEE has made all such investigations as LESSEE deems necessary with reference to the Leased Premises and assumes all responsibility therefor as the same relates to LESSEE’s occupancy thereof.

**SECTION 3.02 NATURE OF LESSEE'S ESTATE**

LESSEE acknowledges and agrees to all of the following:

A. **COUNTY has granted to LESSEE a leasehold interest in the Leased Premises only.**

B. **COUNTY retains a fee ownership for federal income tax purposes in and to the Leased Premises, as well as all other ownership burdens and benefits connected with such fee ownership.**

C. **LESSEE has not been granted any direct or indirect right or option to purchase the Leased Premises from COUNTY at any time during or after the termination and/or expiration of this Lease.**
SECTION 3.03 INSTALLATION OF EQUIPMENT OUTSIDE THE LEASED PREMISES

LESSEE shall not make any alteration or install any fixture or equipment of any kind outside the Leased Premises unless authorized in writing by the Airport Director prior to installation.

ARTICLE IV - RENT

SECTION 4.01 RENT, FEES, AND CHARGES

Rent shall consist of Minimum Annual Rent and Additional Rent, as defined and adjusted from time to time as set forth hereinafter.

A. Minimum Annual Rent

For purposes of this Lease the “Minimum Annual Rent” is defined as the sum of Ground Rent and Building Rent. The Minimum Annual Rent shall be payable in twelve (12) equal monthly installments on or before the first (1st) day of each calendar month beginning on the Commencement Date. Said amount shall be subject to annual adjustment as set forth in that section of the Lease entitled “REVISION OF RENT, FEES AND CHARGES.”

1) Ground Rent

Ground Rent shall consist of $1.77 price per square foot (psf) for the square footage of all land that makes up the Leased Premises.

   Ground Rent = $93,688.76 per month

2) Building Rent

Subject to the provisions of Sections 4.01(B)(5) and 4.01(B)(6) below, Building Rent shall consist of $8.76 price per square foot (psf) for the square footage of all enclosed structures located upon the Leased Premises on the Commencement Date.

   Building Rent at Commencement Date = $72,865.68 per month

LESSEE shall pay 150% of Minimum Annual Rent during any holdover period, which shall be calculated based on the most current month prior to holdover period commencement.

B. Additional Rent

Additional Rent shall include Percentage Rent of Gross Receipts, Rent-a Car Fees, Advertising Fees, Fuel Flowage Fees, and Lubricant Fees as defined below. Additionally, NSF Check Fees, Charges for Late Payments, Penalty Fees, and Unauthorized Use and
Services Fees, and all other monetary obligations under this Lease shall be deemed Additional Rent. Further, COUNTY has the right to make any payment to any third-party on any delinquent obligation which LESSEE is obligated to pay under this Lease and recover that amount from LESSEE as Additional Rent.

LESSEE agrees to pay all Additional Rent monthly, in arrears, on or before the fifteenth day of each month, up to and including the last day of the preceding month.

1) Percentage Rent of Gross Receipts

LESSEE shall pay an amount equal to five percent (5%) of all Gross Receipts (as defined in Section 4.02) realized by LESSEE from its business operations on or from the Leased Premises including any amounts received by LESSEE from subtenant(s), sublessee(s), or licensee(s), as more fully set forth in Section 4.02, below.

LESSEE shall pay an amount equal to one-quarter of one percent (.25%) of all Gross Receipts realized by LESSEE for aircraft charter operations, the sale of aircraft, the sale of aircraft parts, and third-party aircraft maintenance services.

2) Rent-A-Car Fees

LESSEE shall pay its percentage of reportable Gross Receipts from rental car activities equal to the percentages paid by other rental car companies operating on Airport, which on the Commencement Date equals ten percent (10%), and which is subject to adjustment from time to time.

3) Advertising Receipts

LESSEE shall pay fifty percent (50%) of its Gross Receipts from all third-party advertising activities conducted on the Leased Premises. At least fifteen (15) days in advance of any advertising activity, LESSEE shall submit all advertising creatives and programs to JWA for Airport Director’s prior written approval.

4) Fuel Flowage Fees and Lubricant Fees

LESSEE shall pay a fuel flowage fee of six cents ($0.06) per gallon of fuel delivered to the Airport and lubricant fees of ten cents ($0.10) per gallon or as otherwise set by COUNTY’s Board of Supervisors.

All fuel flowage fees shall be applied to all fuel handlers without unjust discrimination. All such fees shall be calculated upon deliveries made to LESSEE at the airport. The fuel gallonage shall be computed on the basis of net gallonage delivered and invoiced to LESSEE. Oil gallonage and lubricant weights shall be based on delivery invoices as supplied by the oil delivery company to LESSEE.
5) Building Rent Adjustment During Construction

Beginning upon the initiation of demolition of enclosed structures located on the Leased Premises as of the Commencement Date, Building Rent shall be adjusted each month to reflect, on a pro-rata basis, the maximum square footage of usable space of such buildings at any point during the prior month. Ground Rent and Additional Rent shall remain unchanged during the course of any demolition or construction activities.

6) No Building Rent for New Improvements

In recognition that LESSEE will be constructing or causing new improvements to be constructed without cost to COUNTY and that LESSEE will be obligated to pay the property taxes, insurance, and other costs that become payable with respect to the Leased Premises, including any new improvements, and that all new improvements will revert to COUNTY at the expiration or termination of this Lease, no Building Rent will be due or payable by LESSEE for such new improvements.

C. Fuel Pricing

LESSEE’s highest fuel prices for aircraft fuel sold at JWA shall be established with reference to a regional average of the following airports: McClellan–Palomar Airport (CRQ), Van Nuys Airport (VNY), Hollywood Burbank Airport (BUR) and Long Beach Airport (LBG), and shall not be more than ten percent (10%) above the median retail price of fuel sold at those four airports, as published weekly by Airnav.com.

LESSEE may also provide other discounts and shall seek to maintain competitive fuel pricing for customers purchasing fuel at JWA.

Fuel pricing shall be accessible and subject to inspection or audit by Airport Director or designee upon request.

Notwithstanding anything in this Lease to the contrary, all amounts payable by LESSEE to or on behalf of COUNTY under this Lease, whether or not expressly denominated as Minimum Annual Rent, Ground Rent, Building Rent, or Additional Rent, shall also constitute rent for the purposes of the Bankruptcy Code, 11 United States Code Section 502(b). Rent payments shall be made in accordance with the provisions with that section of the Lease entitled “PAYMENT PROCEDURE.”

SECTION 4.02 DEFINITION OF GROSS RECEIPTS

As used in this section, the term “LESSEE” shall include LESSEE, its officers, directors, employees, agents, affiliates, assigns, and successors. The term “Gross Receipts” upon which five percent (5%) of Gross Receipts is to be calculated, shall include the following:
A. All business activities that generate income or revenue for LESSEE on or from the Leased Premises, which shall include but not be limited to, the sale price of all goods, services, wares, and products sold, performed or traded on or from the Leased Premises, whether for cash or credit and whether payment is actually made or not (provided, however, that it is expressly understood that the activities encompassed in this Subsection 4.02(A) do not include those activities that are covered by the separate percentage (.25%) provided for in the second paragraph of Subsection 4.01(B)(1);

B. All admission, entry, rental and other fees of any nature or kind charged by LESSEE;

C. The fair rental value of facilities on the Leased Premises used by LESSEE or its employees for purposes other than the business purposes for which the Leased Premises are leased;

D. The value of all consideration received by LESSEE including, without limitation, non-monetary considerations, including trades, for the items sold, leased, rented or services rendered.

E. Any rent, consideration or other amounts paid to LESSEE by subtenant(s), sublessee(s), or licensee(s), or any person acting under contract with LESSEE based on LESSEE’s operations at JWA.

F. Revenue from box hangars.

Gross Receipts subject to the five percent (5%) payment amount shall exclude revenue from tie-downs, sunshades, and T-hangars; Rent-a-Car Fees; Advertising Receipts; Fuel Sales; Fuel Flowage Fees and Lubricant Fees; pass-through costs (which are understood to be expenses that LESSEE prepays on behalf of aircraft owners in the course of aircraft operations as a matter of convenience, and which are then reimbursed by said aircraft owners and on which LESSEE charges no markup), and all sales and excise taxes as defined by federal, State, county or municipal government tax codes, and that are paid by LESSEE as a direct result of operations under this Lease.

Refunds for goods returned shall be deducted from current Gross Receipts upon return. Bad debt losses, including but not limited to NSF checks and uncollectible credit card charges, shall not be deducted from Gross Receipts.

Discounts including but not limited to allowances, deductions, rebates, trades, kickbacks, hidden credit, promotional sales, or any other reductions shall not be deducted from Gross Receipts, unless the Airport Director provides written approval for such a discount.

SECTION 4.03 CHARGE FOR UNAUTHORIZED SERVICES AND USES

In the event LESSEE breaches this Lease by using or permitting the Leased Premises to be used in any manner other than as expressly permitted under this Lease or by providing unauthorized services on the Airport outside of the Leased Premises, LESSEE shall pay COUNTY a sum equal
to one hundred percent (100%) of the Gross Receipts for any such service or use. Said payment shall be subject to the charge for late payment in that section of the Lease entitled “CHARGE FOR LATE PAYMENT.” As used in this section, the term “LESSEE” shall include LESSEE, its employees, agents, successors, assigns, affiliates, sublessees, concessionaires, licensees, or any person acting under contract with LESSEE, or on LESSEE’s behalf. All charges for unauthorized services and uses are due and payable as Additional Rent. Furthermore, this Lease may be subject to termination by the COUNTY for LESSEE’s unauthorized services or uses, which termination would be governed by the provisions of Section 9.02.

SECTION 4.04 REVISION OF RENT, FEES AND CHARGES

A. Minimum Annual Rent

The Minimum Annual Rent specified in that section of the Lease entitled “RENT, FEES AND CHARGES” shall be subject to automatic annual adjustments in proportion to changes in the Consumer Price Index for Los Angeles-Long Beach-Anaheim, CA (All Urban Consumers - All Items 1982-1984=100) promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor. The automatic adjustment shall be effective on each anniversary of the Commencement Date of the Lease and shall be calculated by means of the following formula:

\[ A = \frac{B \times C}{D} \]

- \( A \) = Adjusted Rent
- \( B \) = Minimum Annual Rent as originally set forth in that section of the Lease entitled “RENT, FEES AND CHARGES”
- \( C \) = Monthly index for the fourth month prior to the month in which each rental rate adjustment is to become effective
- \( D \) = Monthly index for the month in which this Lease becomes effective

In the event that the Consumer Price Index (CPI) ceases to use 1982-84 = 100 as the basis of calculation, or if, in COUNTY’s sole judgment, a substantial change is made in the method used by the federal government to determine the CPI or the items used to calculate the CPI, then the CPI shall be converted to the figure that would have been calculated (or as close to such figure as shall be practicable) had the manner of calculating the CPI in effect at the date of this Lease not been altered.

In the event that the CPI is not issued or published for the period for which such minimum annual rent is to be adjusted and computed hereunder, or in the event that the Bureau of Labor Statistics of the United States Department of Labor should cease to publish said index figures, then any similar index published by any other branch or department of the United States Government shall be used and if none is so published, then another index generally recognized as authoritative shall be substituted by COUNTY.
Notwithstanding the foregoing, in no event shall the rent be reduced by reason of any such adjustment.

B. Fees and Charges

The fuel flowage and lubricant fees shall be adjusted periodically by COUNTY based on the latest schedule established by Board of Supervisors. The rent-a-car percentage fees shall be the same as the percentage fees paid by other rental car companies operating on Airport.

SECTION 4.05 PAYMENT PROCEDURE

A. Place of Payment and Filing. Payments and statements required by Section 4.01 “RENT” shall be delivered to the County of Orange, John Wayne Airport Accounting Services, 3160 Airway Avenue, Costa Mesa, California 92626. The designated place of payment, filing and reporting may be changed at any time by COUNTY upon ten (10) days' written notice to LESSEE. Payments may be made by check payable to the County of Orange. LESSEE assumes all risk of loss if payments are made by mail.

B. Form of Payment. All sums due under this Lease shall be paid in lawful money of the United States of America without offset or deduction or prior notice or demand. No payment by LESSEE or receipt by COUNTY of a lesser amount than the payment due shall be deemed to be other than on account of the payment due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and COUNTY shall accept such check or payment without prejudice to COUNTY's right to recover the balance of the amount due or pursue any other remedy in this Lease. All Electronic Funds Transfer (EFT) payments must be remitted by Automated Clearing House (ACH) / direct deposit to the COUNTY’s designated bank account, or any future mode prescribed by the COUNTY. Any fees assessed to the COUNTY’s bank account due to the use of other form of payment (e.g. wire transfer) not prescribed or approved by the COUNTY, shall be passed through to the LESSEE plus $25 processing fee.

C. In the event the obligation to pay rent begins or terminates on some day other than the first or last day of the month, the rent shall be prorated to reflect the actual period of use on the basis of a thirty (30) day month. The rent for any partial calendar month during which this Lease becomes effective will be payable on such effective date.

D. NSF Check Fees. In the event a check submitted by LESSEE is returned for non-sufficient funds (“NSF”), LESSEE agrees to pay COUNTY a fee in the amount of twenty-five dollars ($25) for the first check, and thirty-five dollars ($35) for each subsequent check. All NSF check fees are due and payable as Additional Rent. LESSEE will be liable for treble the amount of the check under certain circumstances described by California Civil Code Section 1719.
SECTION 4.06 CHARGE FOR LATE PAYMENT

LESSEE hereby acknowledges that the late payment of rent or any other sums due hereunder will cause COUNTY to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, administrative processing of delinquent notices, increased accounting costs, lost interest income.

Accordingly, if any payment of rent as specified in that section of the Lease entitled “RENT, FEES AND CHARGES” or of any other sum due COUNTY is not received by COUNTY by the due date, a late charge of one and one-half percent (1.5%) of the payment due and unpaid plus one hundred dollars ($100) shall be added to the payment, and the total sum shall become immediately due and payable to COUNTY. An additional charge of one and one-half percent (1.5%) of said payment, excluding late charges, shall be added for each additional month that said payment remains unpaid. All charges for late payments are due and payable as Additional Rent.

LESSEE and COUNTY hereby agree that such late charges represent a fair and reasonable estimate of the costs that COUNTY will incur by reason of LESSEE's late payment. Acceptance of such late charges (and/or any portion of the overdue payment) by COUNTY shall in no event constitute a waiver of LESSEE's default with respect to such overdue payment, or prevent COUNTY from exercising any of the other rights and remedies granted hereunder.

SECTION 4.07 PROVISION AGAINST SET-OFFS

It is the obligation of LESSEE to pay all rents, fees, and charges, free of any set-offs or claims, in the amount and at the times specified in this Lease. In the event that LESSEE desires to contest the validity or amount due and owing, LESSEE shall first pay the same to COUNTY and may then seek a refund in any appropriate forum.

SECTION 4.08 SECURITY DEPOSIT

No less than thirty (30) days prior to the Commencement Date of this Lease, LESSEE shall deposit with COUNTY a security deposit subject to the provisions for adjustment as provided hereinafter. Concurrently with each revision of the rent pursuant to that section of the Lease entitled “RENT, FEES, AND CHARGES,” the security deposit to be provided by LESSEE shall be adjusted to six (6) times the total monthly building and ground rent to guarantee the faithful performance by LESSEE of its obligations under this Lease and the payment of all rents, fees and charges due hereunder. Any increased security deposit is due within ten (10) business days of such adjustment.

The security deposit shall take one of the forms set out below and shall guarantee LESSEE's full and faithful payment and performance of all the terms, covenants, and conditions of this Lease:

A. An instrument or instruments of credit from one or more financial institutions, subject to regulation by the State of California or Federal government, pledging that funds necessary to secure performance of the Lease terms, covenants, and conditions are on deposit and guaranteed for payment, and agreeing that said funds shall be trust funds securing
LESSEE's performance and that all or any part shall be paid to COUNTY, or order upon demand by Airport Director. Both the financial institution(s) and the form of the instrument(s) must be approved by Airport Director.

B. A Faithful Performance Bond executed by a surety company or financial institution qualified and admitted to do business in the State of California and issued in a form, approved by the COUNTY. Under the bond, the surety company shall guarantee to COUNTY full and complete payment and performance of all the terms, conditions and covenants herein to be performed on the part of the LESSEE, including the payment of use fees, charges, rents, as well as any and all other payments. Said bond shall be maintained at the cost of the LESSEE throughout the existence of this Lease. Said Surety shall give Airport Director a minimum (30) days' prior written notice of cancellation or material change in said bond. Such cancellation or material change without Airport Director's prior written consent shall constitute a default under this Lease.

Regardless of the form in which LESSEE elects to make said security deposit, all or any portion of the principal sum shall be available unconditionally to the COUNTY for correcting any default or breach of this Lease by LESSEE, its successors or assigns, or for payment of expenses incurred by COUNTY as a result of the failure of LESSEE, its successors or assigns, to faithfully perform all terms, covenants, and conditions of this Lease.

Any instrument or bond shall have the effect of releasing depository or creditor therein from liability on account of the payment of any or all of the principal sum to COUNTY, or order upon demand by Airport Director.

In the event Airport Director withdraws all or any portion of the security deposit as provided herein, LESSEE shall, within ten (10) days of any withdrawal by Airport Director, replenish the security deposit to maintain it at amounts herein required throughout the Lease term. Failure to do so shall be deemed a default and shall be grounds for immediate termination of this Lease.

LESSEE shall be obligated to maintain the security deposit in effect until all obligations of LESSEE under this Lease have been fully paid and/or performed. LESSEE shall deliver to the COUNTY an original copy of all instruments obtained under this Section including renewals and amendments as applicable.

The security deposit, after deduction of all amounts due COUNTY, shall be rebated, reassigned, released or endorsed by the COUNTY to LESSEE or order, as applicable, after one hundred twenty (120) days have elapsed following the expiration date of the Lease term, provided LESSEE has fully and faithfully performed each and every term, covenant, and condition of this Lease.
ARTICLE V - USE

SECTION 5.01 USE

LESSEE's use of the Leased Premises shall be for operation of a Full Service FBO. LESSEE shall furnish all services on a reasonable, and not unjustly discriminatory, basis to all Airport users, and shall charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that LESSEE may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers. Any use or provision of services on Airport is specifically subject to rules and regulations as may be promulgated from time to time by COUNTY.

LESSEE shall ensure that aircraft fueling or self-fueling facilities (as applicable), aircraft storage (hangars and tie-downs), aircraft charters, and aircraft maintenance and repair services are provided from the Leased Premises throughout the term of this Lease. LESSEE shall designate an area for transient aircraft self-service activity as approved by Airport Director in his/her reasonable discretion.

LESSEE shall offer a right of first refusal to the Orange County Sheriff’s Department (“OCSD”) and Orange County Fire Authority (“OCFA”) to sublease an Air Support Facility (“ASF”) to be constructed and maintained by LESSEE on the Leased Premises in accordance with a mutually agreed design providing for operations and administrative support functions, an aircraft hangar and apron area for OCSD’s and OCFA’s helicopters, and auto parking. Such sublease will be negotiated between LESSEE and OCSD and OCFA on reasonable terms consistent with a fair market appraisal of the leased value of the ASF.

Other required services and operations include, without limitation:

A. Maintenance, repair, overhaul, and modification of general aviation aircraft, aircraft engines, airframes, automatic flight systems, instruments, radio, electronic equipment, propellers and other aircraft components under cover or indoors.

B. All taxiing and movement of aircraft must be accomplished in a manner that does not disturb or damage other aircraft or pavement outside the Leased Premises. Aircraft must be parked so that no portion of the aircraft extends outside the Leased Premises. Any takeoff and landing of rotorcraft may only be from an area approved by both the Airport and FAA for such use.

C. Effective upon LESSEE’s completion of a given phase of construction, as approved by Airport Director, LESSEE shall park or store aircraft affected by such construction phase on the Leased Premises in strict accordance with the uses depicted on Exhibit C for the remaining term of the Lease.

For purposes of the uses depicted on Exhibit C, the following definitions shall apply:
a. The green area marked as “SMALL GA” on Exhibit C shall only be used for the parking or storage of aircraft that meet at least one of the following criteria:
   i. The aircraft has a wingspan of less than 49 feet in accordance with FAA Airplane Design Group I (see Advisory Circular AC 150/5300-13A regarding Airport Design, updated September 28, 2012); or
   ii. The aircraft is a “small aircraft” with a maximum certificated takeoff weight of 12,500 pounds or less in accordance with Title 14 CFR § 1.1.

b. The yellow area marked as “MIXED USE” may be used for the parking or storage of aircraft of any size.

Any modification to the parking areas depicted on Exhibit C shall be permitted only with Airport Director’s prior written approval and shall not increase the acreage allotted for MIXED USE.

For each violation of this provision, LESSEE shall pay to COUNTY liquidated damages in the amount of $1,000 per occurrence, per day. LESSEE agrees this amount is reasonable in light of the anticipated harm to COUNTY for each such occurrence, which would otherwise be difficult to calculate with certainty.

D. Storage of aircraft-related supplies, parts and equipment necessary for support of said aircraft.

E. Retail and wholesale sales of aircraft fuel by into-plane full service fueling, engine oil, and lubricants. LESSEE acknowledges that COUNTY has installed a hydrant fueling system and fuel storage tanks to serve commercial airline aircraft, and LESSEE’s fuel storage improvements and wholesale deliveries will be serving only general aviation aircraft.

F. Line service for the purpose of fueling, supplying engine oil, checking tire pressures, and use of auxiliary power units for starting and/or on-the-ground utility service on the Leased Premises or in the public transit area.

G. Flight instruction (schools or individual instructors), including flight training and demonstration of aircraft for sale or charter.

H. Towing of disabled aircraft.

I. Maintenance and servicing of general aviation automotive ramp equipment (under cover or indoors), and the sale of aircraft fuel, subject to Airport Director approval.

J. Installation of food vending equipment and/or a coffee bar for the purpose of serving LESSEE’s employees and customers. Sale or vending of tobacco products is prohibited. Use of tobacco products is prohibited within any building on the Leased Premises.
K. Provision of aircraft washing beginning at such time as appropriate facilities are constructed and operational on the Leased Premises.

L. Office space incidental to LESSEE’s operations permitted herein.

Other allowed services and operations may be provided, including:

A. Sale, lease, and rental of new and used aircraft (both retail and wholesale).

B. Sale of aircraft parts and accessories (retail or wholesale).

C. Sale of new and used radio and other electronic equipment, including aircraft instruments.

D. Sale of navigational and aviation supplies and accessories.

E. Aircraft chartering, operation, and management services.

F. Financing, leasing, and insuring of aircraft.

G. Rent-a-car service.

H. Upholstery and maintenance of aircraft interiors.

I. Such other services or uses as Airport Director may approve in writing.

Additional Use Requirements and Prohibitions:

LESSEE shall provide on-site management personnel for hangars, tie-downs, and other uses permitted above. On the Commencement Date of this Lease, LESSEE shall accept the assignment from COUNTY to LESSEE of all aircraft parking and storage licenses (including all tie-down, sunshade, and hangar licenses) on the Leased Premises, and LESSEE shall assume responsibility for any waitlists for formerly COUNTY-operated facilities on the Leased Premises. LESSEE shall offer aircraft storage and maintain any waitlists for aircraft storage in a fair and transparent manner.

LESSEE shall provide the Airport with copies of all subleases and/or agreements with subtenants and/or third parties for the leasing of office space or another portion of the Leased Premises, community hangars, box hangars, flight instruction, maintenance and servicing of aircraft, wash and wax services, and rent-a-car services, within fifteen (15) days following execution of this Lease (in the case of pre-existing subleases and agreements), or within fifteen (15) days following the execution of any new such subleases or agreements.

LESSEE shall make restroom facilities available for general aviation users, as well as allow Airport Security personnel staffing perimeter gates to use such facilities closest to the gate they are staffing.
LESSEE shall comply with all applicable federal, State, and local laws and regulations. LESSEE agrees not to use the Leased Premises for any unauthorized commercial airline aviation purposes or to engage in or permit any activity not enumerated by this section within or from the Leased Premises. Additionally, LESSEE shall not permit the operation of a Regularly Scheduled Commercial User as defined in section 2.40 of John Wayne Airport’s Phase 2 Commercial Airline Access Plan and Regulation, as may be amended from time to time. LESSEE agrees not to conduct or permit to be conducted any public and/or private nuisance (as defined in Civil Code, §§3479 – 3481, et seq.) at, in, on, or from the Leased Premises, or to commit or permit to be committed any waste in, on or from the Leased Premises.

However, LESSEE may be permitted to provide certain commercial aviation ramp services and other contract ground services to commercial airlines pursuant to a separate Airline Related Services License.

**SECTION 5.02 USE OF PUBLIC AIRPORT FACILITIES**

COUNTY grants the LESSEE a license for the non-exclusive use of all public Airport facilities including, but not limited to, taxiways, runways, navigational aids and facilities relating thereto for purposes of landings, takeoffs and taxing of LESSEE's aircraft. All such use shall be in accordance with the laws of the United States of America, the State of California, and the rules and regulations promulgated by their authority with reference to aviation and air navigation, and in accordance with all reasonable and applicable rules, regulations, and ordinances of COUNTY now in force or hereafter prescribed or promulgated by ordinance or by law. The use of these areas shall be subject to the control and regulation of Airport Director, in his/her sole discretion. This license for non-exclusive use is subject to all rights reserved by the COUNTY to license, permit, authorize, regulate, and relocate concessionaires and other Airport lessees.

**SECTION 5.03 RULES AND REGULATIONS**

During the term of this Lease, the COUNTY may adopt and enforce rules and regulations which LESSEE agrees to observe and obey with respect to the use of the Airport and its appurtenances, facilities, improvements, equipment and services; provided that such rules and regulations shall not be inconsistent with safety and with rules, regulations, and orders of the FAA and TSA with respect to all operations of the Airport. Except in the case of emergency, the COUNTY shall give LESSEE written notice and opportunity to comment on any proposed changes or additions to the rules and regulations that could impact LESSEE's operations at the Airport before such proposed rules and regulations are adopted by the COUNTY. If requested, the COUNTY shall promptly provide a copy of such rules and regulations to LESSEE.

LESSEE must comply with the Minimum Standards promulgated by the Airport and presently in effect at the Commencement Date or in effect at such time as this Lease is amended.

LESSEE shall comply with all Airport Rules and Regulations, the Airport’s General Aviation Minimum Standards, and shall observe, obey, comply with and not otherwise hinder or obstruct any and all rules, regulations, laws, ordinances, statutes or orders of any governmental authority,
whether federal, State, or local, lawfully exercising authority over the Airport or the activities thereon, including compliance with FAA, TSA and Airport security rules, regulations, grant assurances, and plans. The Airport Rules and Regulations contain environmental and sustainability requirements that LESSEE agrees to make reasonable efforts to participate in, help facilitate, and cooperate with, including those related to air quality, waste, and water and energy conservation.

To the fullest extent authorized by law, LESSEE shall be liable to COUNTY for any and all claims, losses, expenses, demands, damages, fines or penalties of any nature whatsoever which may be imposed upon COUNTY due to LESSEE's violation of any governmental rules, regulations, or standards as now or may hereafter be promulgated or enacted, including, but not limited to, the payment of any fines or penalties for any breach of security, arising from the unauthorized entry of any person or vehicle onto Airport, or from any other violations caused directly or indirectly by the act, omission, negligence, abuse, or carelessness on the part of LESSEE, its employees, sublessees, agents, or suppliers.

COUNTY shall not be liable to LESSEE for any diminution or deprivation of possession, or of its rights hereunder, on account of the exercise of such right or authority as in this section provided, nor shall LESSEE be entitled to terminate the whole or any portion of the Leasehold estate herein created, by reason of the exercise of such right or authority, unless the exercise thereof shall so interfere with LESSEE's use and occupancy of the Leased Premises so as to constitute a termination in whole or in part of this Lease by operation of law in accordance with the laws of the State of California.

**SECTION 5.04 FUEL STORAGE PARCEL**

The Leased Premises includes an area designated as “Fuel Storage Parcel” which is described in the Exhibits attached hereto. LESSEE shall not use any other fuel storage tanks or facilities at the Airport without the prior written approval of the Airport Director, subject to any conditions described therein.

A. **Use**

The use of said Fuel Storage Parcel shall be limited to the storage and transfer of fuel, the installation and maintenance of all auxiliary equipment, and facilities required to handle such fuel storage and parking of aircraft refueling vehicles. Except as approved by Airport Director in writing, parking of fuel delivery or other vehicles is prohibited. LESSEE is prohibited from replacing, altering, or modifying the fuel storage tanks located on LESSEE’s designated Fuel Storage Parcel without the prior written approval of the Airport Director.

B. **Fuel Storage Parcel Access**

COUNTY agrees to provide LESSEE with access to the Fuel Storage Parcel from the ramp and runway areas which will not require LESSEE’s fuel handling equipment to travel upon
a public roadway. COUNTY reserves the right to access groundwater and/or soil below the Fuel Storage Parcel, for monitoring, assessment, evaluation, remediation, or as otherwise deemed necessary by the Airport Director.

C. Liability

LESSEE acknowledges that said Fuel Storage Parcel was under control and operation of prior lessees during a previous lease with COUNTY which expired. As set forth in this Lease, and without releasing any other party that may be legally responsible and/or financially liable for the environmental conditions that exist upon execution of this Lease, LESSEE agrees that LESSEE shall be liable and assume responsibility for the environmental conditions associated with the fuel storage tanks on the Leased Premises and for the cleanup of any Hazardous Materials in, at, on, under, and/or emanating from said Fuel Storage Parcel which were present during that prior occupancy or control and to indemnify and hold COUNTY harmless for any such condition as required by the “ENVIRONMENTAL INDEMNIFICATION” section of this Lease.

D. Termination for Non-Use

In the event LESSEE ceases all use and activity on said Fuel Storage Parcel for a period of six (6) months, as shown by fuel not being delivered or withdrawn from the fuel storage tanks on said parcel for that period, then Airport Director, may elect to terminate that portion of the Lease relating to the Fuel Storage Parcel. Termination shall occur upon the date the Notice of Termination is issued. LESSEE shall not be entitled to any compensation for termination of the portion of the Leased Premises covering the Fuel Storage Parcel if said termination occurs due to non-use by LESSEE.

Airport Director shall also notify LESSEE whether to leave the existing improvements on the Fuel Storage Parcel or to remove all or a portion of said improvements. LESSEE agrees that should the Fuel Storage Parcel of this Lease be terminated for non-use under the provisions of this section, LESSEE shall leave the Fuel Storage Parcel in such condition as is required to conform with federal, State, and local regulations, particularly those regulations relating to underground storage tanks and the cleanup of Hazardous Materials.

If LESSEE’s use of the Fuel Storage Parcel is terminated, the monthly rent required under this Lease shall be reduced in proportion to the square footage eliminated from the total Leased Premises.

SECTION 5.05 LIMITATION OF THE LEASEHOLD

This Lease and the rights and privileges granted LESSEE in and to the Leased Premises are subject to all covenants, conditions, restrictions, and other exceptions of record. Nothing contained in this Lease or in any document related hereto shall be construed to imply the conveyance to LESSEE of rights in the Leased Premises which exceed those owned by COUNTY, or any representation or warranty, either expressed or implied, relating to the nature or condition of the Leased Premises.
or COUNTY’s interest therein. LESSEE acknowledges that LESSEE has conducted a complete and adequate investigation of the Leased Premises and that LESSEE has accepted the Leased Premises in “as is” condition.

SECTION 5.06 PROVISION OF SUFFICIENT PARKING

LESSEE shall provide sufficient vehicular parking to accommodate LESSEE’s operation within the Leased Premises consistent with applicable building or zoning regulations. Should LESSEE need off-site parking to meet the parking requirements for its operations or improvements on the Leased Premises, then LESSEE shall first obtain the approval of the Airport Director and, if approved, agrees that any future sale or assignment of this Lease shall also include an assignment of LESSEE’s off-site parking or provision of a comparable alternate off-site parking area outside the Airport perimeter fence to be available for use during the remaining term of the Lease.

COUNTY has no obligation whatsoever to make vehicular parking available to accommodate LESSEE’s operation.

SECTION 5.07 RECORDS AND ACCOUNTS

A. Records. LESSEE shall, at all times during the term of this Lease, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities, of whatever nature, conducted in pursuance of the rights granted herein. The records must be supported by source documents such as sales slips, cash register tapes, purchase invoices, or other pertinent documents.

B. The Accounting Year. The accounting year shall be twelve full calendar months. The accounting year may be established by LESSEE, provided LESSEE notifies the COUNTY in writing of the accounting year to be used. Said accounting year shall be deemed to be approved by COUNTY unless COUNTY has objected to LESSEE's selection in writing within sixty (60) days of LESSEE's written notification.

In the event LESSEE fails to establish an accounting year of its choice, regardless of the cause, the accounting year shall be synonymous with the twelve-month period contained in the first one-year term of the Lease.

Any portion of a year that is not reconciled, should the accounting year and the anniversary year of the Commencement Date not be the same, shall be accounted for as if it were a complete accounting year.

Once an accounting year is established, it shall be continued through the term of the Lease unless COUNTY specifically approves in writing a different accounting year. COUNTY shall only approve a change in accounting years in the event of undue hardship being placed on either the LESSEE or COUNTY, and not because of mere convenience or inconvenience.
C. Financial Statements.

1) Annual Balance Sheet and Income Statement

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY a detailed balance sheet and income statement prepared in accordance with generally accepted accounting principles reflecting all business transacted by the LESSEE on or from the Leased Premises during the preceding accounting year. The LESSEE shall attest in writing that the balance sheet and income statement submitted are true and accurate representation of LESSEE’s records. LESSEE shall also provide standalone audited financial statements of the LESSEE’s business entity if they are available from LESSEE’s corporate audit or upon request of the COUNTY. The COUNTY has the option to require LESSEE’s submission of audited financial statements.

2) CPA-Audited Gross Receipts

Within one hundred twenty (120) days after the end of each accounting year, LESSEE shall at its own expense submit to COUNTY an audited statement of total Gross Receipts and total gallons of fuel delivered to LESSEE. This statement must include a breakdown schedule of all total gallons and all total Gross Receipts by type and month. At a minimum, Gross Receipts should be divided into the categories as set forth in Section 4.01(B). This statement must be prepared by a Certified Public Accountant (CPA) who is a member in good standing with the American Institute of Certified Public Accountants (AICPA) or the California Society of CPA's. The audit must be performed in accordance with Generally Accepted Auditing Standards (GAAS) authorized by the AICPA. The reference for this is Statement on Auditing Standards (SAS) #95. The audited statement of fuel and lubricant deliveries and Gross Receipts shall include total Gross Receipts for the accounting year classified according to the categories of business established for fuel flowage and lubricant fees and for rent-a-car fees as listed in Section 4.01 of this Lease entitled “RENT, FEES AND CHARGES.”

A reviewed statement of Gross Receipts may be requested by LESSEE instead of an audited statement of fuel deliveries and Gross Receipts if undue hardship is placed on the LESSEE to obtain an audited statement. LESSEE must request and obtain written approval for a reviewed statement from the COUNTY prior to the start of the financial statement engagement for the year to be audited. If a reviewed statement of Gross Receipts is approved by the COUNTY, COUNTY retains the right to require an audited statement of Gross Receipts for future years.

LESSEE shall provide COUNTY with copies of any CPA audit or review report and audited or reviewed financial statements prepared in conjunction with their audit of LESSEE's operations from the leased premises. Copies of reports and/or
financial statements shall be provided directly to COUNTY by the CPA at the same time LESSEE's copy is provided to LESSEE.

LESSEE acknowledges its understanding that any and all of the “Financial Statements” submitted to COUNTY pursuant to this Lease become public records subject to public inspection as required by California Government Code Section 6250 et seq.

D. Failure to Submit Financial Statements. In addition to any other remedies available to COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to submit any financial statements by the due date listed in Section 5.07 “RECORDS AND ACCOUNTS,” Airport Director may require LESSEE to pay the greater of:

1) Five thousand dollars ($5,000); or

2) Any and all costs incurred by COUNTY for the Certified Public Accountant hired by the COUNTY to prepare the required financial statements, including an administrative fee equal to fifteen percent (15%) of those costs.

E. Audits. All LESSEE’s books of account and records and supporting source documents related to this Lease or to business operations conducted within or from the Leased Premises shall be kept and made available at one location within the limits of the County of Orange. COUNTY shall, through its duly authorized agents or representatives, have the right to examine and audit said books of account and records and supporting source documents at any and all reasonable times.

The COUNTY, upon request of LESSEE and at said COUNTY’s sole discretion, may authorize the above-referenced books and records and supporting source documents to be kept in a single location outside the limits of Orange County provided LESSEE shall agree to pay all expenses including but not limited to transportation, food, and lodging necessary for COUNTY to send a representative to audit said books and records. Said right shall not be exercised by COUNTY more than once each accounting year.

The full cost of said audit, as determined by COUNTY, shall be borne by LESSEE if either or both of the following conditions exist:

1) The audit reveals an underpayment of more than two percent between the rent due as reported and paid by LESSEE in accordance with this Lease and the rent due as determined by said audit;

2) LESSEE has failed to maintain true and complete books, records, accounts and supporting source documents in accordance with Section A “Records” above. The adequacy of records shall be determined at the sole discretion of COUNTY in accordance with the provisions of a letter of agreement between LESSEE and COUNTY.
Otherwise, COUNTY shall bear the cost of said audit, excluding the aforementioned expenses related to audit of documents kept outside the limits of Orange County.

Upon the request of COUNTY, LESSEE shall promptly provide, at LESSEE's expense, necessary data to enable COUNTY to fully comply with any and every requirement of the State of California or the United States of America for information or reports relating to this Lease and to LESSEE's use of the Leased Premises. Such data shall include, if required, a detailed breakdown of LESSEE's receipts and expenses.

F. Environmental Compliance Audits. LESSEE shall provide the COUNTY Airport Environmental Resources Manager with any documentation of environmental compliance audits, inspections, and violations within 5 days. LESSEE is responsible for correcting environmental conditions to address the findings, paying fines/fees to maintain compliance, and responding to the oversight agency. A copy of correspondence shall be submitted to the Airport’s Environmental Resources Manager within 5 days.

G. Failure to Maintain Adequate Records. In addition to any other remedies available to COUNTY at law or in equity or under this Lease, in the event that LESSEE fails to maintain and keep books, records and accounts of Gross Receipts from business operations conducted on or from the Leased Premises and/or source documents relating thereto, or to make the same available to COUNTY for examination and audit, or to record sales and/or to maintain registers to record sales, or to provide financial statements and other information to COUNTY regarding gross sales as required by this Lease, COUNTY, at COUNTY's option, may:

1) Perform such examinations, audits and/or investigations itself or through agents or employees as COUNTY and/or its auditors may deem appropriate to confirm the amount of percentage rents payable by LESSEE under this Lease and any and all costs and/or expenses incurred by COUNTY in connection therewith shall be promptly reimbursed to COUNTY by LESSEE upon demand.

2) Provide accounting services and/or a system for recording retail sales and charges, including without limitation, cash registers, for use by LESSEE in business transactions upon or from the Leased Premises, and, at COUNTY's option, maintain personnel on the Leased Premises to observe and/or record such sales during LESSEE's business hours, or from time to time, all at LESSEE’s sole cost and expense and, in such event, LESSEE shall promptly reimburse COUNTY for any and all costs incurred by COUNTY in connection therewith; and/or

3) Require that LESSEE pay percentage rents based on COUNTY's best good faith estimate of LESSEE's Gross Receipts from business operations conducted on or from the Leased Premises and any such determination made by COUNTY shall be conclusive and binding upon LESSEE.

The above costs payable by LESSEE shall include reimbursement to COUNTY of
COUNTY provided services at such rates as COUNTY may from time to time, in good faith, establish for such services. In the case of services provided by COUNTY’s employees, such rates shall be sufficient to reimburse COUNTY for employee salaries, including employee taxes and benefits and COUNTY’s overhead or, at COUNTY’s option, may be the rate for such services that would be charged by a qualified third-party or parties, approved by COUNTY, if engaged by COUNTY to perform such services.

H. Review Period. COUNTY or its designee may conduct such audits or inspections throughout the term of this Lease and for a period of three (3) years after final payment or longer if permitted by law.

I. Methodology. COUNTY or designee may, without limitation by LESSEE, conduct verifications including, but not limited to, inspection of LESSEE's Records, observation of LESSEE's employees in or about the Leased Premises, and verification of information and amounts through interview and/or written communications with LESSEE's employees or sub-contractors.

J. Record Retention. All of LESSEE's Records shall be retained by LESSEE for a period of the balance of the fiscal year in which the Record was created, recorded, or otherwise prepared, plus five (5) years regardless of when this Lease expires or is terminated.

K. The Airport is developing a tenant portal/revenue system for daily automated reporting of operations, revenues and data exchange. Airport shall have the right to implement such system that can provide daily reports to Airport. If Airport exercises such right, LESSEE must, at its cost, purchase and install the necessary equipment, train its employees, and thereafter use, such equipment to take part in such system. Until such time as the system is implemented, LESSEE shall comply with the following:

1) Sales Recording System. LESSEE shall prepare a description of its cash handling and sales recording systems and equipment which shall be submitted to Airport Director, or designee for approval no later than thirty (30) days after Commencement Date. Following approval by Airport Director, or designee, such systems and equipment shall be utilized by LESSEE. LESSEE shall accurately record each transaction on a system that can generate daily electronic reporting. LESSEE shall report on a daily basis and in an electronic format all business activities. Such system shall be sufficient to supply an accurate record of all sales.

2) Electronic Reporting Requirements. LESSEE shall install in the Leased Premises an electronic reporting system which shall meet current industry standards for transmitting, capturing and recording transactions, and data in a secure fashion while protecting Card Holder Data, and shall register every transaction made in, on, about or from the Premises, including every type of Gross Revenue daily automated reporting. Said system shall be accessible to and subject to inspection or audit by Director or designee upon request. All cash receipts must include LESSEE’s identification thereon. Customer must be issued
a receipt or sales slip for each transaction, which transaction must be recorded either on or serially numbered sales slip or digital record produced. COUNTY should have the right during business hours to examine the totals of the electronic reporting system used in the Leased Premises and to inspect for compliance with this section. LESSEE shall ensure a capability for the installation of Airport and Airport partner applications that can be integrated with LESSEE’s system to exchange data. Any sales captured from third-party applications, LESSEE branded applications, cell phone applications must be provided to the COUNTY as part of the monthly sales reporting.

SECTION 5.08 MAINTENANCE AND OPERATION OF LEASED PREMISES

At LESSEE’s sole cost and expense, LESSEE shall keep and maintain the Leased Premises in good working order, and in a safe, clean, wholesome, sanitary condition in compliance with all applicable laws, rule, regulations, and ordinances, and as provided in LESSEE’s maintenance plan attached hereto as Exhibit H. At LESSEE’s sole cost and expense, LESSEE shall be responsible to make all necessary replacements and/or repairs required to maintain the Leased Premises and improvements in good condition and working order. In addition to the building facilities, drainage facilities (storm and sanitary sewer), above and below ground utilities, lighting, and security (i.e. gates, fencing, etc.), this includes routine maintenance, replacements, and/or repairs of all pavements (including subgrade) and below-ground improvements including underground storage tanks, wash racks, and/or clarifiers that may be on the Leased Premises. All repairs and/or replacements shall be of a quality equal to or exceeding the original. All repairs, replacements, and improvements made by the LESSEE to the Leased Premises shall be submitted to JWA for review and approval prior to construction, require JWA inspection upon completion of construction, and shall be in compliance with all current federal, State, and local ordinances and building codes, fire codes, zoning, safety, all Airport Regulations, and with the requirements of Title III of The Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, et seq., and the regulations issued pursuant thereto (Codes). The Codes encompass all fire, life, and safety aspects and apply to the construction, alteration, moving, demolition, repair, replacement, and use of the Leased Premises. LESSEE is prohibited from engaging in any activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment of the leased premises. All devices or safeguards which are required by the Codes shall be maintained in conformance with the edition of the Codes under which it was installed.

LESSEE shall engage the services of an independent and qualified State of California licensed and registered professional engineer who shall conduct an annual pavement inspection of all paved areas used by aircraft within the Leased Premises in compliance with FAA Advisory Circular 150/5380-6 Guidelines and Procedures for Maintenance of Airport Pavements (“FAA AC 150/5380-6”), as amended from time to time, and ASTM D 5340 Standard Test Method for Airport Pavement Condition Index Surveys (“ASTM D 5340”) as amended from time to time. A detailed report signed, stamped, and sealed by the professional engineer shall be submitted to the COUNTY on each anniversary of the Commencement Date. The report shall meet Airport Director’s requirements, including, as applicable, complete plans, specifications, and schedules for repair or replacement of any found defects or deficiencies in accordance with FAA AC 150/5380-6 and ASTM D 5340.
LESSEE shall immediately notify Airport Director and the Airport Operations Center at 949-252-5000 of any fire, emergency, accident, release, discharge, and/or reportable spill of fuel, lubricants, solvents and/or Hazardous Materials. Reportable spills or releases are those that require notification to a government entity by any fire code or Environmental Law as defined in this Lease. In addition to reimbursing County the costs of all services provided by third parties to mitigate such spills, LESSEE shall pay to County administrative costs in the amount of one thousand dollars ($1,000) per incident.

LESSEE shall further notify the Airport’s Environmental Services Manager within 24 hours of any release, discharge, leak or spill of any fuel, lubricants, solvents and/or Hazardous Materials that LESSEE knows or reasonably should have known about within the Leased Premises.

LESSEE shall report to Airport Director any accidents or incidents for which LESSEE is wholly or partially responsible, which occur on the Leased Premises and are reportable to the FAA or other governmental or regulatory agencies. LESSEE shall pay to COUNTY administrative costs in the amount of one thousand dollars ($1,000) per such reportable accident or incident.

LESSEE further agrees to provide approved containers for trash, garbage, recyclables, and regulated waste and to keep the Leased Premises free and clear of rubbish, litter, and hazardous waste. The Airport Director shall have the right to enter upon and inspect the LESSEE’s Leased Premises and other Airport facilities at any time for cleanliness, safety and maintenance inspections. LESSEE shall designate in writing to Airport Director an on-site representative who shall be responsible for the day-to-day operation and level of maintenance, cleanliness and general order.

If LESSEE fails to maintain or make repairs or replacements as required herein, Airport Director shall notify or attempt to notify the LESSEE in writing of said failure. Should LESSEE fail to correct the failure within fifteen (15) days or as otherwise specified in the notice, Airport Director shall have the right, but not the obligation, to enter the Leased Premises to make the necessary correction, repair, and/or replacement, or cause it to be made and the cost thereof, including but not limited to the cost of labor, materials and equipment shall be charged to LESSEE as Additional Rent. Thereafter, an administrative fee equal to fifteen percent (15%) of the sum of such items also shall be paid by LESSEE within ten (10) days of receipt of a statement of said cost from Airport Director as Additional Rent. Airport Director may, at Director's option, choose other remedies available herein, including termination, or as provided by law.

LESSEE expressly waives any and all claims against the COUNTY for compensation for any and all loss or damage to LESSEE's property sustained by reason of any defect, deficiency or impairment of any water supply system, drainage or sewer system, gas supply system, telephone system, internet, electrical supply system or electrical apparatus, cable or wires serving the Leased Premises, except to the extent caused by the COUNTY's negligence or willful misconduct.
SECTION 5.09  PAYMENT OF AND RESPONSIBILITY FOR UTILITIES

LESSEE shall be responsible for and pay, prior to the delinquency date, all charges for utility connections and services supplied to the Leased Premises. COUNTY shall not be liable in damages or otherwise for any failure or interruption of any utility service, and no such failure or interruption shall entitle LESSEE to terminate this lease or abate the rent due hereunder.

SECTION 5.10  REPORTING OF BASED AIRCRAFT

LESSEE shall submit to COUNTY with its monthly payment of rents a listing of all Based Aircraft parked on the Leased Premises. For purposes of this Section, “Based Aircraft” shall mean an aircraft that is operational and airworthy, and which is based at the Airport for a majority of the year. Therefore, LESSEE must track the daily activity of aircraft parked on the Leased Premises and determine, on a rolling basis, which aircraft have been parked on the Leased Premises for at least 183 days out of the prior 365 days. The monthly listing shall be provided to the Airport using a JWA-approved Microsoft Excel template.

ARTICLE VI - ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION

SECTION 6.01  LIABILITY FOR EXISTING ENVIRONMENTAL CONDITIONS

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE understands and agrees that it may be found legally responsible and/or financially liable for existing environmental conditions on, under, and/or emanate from the Leased Premises upon entering into this Lease, including, but not limited to, associated costs and expenses related to Hazardous Materials, fuel storage tanks including underground storage tanks, and compliance with all Environmental Laws.

SECTION 6.02  HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE

LESSEE shall comply with all Environmental Laws, including laws regulating Hazardous Materials, and shall not engage in any activity on or about the Airport that violates any Environmental Law. In conducting its operations and maintenance on the Airport under this Lease, LESSEE shall comply with such regulations regarding the storage, distribution, processing, handling, release, removal, and/or disposal, including the storm water discharge requirements, of Hazardous Materials including, but not limited to, gasoline, aviation fuel, jet fuel, diesel fuel, lubricants and/or solvents, whether the obligation for such compliance is placed on the owner of the land, owner of the improvements or user of the improvements. Violation by LESSEE or any of its agents, assigns, successors, sublessees, subcontractors, or employees of any Environmental Law are grounds for termination of this Lease in accordance with Article IX of this Lease, and for termination of all operations by LESSEE at or on the Airport.

Notwithstanding the liability of prior tenants of the Leased Premises, LESSEE shall at its sole cost and expense investigate, evaluate, assess, remove, and/or remediate any and all Hazardous Materials that may be required or ordered by any governmental agency or Environmental Law. In
conducting a clean-up of a Hazardous Material release under this Lease, LESSEE shall comply with all applicable Environmental Laws. LESSEE shall not use the COUNTY hazardous waste generator ID for waste disposal.

SECTION 6.03 STORM WATER CONTROL AND CONTAMINATION

Storm Water Laws and Regulations. Federal regulations for storm water discharges were issued by the U.S. Environmental Protection Agency (U.S. EPA) (40 CFR Parts 122, 123, and 124). The U.S. EPA, through the NPDES permitting program, regulates discharges of potentially contaminated wastewater and storm water into waters of the United States. California has been delegated NPDES general permitting authority by the U.S. EPA. California's State Water Board has issued NPDES permits to regulate municipal, industrial, and construction storm water discharges under the NPDES permitting program.

Section 402(p) of the Clean Water Act (CWA) requires NPDES permits for storm water discharges from municipal separate storm sewer systems (MS4s). The County of Orange is the principal permittee for Orange County's MS4 Permit Order No. R8-2009-0030 (or currently effective permit) No. CAS 618030 (MS4 Permit). As a facility owned and operated by the County of Orange, the Airport implements requirements in the MS4 permit and is responsible for discharges into the system. One of the MS4 Permit requirements is to establish the legal authority to control discharges. The County's Water Quality Ordinance (OCCO Title 4, Division 13, Sections 4-13-10 et. seq.) regulates non-storm water discharges into the MS4 to reduce the discharge of pollutants into the waters of the State. The CWA and the resulting MS4 permit require the County to take steps to reduce pollutants leaving its systems to the maximum extent practicable. The MS4 permit requires the County to develop and implement a Local Implementation Plan (LIP) describing the programs and procedures required by the MS4 permit.

COUNTY will provide the required annual training for LESSEE as part of the MS4 LIP training program requirements. LESSEE shall have all personnel who may affect discharges to the storm system or who work within the airside portion of John Wayne Airport attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials.

LESSEE shall not have prohibited discharge to the MS4 system or on-site storm drains. Some non-storm water discharges (i.e., fire sprinkler tests) require additional permits with the Regional Water Quality Control Board (RWQCB). LESSEE is responsible for obtaining and implementing monitoring requirements associated with any non-storm water discharge permits. LESSEE shall notify COUNTY prior to any non-storm water discharge.

In the furtherance of these regulations and Section 402 of the Clean Water Act (CWA), the State of California has adopted a General Permit for discharges of Storm Water associated with industrial activities: “State Water Resources Control Board (State Water Board) Water Quality Order No. 2014-0057-DWQ, NPDES General Permit No. CAS 000001 (Industrial General Permit or IGP).” JWA has applied for and received coverage to discharge storm water and authorized non-storm water discharges pursuant to the general permit for industrial activities and are subject to the permit’s requirements, conditions, and penalties. The permit requires the development and
implementation of an effective Industrial Storm Water Pollution Prevention Plan (SWPPP) and Monitoring Implementation Plan (MIP). This plan is developed by COUNTY and covers LESSEE. The airside portion of JWA where industrial activities take place is covered by the IGP. Industrial activities include maintenance, fueling, equipment cleaning, storage areas, and material handling activities.

LESSEE shall comply with applicable storm water discharge requirements for industrial facilities, including numeric effluent limits (NELs) and numeric action levels (NALs), as may be promulgated, updated, or amended from time to time. The current IGP includes NELs for copper, zinc, and lead. LESSEE shall, to the extent possible:

A. Separate industrial storm water flows off their leasehold from the airfield non-industrial flows. The LESSEE drainage system must consolidate storm water flows and allow for monitoring of storm water quality by JWA at the LESSEE discharge location(s) to the JWA storm water drainage system.

B. Install and implement appropriate BMPs to meet the COUNTY’s WQMP requirements and to meet pollutant discharge limits identified in the IGP at their discharge point(s) to the JWA storm drain system. LESSEE shall consider space planning, policies, and practices to reduce storm water flow from industrial activities that would require management and treatment to meet NALs and NELs under the IGP.

C. COUNTY will coordinate design and construction of the Airport’s responsible portion of the industrial storm water system with LESSEE’s phasing plan.

COUNTY will provide the required annual training for LESSEE personnel that work on the airfield as part of the airport-wide IGP SWPPP requirements. LESSEE shall have all personnel working within the airside portion of JWA to attend annual training or LESSEE shall provide annual training to personnel using JWA-approved training materials. LESSEE shall implement BMPs in accordance with the COUNTY’s IGP SWPPP.

LESSEE shall submit a Water Quality Management Plan (WQMP) for approval for significant redevelopment projects, defined as the addition or replacement of 5,000 or more square feet of impervious surface on an already developed site to address post-construction urban runoff and storm water pollution.

When LESSEE engages in a constructed project with an approved WQMP, LESSEE shall implement post-construction BMPs, including operation and maintenance (O&M) requirements, described in the WQMP. LESSEE shall notify the COUNTY at least five (5) days prior to any O&M conducted for post-construction BMPs. LESSEE shall provide the O&M records to the COUNTY within 30 days of completing the maintenance.

LESSEE activities may require additional separate permits, which LESSEE may be responsible for, and which will be clarified with COUNTY at the time of planning and design. LESSEE shall contact COUNTY prior to new construction activities, operational changes, and/or prior to any
activity that may result in a non-storm water discharge. LESSEE will comply with all applicable NPDES storm water permit requirements for LESSEE activities.

LESSEE shall not allow or cause the entry of any materials, waste, or hazardous materials under its control into the Airport Storm Water Drainage System unless authorized by Environmental Law and the Airport's Storm Water Discharge Permit. LESSEE shall not allow or cause the entry of any Unauthorized Non-Storm Water Discharge that is under its control into the Storm Water Drainage System of the Airport or into the Storm Water Drainage System of any of its surrounding communities, unless such substances are first properly treated by equipment installed with the approval of COUNTY for that purpose, and LESSEE complies with recommendations made by the California and/or U.S. Environmental Protection Agency and the Airport's Storm Water Discharge Permit requirements. LESSEE shall bear all costs and any other expenses related to unauthorized non-storm water discharges.

LESSEE shall assure the protection of storm water from aircraft maintenance and washing activities, including GA self-service activities, through implementation of policies or Best Management Practices. Wet washing of aircraft is only allowed in designated wash rack areas. Only dry wash methods are allowed for cleaning aircraft outside of the designated wash rack areas. Aircraft maintenance can only occur in designated areas; these areas must be protective of storm water through covering or other means.

**Spill Control and Hazardous Materials**

Within 60 days following the Commencement Date of this Lease, LESSEE shall furnish COUNTY with an updated Spill Prevention, Control, and Countermeasures (SPCC) Plan and Hazardous Material Disclosure/Business Emergency Plan for activities that will be performed at the Airport for JWA’s review and approval. LESSEE shall register on the Orange County Health Care Agency/Certified Unified Program Agency (OCHCA/CUPA) E-Submit Business Portal, upload the updated Plans, and show proof of submittal to the COUNTY within 90 days of the Commencement Date. Any modifications to SPCC Plans and/or Hazardous Material Disclosure/Business Emergency Plans shall be submitted as soon as practicable following the change, but no later than 30 days from the correction.

The SPCC Plan shall meet the applicable requirements of 40 CFR Part 112. LESSEE will take necessary steps to prevent spills and, if a spill does occur, will minimize the impacts to human health and the environment. LESSEE shall commit the necessary resources to maintain spill prevention systems, provide appropriate security, respond to spills, inspect storage areas, test storage equipment, make required notifications, maintain records, and provide training for personnel. LESSEE shall meet the General Secondary Containment Requirements for refueling vehicles, §112.7(c), without relying on the Oil Water Separators installed at JWA.

The Hazardous Material Disclosure/Business Emergency Plan shall be updated if there is a substantial change in quantities, storage locations, or material types. LESSEE shall include details on the emergency contacts, training, mitigation, abatement, and evacuation procedures that will be followed in an emergency. Maps and chemical inventories shall be accurate and kept up-to-date.
SECTION 6.04 GENERAL HEALTH AND SAFETY CONDITIONS

Precaution shall be exercised at all times by LESSEE for the health, safety, and welfare of persons, including employees and property. The safety provisions of applicable laws and building and construction codes shall be observed. Work, materials, and equipment used shall comply with the Occupational Safety & Health Administration (OSHA) requirements including but not limited to OSHA Hazard Communication Standard 29 CFR 1910.1200, and federal and State safety orders.

LESSEE shall comply with all material usage limitation, permit record keeping, and reporting requirements imposed by federal, State, and local laws and regulations. LESSEE shall properly post Manufacturer’s Safety Data Sheets as required by law and shall use and dispose of all materials in conformance with all applicable codes, rules, regulations, and manufacturer’s recommendations.

LESSEE shall submit to the Airport’s Environmental Resources Manager, annually on December 31, a report on compliance with and the status of all required permits including, but not limited to, Fire, OSHA, Air Quality Management, and Health Care Agency. The report must summarize all spills, leaks or permit violations for the previous year. The annual report must also contain copies of all reports and annual testing reports (such as fuel tank tightness testing) sent to any regulatory agency and documentation of required maintenance and inspection of fire and safety fixtures and equipment and an updated inventory of all Hazardous Materials used or stored on site.

LESSEE shall provide all notices required pursuant to the Environmental Laws. LESSEE shall provide prompt written notice to COUNTY within five (5) days of receipt of any written notices of violation of any Environmental Law received by LESSEE.

The annual report and all written notices must be submitted to COUNTY by the due date. Liquidated damages of five hundred dollars ($500) will be assessed against LESSEE for each day the annual report or written notice of violation is late.

SECTION 6.05 ENVIRONMENTAL INDEMNIFICATION

To the fullest extent authorized by law, the LESSEE shall indemnify, defend, and hold the COUNTY, its officers, directors, agents, and employees and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless for compliance with all Environmental Laws, from and against any and all Environmental Law claims, judgments, damages, penalties, actions, fines, costs, liabilities, losses, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants) arising from the Leased Premises, and/or out of or related to any actions or omissions of LESSEE, the LESSEE’s operations at the Airport or any action arising from and which involve the LESSEE’s officers, agents, successors, assigns, sublessees, subcontractors, and employees (whether or not they are negligent, intentional, willful or unlawful), including defense expenses arising therefrom, including, but not limited to, the following:
(1) The historical environmental conditions at, on, under, and/or emanating from the Leased Premises that LESSEE may be required to pay.

(2) The LESSEE’s placement, disposal, allowing, or releasing of Hazardous Materials upon or within the Airport including any such claims, demands, liabilities, cost, expenses, and/or obligations related to LESSEE's release or threatened release of Hazardous Materials on, at, and/or under the Airport.

(3) The LESSEE’s release or threatened release of Hazardous Materials at, on, under, and/or emanating from the Airport.

(4) The LESSEE’s noncompliance with any Environmental Law, except that LESSEE's obligations under this paragraph shall not extend to remediation conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, sublessee, assignee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE.

(5) The LESSEE’s causing or allowing any prohibited discharge into the Airport Drainage System.

This indemnification includes, without limitation, reasonable fees, costs, and expenses for attorneys, experts, expert consultants, and all other costs incurred by COUNTY in connection with any investigation, evaluation, assessment, and/or monitoring of the environmental conditions at the Leased Premises or any cleanup, remedial, removal, and/or restoration work required by any federal, State, or local governmental or regulatory entity because of any Hazardous Materials being present in the soil, surface water, or groundwater at, on, under, or about the Airport. However, LESSEE's indemnity obligation shall not apply in the event of any claims for any loss, damage, or expense arising from the sole negligence or willful misconduct of COUNTY or its officers, employees, agents, or contractors.

In the event the indemnitees as described herein are parties in any proceeding (legal, administrative, or otherwise), the LESSEE shall, at the request of the COUNTY, defend the indemnitees with qualified counsel approved in writing by COUNTY, unless the COUNTY, in its sole and absolute discretion, undertakes legal representation, in which event the LESSEE shall reimburse the COUNTY for the expenses incurred by it in defending such proceeding, including reasonable attorneys’ fees, expert and/or consultant fees, and investigative and court costs.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorney’s fees in any action to enforce the terms of this Lease.
The rights and obligations set forth in this indemnification shall survive the termination and expiration of this Lease.

SECTION 6.06 CONFLICT WITH ENVIRONMENTAL LAW PROVISIONS

In the event that any of the terms of the environmental requirements codified in this Article conflict with any other terms of this Lease, the environmental requirements contained in Article VI shall apply.

SECTION 6.07 EXISTING ENVIRONMENTAL CONDITIONS AND HISTORICAL ASSESSMENTS

COUNTY and others have conducted environmental assessments on portions of the Leased Premises which provide a historical assessment of the environmental condition on portions of the Leased Premises regarding Hazardous Materials (the “Historical Conditions”). A list of references is provided in Exhibit D.

LESSEE hereby expressly acknowledges that it has reviewed the Historical Conditions and agrees that it shall be responsible for remediation of any and all Hazardous Materials at, on, and/or under the Leased Premises including and in excess of the Historical Conditions. Without releasing any other party that may be legally responsible and/or financially liable for the environmental conditions that exist upon execution of this Lease, LESSEE agrees to be legally responsible and/or financially liable for the environmental conditions related to Hazardous Materials and underground storage. LESSEE further agrees that it shall also be responsible for any release, threatened release, and/or disposal of Hazardous Materials which occur on or off the Leased Premises as a result of LESSEE’s acts or omissions or by those who are affiliated with LESSEE. A party shall be deemed to be affiliated with LESSEE if it is an employee, officer, director, agent, assign, sublessee, contractor or subcontractor of LESSEE or if it is controlled by or under common control with LESSEE. LESSEE shall not be responsible to remediate conditions that arise from operations of third parties that are not affiliated with LESSEE that take place off of the Airport.

LESSEE agrees to provide COUNTY and COUNTY’s consultants with complete access to the Leased Premises for the purpose of investigation and remediation of contamination. LESSEE agrees to preserve all existing and future remediation infrastructure including, without limitation, any groundwater monitoring wells, groundwater extraction wells, and related piping.

SECTION 6.08 ANTI-IDLING POLICY

Within six months of LEASE execution, LESSEE must develop, implement and submit to the Airport Director for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling period. LESSEE’s policy shall also include airfield GSE, ground transportation vehicles, and all sublessee and third-party vehicles that enter Airport property at the direction of the LESSEE.
SECTION 6.09 ENVIRONMENTAL STEWARDSHIP

Environmental stewardship is one of the key pillars in JWA’s mission to be a good neighbor. JWA is committed to upholding best practices in environmental responsibility and has been an industry leader in implementing policies that provide both sustainability and cost-effectiveness. JWA has adopted a variety of environmental policies and practices.

LESSEE shall support JWA's Environmental Stewardship program by complying with JWA's Tenant Design Guidelines and shall make reasonable efforts to participate in, help facilitate, and cooperate with JWA's sustainability efforts.

The LESSEE shall support the COUNTY’s Environmental Stewardship program through participation in various efforts or implementation of plans, as amended from time to time, and the following requirements. Full implementation of this program shall be applicable to all GSE effective on January 1, 2023, and will apply to all facilities and capital improvements as they are constructed.

1) Climate Action Plan
2) Waste and Recycling Plan
3) SWPPP
4) Air Quality Improvement Plan and Memorandum of Understanding with the South Coast Air Quality Management District
5) Ground Support Equipment ("GSE")
   a. LESSEE shall employ Zero Emission Vehicle ("ZEV") GSE where available (e.g. tugs, water carts, lavatory carts, other ramp service equipment/vehicles) for 90 percent or greater of the GSE operating hours.
   b. Where ZEVs are not available, vehicles shall meet Ultra Low Emission Vehicle ("ULEV") requirements.
   c. Where ULEVs are not available, and only diesel fuel engine trucks are available, the diesel-fueled truck shall comply with the On-Road Heavy-Duty Diesel Vehicles (In-Use) Regulation.
   d. LESSEE shall maintain monthly records regarding GSE type, make, model, year, fuel type, horsepower (if non-electric), and hours in-use. Monthly records are subject to audit and verification by JWA. These records shall be provided to JWA annually in December.

6) Conservation
   a. LESSEE shall use ENERGY STAR and EPA Water Sense appliances.
   b. LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.
c. LESSEE shall adopt a Waste and Recycling Plan meeting CALGreen Tier 1 requirements, or better, and acceptable to LESSOR. LESSEE shall provide waste diversion data quarterly and annually to COUNTY Airport Environmental Resources Manager.

d. LESSEE shall install Electric Vehicle chargers in public and employee parking areas, provide preferential parking for vehicles powered by low emission sources, and provide secure bicycle racks.

e. LESSEE shall practice water conservation through design, construction, and ongoing maintenance activities.

f. LESSEE shall include over 50% of solar-ready roof-top on new construction; COUNTY maintains the option to lease any solar-ready areas not covered by owner's solar arrays and to install renewable energy equipment.

g. LESSEE shall implement the following conservation measures:
   i. Use high-efficiency light fixtures and bulbs (including compact fluorescents) when replacing or installing new fixtures and bulbs
   ii. Install sensors in office areas to turn off when unoccupied
   iii. Install energy-efficient heating and cooling equipment when replacing or upgrading
   iv. Purchase and use energy-efficient computers and servers
   v. Select equipment with variable speed motors and fan drives, when possible

7) Environmental Policies

a. LESSEE shall adopt the COUNTY’s Environmentally Preferable Purchasing Policy (2008) or develop a similar policy that addresses the LESSEE’s procurement of goods and services. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

b. LESSEE shall develop an Environmental Sustainability Policy that covers water and power conservation, waste diversion, and pollution prevention. Policy shall be submitted to the COUNTY Airport Environmental Resources Manager.

c. LESSEE shall provide reports necessary for environmental compliance, regulatory requirements, and airport mitigation measure obligations upon request from COUNTY, including but not limited to GSE data, fuel delivery and usage, spills, and business emergency plans.
ARTICLE VII - CONSTRUCTION AND IMPROVEMENTS

SECTION 7.01 IMPROVEMENTS BY LESSEE

LESSEE shall cause to be designed and constructed, at no cost to COUNTY, those initial improvements shown on the conceptual plans attached hereto as Exhibit F. The development and phasing of said construction shall proceed as described in Exhibit G, and may be subject to reasonable modification or amendment by the Airport Director in consultation with LESSEE. All costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The minimum cost of LESSEE’s Initial Capital Investment shall be $57,897,531, and excludes the cost of any and all refurbishments or improvements made pursuant to Section 7.11. In the event the minimum cost of Initial Capital Investment exceeds the actual construction costs of all LESSEE improvements itemized in accordance with Section 7.06 of this Lease, LESSEE’s savings resulting from lower actual construction costs will be shared equally between LESSEE and COUNTY, and LESSEE shall pay to COUNTY one half (50%) of the difference between the minimum cost of Initial Capital Investment and the actual construction costs within 30 days of LESSEE’s submittal of itemized costs required by Section 7.06.

The term “cost of improvements” shall mean direct construction costs, including costs paid to contractors, architects, engineers, laborers and suppliers, premiums for bonds required by COUNTY, and permit and developer fees required by governmental agencies, but shall exclude indirect costs, such as costs of financing, and administrative and overhead expenses.

LESSEE shall not perform any construction upon the Leased Premises nor shall LESSEE modify, alter or remove any permanent improvements lying within the Leased Premises without prior written approval of COUNTY.

A. COUNTY and Federal Approvals Required. No structures, improvements, or facilities shall be constructed, erected, altered, removed or made within the Leased Premises without prior written consent of COUNTY, which consent may be withheld or conditioned in COUNTY’s sole and absolute discretion.

FAA approval of JWA’s Airport Layout Plan (“ALP”) is required prior to any FBO construction activities. The ALP shows the boundaries and proposed additions to all areas of the Airport, the location and nature of existing and proposed Airport facilities and structures, and the location on the Airport of existing and proposed non-aviation areas and improvements thereon, and shall incorporate LESSEE’s development plans, which must be submitted to the FAA for review. LESSEE shall provide CADD/GIS files of the LESSEE’s development plans to JWA. Airport-approved development plans will not be released for permitting until the ALP is approved.

National Environmental Policy Act (“NEPA”) approval by the FAA is required prior to any FBO construction activities. As the Airport Sponsor, JWA will prepare all required NEPA documentation for submission to the FAA. LESSEE shall provide CADD/GIS files
of the LESSEE’s development plans to JWA. Upon receipt of NEPA approval, JWA will invoice LESSEE for JWA’s actual costs associated with NEPA review and approval of LESSEE’s project, and LESSEE shall reimburse such costs within thirty (30) days of such invoice. Airport-approved development plans will not be released for permitting until the ALP is approved and NEPA approval has been received.

B. Compliance with Plans, Schedule, Design and Construction Standards. LESSEE shall construct (or cause to be constructed) all improvements within the Leased Premises in strict compliance with detailed plans and specifications complying with the Airport’s Tenant Design Guidelines, including all other available John Wayne Airport Design and Construction Standards, and approved in writing by Airport Director. LESSEE shall submit to JWA for review plans and specifications at the 50% complete, 90% complete, and 100% complete milestones, which are prepared by a State of California licensed and registered Architect and Engineer (A/E) firm with qualifying experience for the intended improvements at an airport setting. Submittals shall include all required reports, basis of designs, studies, exhibits, and calculations. Upon completion of JWA’s review of the plans and specifications, and when approved in writing by the Airport Director, the LESSEE shall submit the construction documents to the County of Orange Public Works Department and any other required agencies for approval and permitting. If required, LESSEE shall submit the construction documents to the City of Costa Mesa for permitting.

The plans and specifications shall include detailed phasing and sequencing plans which clearly show the extent of work within each phase of demolition and construction, the area of each phase, and the number and type of aircraft to be located within each completed phase. The plans shall include an operational plan which identifies the number and type of aircraft to be displaced during each phase and to where displaced aircraft will be relocated. The plans shall show the capacity of the relocation site(s). The plans and specifications shall provide an interim operating plan for the preservation of the joint OCSD/OCFA Air Support Facility.

LESSEE shall begin coordination of the fire-life safety designs with the Orange County Fire Authority as early as practicable.

Along with plans and specifications for proposed improvements, LESSEE shall provide to Airport Director a detailed project critical path method (CPM) schedule (in Primavera P6 format) enumerating, at a minimum, all activities affecting the baseline schedule of work from mobilization through substantial completion of construction. The schedule shall include 90-day transitional plan, design and construction documents preparation, reviews and permits, NEPA processes and approvals, bidding and awards, inspections and occupancy certifications, closeout, commissioning, activations and start-up of operations. The schedule shall match the plans and specifications and shall be organized in a manner that clearly shows the phasing and sequencing of each phase of the development, identifying the beginning and completion dates for each phase of the work. In order to facilitate phasing of construction projects among multiple Airport tenants, said schedule shall be subject to Airport Director’s approval, and work shall not
commence until Airport Director provides a notice to proceed, which notice may be conditioned or delayed at Airport Director’s sole discretion without cost or liability to COUNTY. Upon receipt of the Airport Director’s notice to proceed with the work, LESSEE must maintain compliance with its baseline schedule. Except as otherwise agreed in writing by Airport Director, liquidated damages in the amount of two thousand dollars ($2,000) will be assessed for each day beyond the substantial completion date identified in the schedule that the work has not been substantially completed. At a minimum, LESSEE shall provide to JWA monthly updates of the schedule, including a summary report of any changes.

All construction shall be conducted in a good and workmanlike manner and shall conform to applicable building codes, rules, regulations and Airport’s architectural standards as contained in reference document “John Wayne Airport, Architect and Engineer Guide,” including all other available John Wayne Airport Design and Construction Standards, which can be provided by Airport upon request. All work shall be done in conformity with Airport approved plans, valid building and other necessary permits, and shall be acceptable to COUNTY and the appropriate governmental entity inspecting such work. LESSEE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

All improvements constructed by LESSEE, including the plans and specifications therefor, shall conform in all respects to the applicable statutes, ordinances, building codes, rules and regulations of the COUNTY and such other governmental authority as may have jurisdiction. The Airport Director's approval shall not constitute a representation or warranty as to such conformity, which shall remain LESSEE's responsibility. LESSEE, at its own cost and expense, shall procure all permits necessary for such construction.

As applicable depending on the type of project, all design and construction shall meet CALGreen Tier 1 requirements, or better (at time of permit submittal), include documentation for construction requirements (i.e. waste management, low emissions vehicles, etc.), and meet the most recent applicable Envision Gold certification requirements, or better, at permit submittal. LESSEE shall use the Envision pre-assessment checklist to guide the sustainability efforts early in project planning and strive to achieve a level of Gold; certification shall be required if applicable to the project type.

LESSEE shall participate in the COUNTY’s storm water site development plan, if available, or obtain approval from COUNTY for LESSEE’s water quality management plan as required by COUNTY for significant redevelopment projects. Architectural coatings applied to pavement surfaces shall be marked using low VOC coatings. Specifically, with paint that contains less than 50 grams of VOC emissions per liter of paint. If needed, LESSEE shall use heavy-duty, off-road, diesel-powered construction equipment to meet or exceed the USEPA’s Tier 4 off-road emissions engine standards during Airport construction to reduce construction-related NOx emissions.

C. Performance of Work. LESSEE agrees that any improvement being constructed by or
under the direction of LESSEE shall be constructed in substantial compliance with COUNTY-approved plans, which requires those improvements to be constructed as if such improvements had been constructed under the direction and supervision, or under the authority, of COUNTY. In satisfaction of the requirements of the COUNTY, LESSEE shall be required to secure the faithful performance of construction and completion of construction of the improvement by appropriate contractor’s bonds and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided by the California Labor Code and California Department of Industrial Relations.

D. Insurance Requirements. LESSEE shall be required to carry comprehensive public liability insurance during construction. If the construction is done by an independent contractor, insurance shall be procured by the contractor in LESSEE’s and COUNTY’s name. All insurance shall be in the limits and coverages acceptable to COUNTY’s Risk Management Services in its reasonable discretion. LESSEE shall indemnify COUNTY and hold COUNTY harmless for any and all claims, demands, damages, costs or expenses of any nature, including defense costs by reason of construction or alteration by LESSEE.

E. Noninterference. LESSEE warrants that it or its contractor shall in no way delay, cause delays to or interfere with any Airport operations or other contractors working in the Terminal or on the Airport. LESSEE agrees to hold COUNTY harmless from the cost of any time lost by COUNTY or any damages to COUNTY due to the actions or failure to act of LESSEE or its contractor.

F. Trailers and Modular Structures. All improvements constructed by LESSEE shall be of a permanent nature. Trailers and modular buildings are prohibited on the Leased Premises. This provision shall not apply to the use of COUNTY approved temporary modulars or trailers during construction. LESSEE shall maintain restroom facilities and provide existing or comparable restrooms to customers, guests, and flight crew personnel throughout the redevelopment of the Leased Premises. Upon completion of construction, all trailers or modulars must be immediately removed from the Leased Premises.

G. LESSEE’s Cost and Expense. All renovation or construction by LESSEE pursuant to this Section shall be at LESSEE’s sole cost and expense. LESSEE shall keep the Leased Premises and the improvements constructed thereon free and clear of all liens, except for construction or take-out financing with respect solely to LESSEE’s improvements, and shall pay all costs for labor and material arising out of such construction and shall hold COUNTY harmless from any liability in respect thereto. Nothing contained herein shall be understood to foreclose the right of contractors, suppliers or laborers to file preliminary notices with respect to the Leased Premises (and not the COUNTY’s underlying fee interest) in connection with construction performed on the Leased Premises and the filing of such preliminary notices shall not constitute a violation of LESSEE’s obligations under this Section, and LESSEE shall also hold COUNTY harmless from any liability based on the filing of such notice.
H. Utilities. LESSEE shall bear sole financial responsibility for all connection fees, design, construction, removal, relocation, and installation of utilities related to the development of its facilities, as well as any costs related to compliance with local governmental or utility provider requirements when utilities are impacted as a result of the development. All impacts to utilities shall be brought to the attention of Airport Director for review and approval. All energy and water utilities to the Leased Premises shall be separately metered. Those utilities not separately metered shall be specified in writing and COUNTY and LESSEE shall reach agreement, either in this Lease or in a separate written agreement, on the proration of utility expenses. Those payments may include, without limitation, restrictions on or special allocation provisions with respect to excess utility usage upon the Leased Premises for exceptional equipment, ventilation or cooling requirements. LESSEE shall use ENERGY STAR Portfolio Manager to track use of electricity, natural gas, and water and waste quantities. LESSEE shall share this data with COUNTY Airport Environmental Resources Manager quarterly and annually.

I. Damage during Construction. LESSEE shall repair all damage to Airport facilities caused by LESSEE’s construction within seven calendar days, unless other arrangements are approved by Airport Director. Damages or conditions which impact safety must be corrected immediately by LESSEE. All Airport roads must be maintained as open and passable by emergency equipment at all times during construction and shall not conflict with normal Airport operation.

J. Ownership of Improvements. All improvements and facilities, exclusive of trade fixtures, constructed or placed within the Leased Premises by LESSEE must, upon completion, be free and clear of all liens, claims, or liability for labor or material and at COUNTY’s option shall become the property of COUNTY at the expiration of this Lease or upon earlier termination hereof. COUNTY retains the right to require LESSEE, at LESSEE’s cost, to remove any or all improvements located within the Leased Premises at the expiration or termination hereof.

SECTION 7.02 CONSTRUCTION AND/OR ALTERATION BY COUNTY

In the event COUNTY should require any portion of the Leased Premises in connection with construction of improvements, future expansion, and/or alterations by the Airport, Airport Director may, upon sixty (60) days’ written notice (or immediately should Airport Director determine in Director’s sole discretion that an emergency exists) make his/her best effort to substitute alternate space for that portion of the Leased Premises necessary to accommodate the construction. Airport Director will make every reasonable effort to provide replacement space during the construction period that will furnish LESSEE the same utility as the space replaced. In the event alternate space is not available, LESSEE will be reimbursed pursuant to Section 7.03.
SECTION 7.03 LESSEE REIMBURSEMENT

In the event COUNTY should require the Leased Premises, or any portion thereof, for any Airport purpose, COUNTY may terminate this Lease as to all or any portion of the Leased Premises. In that event, if this Lease is terminated in its entirety, COUNTY shall reimburse LESSEE for improvements to the Leased Premises completed during the term of this Lease.

Compensation for improvements located on the Leased Premises shall be calculated by means of the following formula:

\[
\text{COMPENSATION} = \frac{B \times A}{C}
\]

A = LESSEE’s actual Leased Premises improvement construction costs submitted in accordance with the Section in this Lease entitled “RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS,” plus any amounts paid to COUNTY by LESSEE in accordance with Section 7.01.

B = Number of full months remaining in the Lease term.

C = Number of full months between the date LESSEE completed construction of Leased Premises improvements and the date the Lease would expire by its terms if COUNTY did not exercise its right to early termination.

LESSEE shall submit to COUNTY within sixty (60) days of completion of construction of any Leased Premises improvement, notifications of completion of construction and submit detailed supporting documentation of construction costs together with “as-built”/record documents as required elsewhere in this Lease. LESSEE acknowledges and agrees if LESSEE fails to submit notifications and supporting documentation for any such Leased Premises improvements in a timely manner, LESSEE waives its right to compensation for such improvements.

SECTION 7.04 LESSEE'S ASSURANCE OF CONSTRUCTION COMPLETION

A. Within nine (9) months of the Commencement Date of this Lease, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE to complete the first phase of Initial Capital Investment as described in Exhibit G. The amount of money available shall be at least $27,053,815, the total estimated construction cost of this first phase. Such evidence may take one of the following forms:

a. Completion Bond issued to COUNTY as obligee.

b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction or until the assurances required by sub-section B, hereafter, have been provided.
c. Any combination of the above to equal total estimated cost of construction for the first phase.

In the event that LESSEE complies with sub-section B, below, within nine (9) months of the full execution of this Lease, LESSEE shall not be required to comply with this sub-section A.

B. Notwithstanding the requirements of Section 7.04(A), above, prior to commencement of demolition of existing facilities and construction of approved facilities, LESSEE shall furnish to COUNTY evidence that assures COUNTY that sufficient monies will be available to LESSEE and COUNTY to complete the proposed construction. The amount of money available shall be at least the total estimated construction cost. Such evidence may take one of the following forms:

a. Completion Bond issued to COUNTY as obligee.

b. Irrevocable letter of credit issued to COUNTY that will remain in effect until COUNTY acknowledges satisfactory completion of construction.

c. Any combination of the above to equal total estimated cost of construction.

The assurances required by sub-section A, above, shall no longer be required once LESSEE complies with this sub-section B.

All bonds and letters of credit pursuant to this Section must be issued by a surety company, financial institution or advising bank qualified and admitted to do business in the State of California and issued in an approved form approved by the COUNTY. All bonds and letters of credit pursuant to this Section shall insure faithful and full observance and performance by LESSEE of all terms, conditions, covenants and agreements relating to the construction of improvements within the Leased Premises.

It is not the intent of the contracting parties herein to create a third-party beneficiary, and nothing in this Section shall be construed to do so.

SECTION 7.05 MECHANICS LIENS OR STOP NOTICES

LESSEE shall at all times indemnify and hold COUNTY harmless from all Mechanics Liens, Stop Notices, claims, losses, demands, damages, cost, expenses or liability costs for labor or materials in connection with construction, repair, alteration, or installation of structures, improvements, equipment, or facilities within the Leased Premises undertaken by LESSEE, and from the cost of defending against such claims, including attorneys' fees and costs.

In the event a mechanics lien or stop notice is imposed upon the Leased Premises, LESSEE shall either:
A. Record a valid Release of Lien, or

B. Procure and record a bond in accordance with Section 3143 of the California Civil Code, which frees the Leased Premises from the claim of the lien or stop notice and from any action brought to foreclose the lien.

Should LESSEE fail to accomplish either of the two optional actions above within fifteen (15) days after the filing of such a lien or stop notice, the Lease shall be in default and shall be subject to immediate termination. LESSEE shall indemnify, defend, and hold COUNTY harmless from and against any and all claims, damages, liabilities, costs and expenses (including attorneys' fees and costs) arising out of or related to any mechanic’s liens recorded against any portion of the Leased Premises caused by LESSEE, or its agents, employees, contractors, sublessees, successors, and/or assigns, and any and all monetary amounts incurred by COUNTY to obtain a lien release shall be due and payable as Additional Rent. This indemnity shall survive the expiration or earlier termination of this Lease.

SECTION 7.06 RECORD DOCUMENTS, AS-BUILT DOCUMENTS, AND CONSTRUCTION COSTS

Within sixty (60) days following completion of any improvement within the Leased Premises, the LESSEE shall furnish the Airport Director a complete package of “As-Built Documents” and “Record Documents,” which include but are not limited to construction documents, specifications, cost estimates, engineering studies and calculations. The aforementioned information shall be submitted on two (2) thumb drives containing digital copies of the “As-Built Documents” and “Record Documents,” organized in a detailed, logical, and comprehensible folder structure, which is in a form that is usable and accepted by the COUNTY, to the COUNTY’s satisfaction, as described below, unless otherwise allowed by the Airport Director.

**Drawings and Models:**

- All 2-D and 3-D architectural, engineering, design, and/or construction drawing and/or modeling files for the project shall be completed using AutoCAD 2019 and REVIT 2019 or a newer version of either software if approved by John Wayne Airport.
- All geographic data, spatial analysis, geographic information system (GIS) mappings, drawings, exhibits, and/or figures for the project shall be completed using Environmental Systems Research Institute (ESRI) ArcGIS.
- All 2-D and 3-D drawing and/or modeling files created via computer aided design and drafting (CADD), building information modeling (BIM), and/or GIS for the project shall conform to the John Wayne Airport CADD/BIM/GIS standards and specifications.
- In addition to the 2-D and 3-D drawing and/or modeling files indicated above, a PDF format (scaled to ARCH E1 format where applicable) of those drawings, exhibits, figures, etc. shall be generated and submitted digitally.

**Documents and Reports:**

- All specifications, reports and/or studies (e.g. geotechnical report, etc.), calculations, and other project information (e.g. construction submittals, operations and maintenance
(O&M) manuals, warranties, etc.) for the project shall be completed using MS Office suite applications and also generated and submitted digitally in a PDF format.

Note: “Record Documents,” e.g. record drawings, specifications, calculations, etc., shall be prepared, stamped, signed by the Architect and/or Engineer of Record for the project and shall reflect all updates and/or modifications that were approved during design and construction, i.e. separate from the as-built documents, which include contractor redlines, contract changes, etc. Refer to the “John Wayne Airport Construction Standards” for additional information.

In addition, two (2) sets of hard prints of the stamped and signed record drawings for the project, as described above, must be furnished by the LESSEE with the thumb drives containing the “As-Built Documents” and “Record Documents.” Basic specifications, standards, and requirements for BIM, CADD, and/or GIS produced information at the Airport can be located on the [www.ocair.com](http://www.ocair.com) website or provided by the Airport upon request. Additional requirements for digital record files are described in Exhibit E.

Furthermore, within 90 days of the date the LESSEE begins to use such improvements (“Date of Beneficial Occupancy”), the LESSEE shall furnish to the Airport Director an itemized statement of the actual, direct construction costs of any such improvement. All such costs related to the initial redevelopment of the Leased Premises are collectively referred to as LESSEE’s “Initial Capital Investment.” The construction costs may include actual, direct fees paid to contractors, architects, engineers, surveyors, laborers, and suppliers, or permit fees required by governmental agencies to allow construction. Construction costs shall not include indirect costs such as financing costs, holding costs, legal fees, interest, administrative and overhead expenses, bond premiums, or developer fees. The statement of cost shall be sworn to and signed by the LESSEE or its responsible agent under penalty of perjury. The LESSEE must obtain the Airport Director's approval of acceptance of the “As-Built Documents” and “Record Documents” and the form and content of the itemized statement for the release of any construction bond.

SECTION 7.07 DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

In the event of damage to or destruction of LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises or in the event LESSEE-owned or constructed buildings, facilities, or improvements located within the Leased Premises are declared unsafe or unfit for use or occupancy by a public entity with the authority to make and enforce such declaration, LESSEE shall, within thirty (30) days, commence and diligently pursue to completion the repair, replacement, or reconstruction of improvements to the same size and floor area as they existed immediately prior to the event causing the damage or destruction, as necessary to permit full use and occupancy of the Leased Premises for the purposes required by the Lease. Repair, replacement, or reconstruction of improvements within the Leased Premises shall be accomplished in a manner and according to plans approved by Airport Director. Except as otherwise provided herein, termination of this Lease shall not reduce or nullify LESSEE's obligation under this paragraph. With respect to damage or destruction to be repaired by COUNTY or which COUNTY elects to repair, LESSEE waives and releases its rights under California Civil Code Sections 1932(2) and 1933(4).
In the event that (a) such damage or destruction to LESSEE-owned or constructed buildings, facilities or improvements (“improvements”) located within the Leased Premises occurs, or (b) said improvements are declared unsafe or unfit for use and occupancy, within one (1) year of the expiration date of this Lease, COUNTY and LESSEE may mutually agree to terminate this Lease, in which case, COUNTY may, at COUNTY’s sole option, accept monetary consideration from LESSEE in lieu of LESSEE’s reconstruction of improvements located on the Leased Premises, and after such termination, neither party shall have any further obligations under this Lease, except for obligations that expressly survive the termination or expiration of the Lease hereunder.

SECTION 7.08 CONSTRUCTION HEALTH AND SAFETY

LESSEE’s contractor for demolition and/or construction (“the Contractor”) shall have at the work site copies of or suitable exacts of “Construction Safety Orders” and “General Industry Safety Orders” issued by the California State Division of Industrial Safety. The Contractor shall comply with the provisions of these and all other applicable laws, ordinances, and regulations.

Contractor’s Safety Plan. The Contractor shall submit for approval, prior to beginning construction, a comprehensive Safety Plan (“the Safety Plan”) outlining code of safe work practices and procedures as listed in Appendix C: Code of Safe Practices in the Guide to Developing Your Workplace Injury and Illness Prevention Program, CCR Title 8, Section 1509, Industrial and Illness Prevention Program, Subchapter 4, Construction Safety Orders, Article 3, General, for all construction activities including, but not limited to, trenching and shoring, fall protection, confined space entry, hazardous materials, night work, and lockout/block-out. The plan shall provide a list of competent persons for activities for which competent persons are defined and are required by state law. The plan shall also describe Airport security procedures.

The Safety Plan(s) must be site-specific and job task(s) specific. They must identify job/site-specific workplace hazards as part of an Injury and Illness Prevention Program. The plan(s) must outline the site-specific Code of Safe Work Practices and Procedures for all equipment used or work activities performed at the Airport, and for all materials and “HAZARDOUS MATERIALS” used or stored onsite. The plan(s) must include the JWA worksite specific emergency contact lists, and emergency response and personnel training procedures.

The Safety Plan shall contain directions to the closest hospital and provide a map showing the Airport and the location of hospitals. Information regarding spill response and hazardous materials is to be included. The plan shall be reviewed and signed by all personnel entering Airport property. The plan shall identify the projects included in the Safety Plan, describe operational safety during construction, construction activity and aircraft movement, and limitations of construction. It shall list safety considerations to be discussed at the preconstruction conference and safety meetings. The Contractor shall prepare and distribute to JWA three complete bound booklets identified as “SAFETY PLAN.”
SECTION 7.09 CONSTRUCTION STORMWATER PLAN

LESSEE’s Contractor shall submit for Airport approval, prior to beginning construction, its Construction SWPPP or Erosion and Sediment Control Plan (“ESCP”) concerning BMP implementation including how Storm Water run-off will be controlled, how the discharge of unauthorized Non-Storm Water Discharges will be contained and prevented, and how soil erosion and sedimentation of surface run-off will be prevented at the site. Projects disturbing one (1) or more acres of soil or projects that disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to develop a SWPPP and obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity – General Permit Order 2009-0009-DWQ (“Construction General Permit”). Projects disturbing less than one acre of soil and not required a Construction SWPPP shall develop an ESCP.

A. The SWPPP or ESCP shall be site-specific and shall be approved by the Airport Director before the start of construction. It shall be incorporated into the design and planning phases of the project.

B. Contractor shall select BMPs for the site-specific SWPPP or ESCP. The plan must cover the construction area, construction lay-down areas, haul routes, and off-site migration or tracking of contaminants such as mud. This includes keeping Aircraft Operating Areas (“AOA”) clear of mud and debris. The plan must minimize potential soil and water quality impacts, including impacts resulting from total suspended solids (“TSS”), oil and grease, total petroleum hydrocarbons (“TPH”), or chemicals or materials used for construction. The plan must also include leak or spill cleanup.

SECTION 7.10 CONSTRUCTION WASTE MANAGEMENT PLAN

LESSEE’s Contractor shall submit for approval, prior to the beginning of construction, its Construction Waste Management (“CWM”) Plan detailed how waste generated during construction activities will be contained, stored, labeled, tracked, and disposed of. The plan should address waste diversion for recyclables and organic waste and meet the requirements of CALGreen Tier 1. CWM forms can be found in the Guide to the 2019 California Green Building Standards Code published by the California Building Standards Commission and the International Code Council.

A. The CWM Plan shall be project-specific and cover all the construction activities.

B. The CWM Plan shall be incorporated into the design and planning phases of the project and shall be approved by the Airport Director before the start of construction.

C. LESSEE’s Contractor shall use the CWM Worksheet and Acknowledgement forms to report waste disposal monthly and at the conclusion of the construction project.
SECTION 7.11  TEN-YEAR REFURBISHMENTS

Every ten (10) years from date LESSEE begins to use its improvements to the Leased Premises (“Date of Beneficial Occupancy”), LESSEE shall make refurbishments to its facilities for the purpose of keeping the FBO contemporary and competitive with current FBO industry standards; provided, however, that no program of refurbishment, renovation or capital improvement shall be mandated or compelled so long as LESSEE maintains its facilities and improvements in good working order and condition. LESSEE shall consult with the Airport Director prior to making any such refurbishments and, in particular, shall consult with the Airport Director on or before the tenth (10th), twentieth (20th) and thirtieth (30th) anniversaries of the Commencement Date to discuss such refurbishment of facilities as may be necessary or appropriate to satisfy the requirements of this Section. LESSEE’s refurbishments must provide for a capital reinvestment in facilities on the Leased Premises meeting the following requirements, where the amount of the reinvestment will be reasonably determined by Airport Director with consideration given to the conditions of the facilities at each reinvestment milestone.

Should the Airport Director and LESSEE disagree on the necessary improvements required, the parties shall engage a third-party, selected and agreed to by COUNTY and LESSEE, at LESSEE’s sole cost and expense, to assess the condition of the premises relative to industry standards and to make a determination as to what improvements shall be required. In no case will the cost of such improvements exceed the amounts specified below relative to each reinvestment milestone.

A. On or before the tenth (10th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

B. On or before the twentieth (20th) anniversary of the Date of Beneficial Occupancy, LESSEE may be required by JWA to make a reinvestment of up to twenty percent (20%) of its Initial Capital Investment.

C. At such time that five (5) years remain on the term of this Lease, LESSEE may be required by JWA to make a reinvestment of up to ten percent (10%) of its Initial Capital Investment.

Prior to reaching each reinvestment milestone, and with sufficient time for all required review and approval in accordance with this ARTICLE VII but in no event later than one hundred eighty (180) days prior to the milestone date, LESSEE shall provide to JWA its plans and specifications for the refurbishment project, as well as a breakdown of the costs for design, construction, upgrades, and installations of new fixtures or equipment proposed for the refurbishment project. LESSEE shall complete each refurbishment project within one hundred eighty (180) days from the date of its final approval by JWA unless otherwise approved in writing by Airport Director. Failure to complete the refurbishment within the prescribed time will subject LESSEE to liquidated damages in the amount of two thousand dollars ($2,000) per day until the refurbishment has been completed to the satisfaction of the Airport Director.

Within sixty (60) days following the completion of each refurbishment project, LESSEE shall
provide certified documentation of the capital investment actually expended in the project, together with “as-built”/record documents as required by this ARTICLE VII. In the event of a shortfall between the required reinvestment amount and the actual refurbishment cost, LESSEE shall pay to COUNTY an amount equal to the shortfall as of one hundred eighty (180) days after completion of the refurbishment project. The amount spent for refurbishment shall be exclusive of any amount spent for normal repair and maintenance as reasonably determined by Airport Director.

ARTICLE VIII - ASSIGNMENT, SUBLETTING, AND ENCUMBERING

SECTION 8.01 ASSIGNING, SUBLETTING, AND TRANSFERRING

The provisions of this Section are subject to the limitations of Section 5.01 “USE.”

A. Transfers. Except as provided by this Article, LESSEE shall not voluntarily, involuntarily, or by operation of law transfer, assign, sublet, encumber, or hypothecate (hereinafter referred to as “Transfer”) any interest of the LESSEE in the Leased Premises without the prior written approval of the COUNTY. Occupancy of the Leased Premises by a prospective transferee prior to approval shall constitute a breach of this Lease. LESSEE shall give the COUNTY sixty (60) days’ prior written notice of all proposed Transfers. The LESSEE shall not make any such Transfers for a period longer than the remaining term of the Lease. All subleases of hangar space, ramp parking space, and office/facility space shall be between LESSEE and sublessee; sub-subleases are prohibited and shall constitute a breach of this Lease. LESSEE shall provide Airport Director copies of all subleases within fifteen (15) days following their approval.

If the COUNTY approves any Transfer, such approval does not constitute a waiver of any of the terms of the Lease. LESSEE agrees that a Transfer of this Lease shall not release LESSEE from any of the obligations found in this Lease. All Transfer documents shall be consistent with the terms, covenants, and conditions of the Lease, and in the event of any inconsistency, the provisions of this Lease shall govern. LESSEE must submit all required COUNTY forms with backup documentation, and include payment to COUNTY of a $3,000 administrative charge, for COUNTY to process such request.

If the LESSEE is a corporation, an unincorporated association, or a partnership, Transfers include the acquisition by any person other than the LESSEE of any stock or interest in said corporation, unincorporated association, or partnership in the aggregate amount of fifty-one percent (51%) or more.

Except as provided by this Article, the failure by the LESSEE to obtain the prior written approval by the COUNTY of any Transfer of the Lease or any interest in the Leased Premises shall constitute a material breach of this Lease by, and shall not confer any Leasehold rights upon the transferee. Such failure shall be grounds for termination of this Lease for default per Article IX, Section 9.02.
B. **Conditions of COUNTY Approval.** COUNTY agrees that it will not arbitrarily withhold consent to any Transfer, but COUNTY and LESSEE expressly agree it shall be reasonable for COUNTY to withhold consent to any Transfer for the following reasons:

1. LESSEE, its successors or assigns are in default of any term, covenant or condition of this Lease, whether notice of default has or has not been given by COUNTY.

2. The prospective sublessee, assignee or transferee has not agreed in writing to keep, perform and be bound by all the terms, covenants, and conditions of this Lease.

3. The prospective sublessee, assignee or transferee is not financially capable or not experienced in performing the Lease obligations, as determined by the Airport Director.

4. Sublessee's use is in conflict with the terms of this Lease.

5. All the terms, covenants and conditions of Transfer, including the consideration therefor, of any and every kind, have not been revealed in writing to Airport Director. On the first day of each month, LESSEE shall submit a monthly rent roll of all its existing sublessees indicating the sublessee/customer name, sublessee type, start date, end date, square footage and monthly rent.

6. Any construction required of LESSEE as a condition of this Lease has not been completed to the satisfaction of COUNTY.

7. LESSEE has not provided Airport Director with a copy of all documents relating to the Transfer, including, but not limited to, appraisals, notes, trust deeds, title reports, and escrow instructions.

8. LESSEE attempts to hypothecate the Leasehold for an amount greater than the cost of new improvements to be constructed on the Leased Premises. Hypothecation of the Leasehold shall not be permitted for any reason other than to obtain loan proceeds necessary to construct new improvements on the Leased Premises.

9. If a release or threatens release of Hazardous Materials is materially increased as a result of a Transfer or if COUNTY does not receive reasonable assurances that a prospective sublessee, assignee or transferee has the experience and/or the financial ability to remedy a violation of Environmental Laws related to Hazardous Materials and/or fulfill all obligations under this Lease.

C. **Bankruptcy Transaction.** If LESSEE assumes this Lease and proposes to assign the same pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §§101, *et seq.*, then notice of such proposed assignment shall be given to COUNTY.

1. The name and address of proposed assignee,
(2) All of the terms and conditions of such offer, and

(3) Adequate assurance to COUNTY of the proposed assignee's future performance under the Lease, including, without limitation, the assurance referred to in the United States Bankruptcy Code, 11 U.S.C. §365(b)(3).

Any person or entity to which this Lease is assigned pursuant to the provisions of the United States Bankruptcy Code, 11 U.S.C. §101, et seq., shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to COUNTY an instrument confirming such assumption.

SECTION 8.02 LEASEHOLD MORTGAGES

A. LESSEE’s Right to Encumber Leasehold Estate; No Right to Encumber COUNTY’s Fee Interest. LESSEE may, at any time during the Term of this Lease (with the consent of COUNTY after prior written notice providing evidence that all requirements of this Lease applicable at the time have been complied with) encumber all or any portion of LESSEE’s leasehold estate in and to this Lease, including LESSEE’s rights, title and interest in and to the Leased Premises and Improvements, or any applicable portion thereof or interest therein (“Leasehold Estate”) with one (1) or more mortgage, deed of trust, security deed, conditional deed, deed to secure debt or any other security instrument (including any assignment of leases and rents, security agreement and financing statements) held by an institutional lender by which LESSEE’s Leasehold Estate is mortgaged to secure a debt or other obligation, including a purchase money obligation (“Leasehold Mortgages”); provided, however:

1) Such Leasehold Mortgage(s) (as of the date recorded) shall not exceed 80% of the costs of the improvements and facilities to be constructed by LESSEE prior to completion and 80% of the Leasehold Estate value after completion;

2) That LESSEE shall not have the power to encumber, and no Leasehold Mortgage shall encumber, COUNTY’s fee interest in the property underlying the Leased Premises (“COUNTY’s Fee Interest”);

3) The Leasehold Mortgage and all rights acquired under it shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Lease and to all rights and interests of COUNTY hereunder, except as otherwise provided in this Lease;

4) Nothing in this Lease shall be construed so as to require or result in a subordination in whole or in part in any way of the COUNTY’s Fee Interest to any Leasehold Mortgage; and

5) In the event of any conflict between the provisions of this Lease and the provisions of any such trust Leasehold Mortgage, the provisions of this Lease shall control.
B. Notification to COUNTY of Leasehold Mortgage. LESSEE or any Leasehold Mortgagee shall, prior to making any Leasehold Mortgage, provide COUNTY with notice of such Leasehold Mortgage and the name and address of the Leasehold Mortgagee. At the time of notice, LESSEE shall furnish to Airport Director a complete copy of any trust deed and note to be secured thereby, together with the name and address of the holder thereof. Thereafter, LESSEE or any Leasehold Mortgagee shall notify COUNTY of any change in the identity or address of such Leasehold Mortgagee.

SECTION 8.03 SUCCESSORS IN INTEREST

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all parties hereto, all of whom shall be jointly and severally liable hereunder.

ARTICLE IX - TERMINATION AND DEFAULT

SECTION 9.01 TERMINATION OF PRIOR AGREEMENTS

This Lease creates a new Leasehold concerning all or any portion of the Leased Premises. Upon the Commencement Date of this Lease, any prior agreement with relation to the Leased Premises between the parties shall terminate and be of no further force and effect, and shall be superseded and replaced in its entirety by this Lease.

SECTION 9.02 TERMINATION FOR DEFAULT

The COUNTY may terminate this Lease and all of its obligations hereunder with or without prior notice to LESSEE and may exercise all rights of entry for default and breach if the LESSEE fails to perform on any of its obligations under this Lease, including but not limited to the following:

A. Payment of all rents, fees, and charges if not cured within ten (10) days following written notice from COUNTY;

B. A general assignment for the benefit of creditors and any Transfer in violation of Article VIII, above;

C. The issuance of any execution or attachment against LESSEE at the Airport which is undischarged within sixty (60) days of levy or seizure or if the Leased Premises are occupied by someone other than LESSEE;

D. The voluntary vacation or abandonment by LESSEE of the conduct of a fixed base operation at the Airport;

E. The violation by LESSEE of any of the terms of any insurance policy referred to in this Lease, the remedies for which are provided in that section of the Lease entitled “INSURANCE”;
F. If LESSEE is found by the FAA, TSA, other government regulatory or successor agency to have violated safety standards in the conduct of LESSEE's business, it being understood that this requirement pertains specifically to a substantial and material breach of the standards and policies established and administered by the FAA’s Office of Safety Standards (to the extent they are applicable to fixed base operations), and/or those standards established by the TSA specifically pertaining to airport safety pursuant to its authority arising under Title 49 Code of Federal Regulations (“CFR”) § 1542. Citations, enforcement actions, and proceedings related to minor violations shall not constitute a breach of this Lease.

G. The violation of any written directions of the Airport Director if not cured within three (3) business days following written notice from Airport Director;

H. The appointment of a receiver to take possession of all, or substantially all, the assets of LESSEE located at the Leased Premises or of LESSEE's Leasehold interest in the Leased Premises where such appointment or seizure is not discharged within sixty (60) days following the appointment of the receiver or seizure of assets; and,

I. All other violations not specified above if not cured within five (5) business days following written notice from COUNTY, provided that if the nature of such failure is such that it can be cured by LESSEE but that more than five (5) business days are reasonably required for its cure (for any reason other than financial inability), then LESSEE shall not be deemed to be in default if LESSEE shall commence such cure within said five (5) business days, and thereafter diligently prosecutes such cure to completion.

SECTION 9.03 COUNTY REMEDIES

In the event of any default by LESSEE, then, in addition to any other remedies available to COUNTY at law or in equity, COUNTY shall have the immediate option to terminate this Lease and all rights of LESSEE hereunder by giving written notice of such termination. In the event that COUNTY shall elect to so terminate this Lease, then COUNTY may recover from LESSEE:

A. The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

B. The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss LESSEE proves reasonably could have been avoided; plus

C. The worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that LESSEE proves reasonably could be avoided; plus
D. Any other amount necessary to compensate COUNTY for all detriment proximately caused by LESSEE's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom, plus

E. At COUNTY's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California Law.

As used above, the “worth at the time of award” is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1 percent.

SECTION 9.04 TERMINATION FOR NONUSE

COUNTY has entered into this Lease for the express purpose of having LESSEE provide those services and uses to the public at the Airport as authorized in that section of the Lease entitled “USE.” Should such services and uses of the Leased Premises be discontinued for thirty (30) consecutive calendar days or more, the Airport Director may terminate this Lease and all rights, but not the obligations, of LESSEE shall end at time of such termination subject to that section of the Lease entitled “LESSEE REIMBURSEMENT.” Said thirty consecutive calendar day requirement shall not include periods during which LESSEE performs demolition of existing facilities, construction of site improvements, remodeling, renovations, or repairs as approved by Airport Director.

SECTION 9.05 CONDITION OF LEASED PREMISES UPON TERMINATION

Except as otherwise provided by this Lease or approved in writing by COUNTY, upon termination of this Lease, LESSEE shall redeliver possession of the Leased Premises to COUNTY in substantially the same or better condition than existed immediately prior to LESSEE's entry thereon, reasonable wear and tear, flood, earthquakes, war and any act of war, excepted. References to the termination of the Lease in this Lease shall include termination by reason of expiration.

SECTION 9.06 DISPOSITION OF ABANDONED PERSONAL PROPERTY

If LESSEE abandons or quits the Leased Premises or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to LESSEE and left on the Leased Premises fifteen (15) days after such event shall be deemed to have been transferred to COUNTY. COUNTY shall have the right to remove and to dispose of such property without liability therefor to LESSEE or to any person claiming under LESSEE, and shall have no need to account therefor. Personal property left on the Leased Premises after termination, expiration, or abandonment of the Lease shall not be construed as giving LESSEE possession of the Leased Premises during the fifteen (15) days after termination, expiration, or abandonment of the Lease.
SECTION 9.07 QUITCLAIM OF LESSEE'S INTEREST UPON TERMINATION OR DEFAULT

Upon termination of this Lease for any reason, including, but not limited to, termination because of default by LESSEE, LESSEE shall execute, acknowledge, and deliver to COUNTY, within thirty (30) days after receipt of written demand therefor, a good and sufficient deed whereby all right, title, and interest of LESSEE in the Leased Premises is quitclaimed to COUNTY. Should LESSEE fail or refuse to deliver the required deed to COUNTY, COUNTY may prepare and record a notice reciting the failure of LESSEE to execute, acknowledge and deliver such deed and said notice shall be conclusive evidence of the termination of this Lease and of all right of LESSEE or those claiming under LESSEE in and to the Leased Premises.

SECTION 9.08 COUNTY’S RIGHT TO RE-ENTER

LESSEE agrees to yield and peaceably deliver possession of the Lease Premises to COUNTY on the date of termination or default of this Lease, whatsoever the reason for such termination or default.

Upon giving written notice of termination or default to LESSEE, COUNTY shall have the right to re-enter and take possession of the Leased Premises on the date such termination or default becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination or default of the Lease and re-entry of the Leased Premises by COUNTY shall in no way alter or diminish any obligation of LESSEE under the Lease terms and shall not constitute an acceptance or surrender.

LESSEE waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Leased Premises for any lawful reason or in the event COUNTY re-enters and takes possession of the Leased Premises in a lawful manner.

ARTICLE X - SECURITY

SECTION 10.01 AIRPORT SECURITY

In addition to FAA safety regulations, the LESSEE must also comply with all Airport security rules, regulations and plans, Department of Homeland Security-Transportation Security Administration (TSA) regulations, United States Customs and Border Protection (USCBP) regulations, and all other applicable federal, State and local regulations regarding security during the term of this Lease. LESSEE is responsible for fines imposed by any regulatory agency as a result of LESSEE’s failure to comply with applicable rules and regulations regarding airport security.

LESSEE shall be required to obtain airport security clearance in order to operate on the Leased Premises pursuant this Lease. LESSEE must designate one or more Authorized Signatories to attend training by the Airport, and to be the primary point(s) of contact for Airport Issued I.D. security badge related correspondence and records management. LESSEE, its employees and
contractors must complete a background clearance, and a Security Identification Display Area (SIDA) class in order to obtain an Airport issued I.D. security badge for access to secure areas. All Airport Operations Area (AOA) drivers must also complete training to receive driver’s authorization to drive on the airfield.

A. Authorized Signatory

Authorized Signatories are individuals or designated representatives authorized to sponsor badge applicants and request Airport issued I.D. security badges on behalf of their organization. They are responsible for initiating and understanding the security I.D. badge application process, and certify applicant employment. Authorized Signatories are also the primary points of contact for the Airport I.D. Badge Office correspondence related to audits, changes to employee access authority, if an employee is arrested or convicted of a disqualifying criminal offense, and if an employee is terminated.

B. Airport Issued I.D. Security Badge Acquisition

Prior to issuance of I.D. security badge(s), LESSEE’s personnel must successfully complete the Airport issued I.D. security badge acquisition process. LESSEE personnel who will be working onsite, and engaged in the performance of work under this Lease, must be sponsored by a Lessee identified Authorized Signatory, pass Airport’s screening requirements, which includes, but may not be limited to, an F.B.I. Criminal History Records Check and a Security Threat Assessment, and shall pay any applicable fees. Upon successful completion of the background checks, LESSEE personnel will be required to attend a 3-hour SIDA class and pass a written test. Those personnel who may be permitted by the Airport to drive on the Airport Operations Area (AOA) perimeter road must also complete a Driver’s Training class and written test. The physical Airport issued I.D. security badges are not issued until LESSEE personnel have: 1) completed appropriate application forms and submitted proof of identity and employment eligibility, 2) passed all required background checks, 3) completed and passed appropriate classroom training and 4) paid an I.D. badge fee for each badged person. LESSEE should anticipate a minimum of five (5) business days to complete the Airport issued I.D. security badge process if all requirements listed above are fulfilled by individual applicants in a timely manner. LESSEE shall be responsible for all applicable fees and costs associated with the background checks and I.D. security badging process. The amount of such fees is subject to change without notice.

C. Airport Issued I.D. Security Badge Holder Requirements and Responsibilities

The Airport Security Plan (ASP) requires that each person issued an Airport issued I.D. security badge be made aware of his/her responsibilities regarding the privilege of access to SIDA, Secure, Sterile, and AOA areas of the Airport.

LESSEE and all its personnel within access controlled areas (AOA, SIDA, secured area or sterile area) are required to display on their person an Airport issued I.D. security badge,
unless they are escorted by a properly badged individual with escort privileges. When working in a SIDA, AOA, Sterile or Secure area, each badged person is responsible for challenging any individual who is not properly displaying an Airport issued or approved and valid I.D. badge. Any person who is not properly displaying or who cannot produce a valid Airport issued I.D. security badge must immediately be referred to the Sheriff’s Department – Airport Police Services Office for proper handling.

The Airport issued I.D. security badge is the property of the County of Orange and must be returned upon termination of employment and/or termination of the Lease. The loss of a badge shall be reported within 24 hours to the Sheriff’s Department–Airport Police Services by calling (949) 252-5000. LESSEE or its personnel who lose their badges shall be required to pay a fee before receiving a replacement badge. The charge for lost badge replacement will be posted in the Airport Administration Office and is subject to change without notice. A report shall be made before a replacement badge will be issued.

The Airport security badge is nontransferable. In the event that the LESSEE’s badge is not returned to the Airport upon termination of employment and/or termination of the Lease, the LESSEE and/or LESSEE personnel shall be liable to the County of Orange for a fine in the amount of $250 per unreturned badge. The amount of the fine is subject to change without notice. LESSEE’s security deposit may be applied to cover the cost of the fine.

ARTICLE XI - INSURANCE AND INDEMNITY

SECTION 11.01 INSURANCE

LESSEE agrees to purchase all required insurance at LESSEE’s expense and to deposit with the COUNTY certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this Lease have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY during the entire term of this Lease.

LESSEE agrees that LESSEE shall not operate on the Lease Premises at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of Airport Director. In no cases shall assurances by LESSEE, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. Airport Director will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. LESSEE also agrees that upon cancellation, termination, or expiration of LESSEE's insurance, COUNTY may take whatever steps are necessary to interrupt any operation from or on the Lease Premises until such time as the Airport Director reinstates the Lease.

If LESSEE fails to provide Airport Director with a valid certificate of insurance and endorsements, or binder at any time during the term of the Lease, COUNTY and LESSEE agree that this shall constitute a material breach of the Lease. Whether or not a notice of default has or has not been sent to LESSEE, said material breach shall permit COUNTY to take whatever steps necessary to
interrupt any operation from or on the Lease Premises, and to prevent any persons, including, but not limited to, members of the general public, and LESSEE's employees and agents, from entering the Lease Premises until such time as Airport Director is provided with adequate evidence of insurance required herein. LESSEE further agrees to hold COUNTY harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the COUNTY'S action.

LESSEE may occupy the Leased Premises only upon providing to COUNTY the required insurance stated herein and maintain such insurance for the entire term of this Lease. COUNTY reserves the right to terminate this Lease at any time LESSEE’s insurance is canceled or terminated and not reinstated within ten (10) days of said cancellation or termination. LESSEE shall pay COUNTY a fee of $300.00 for processing the reinstatement of the Lease. LESSEE shall provide to COUNTY immediate notice of said insurance cancellation or termination.

LESSEE shall ensure that all contractors performing work on behalf of LESSEE pursuant to this Lease and all tenants operating within the Lease Premises shall carry appropriate lines of insurance subject to the same terms and conditions as set forth herein for LESSEE. LESSEE shall not allow contractors or tenants to operate within the Lease Premises if they have less than an appropriate level of coverage required by the LESSEE under this Lease. It is the obligation of the LESSEE to provide written notice of the insurance requirements to every contractor and tenant and to receive proof of insurance prior to allowing any contractor or tenant to begin operations within the Lease Premises. Such proof of insurance must be maintained by LESSEE through the entirety of this Lease and be available for inspection by a COUNTY representative at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars ($50,000) shall specifically be approved by the County’s Risk Manager, or designee, upon review of LESSEE’s current audited financial report. If LESSEE’s SIR is approved, LESSEE, in addition to, and without limitation of, any other indemnity provision(s) in this Lease, agrees to all of the following:

1) In addition to the duty to indemnify and hold the COUNTY harmless against any and all liability, claim, demand or suit resulting from LESSEE’s, its agents, employee’s or subcontractor’s performance of this Agreement, LESSEE shall defend the COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against same; and

2) LESSEE’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and

3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the LESSEE’s SIR provision shall be interpreted as though the LESSEE was an insurer and the COUNTY was the insured.
Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A-(Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the LESSEE shall provide the minimum limits and coverage as set forth below:

<table>
<thead>
<tr>
<th>Coverages</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aviation General Liability (Including but not limited to General Liability, Contractual, Premises, Products/Completed Operations, Hangarkeepers and Vehicles/Mobile Equipment operated on restricted airport premises)</td>
<td>$10,000,000 per occurrence $10,000,000 aggregate</td>
</tr>
<tr>
<td>Workers' Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Employers' Liability Insurance</td>
<td>$1,000,000 per occurrence</td>
</tr>
<tr>
<td>Pollution Liability</td>
<td>$5,000,000 per claims-made or per occurrence</td>
</tr>
<tr>
<td>Commercial Property Insurance on an “All Risk” or “Special Causes of Loss” basis covering all, contents and any tenant improvements including Business Interruption/Loss of Rents with a 12 month limit. Property Schedule to include all assigned fuel storage tanks, piping, fittings, associated equipment, vaults and clarifiers.</td>
<td>100% of the Replacement Cost Value and no coinsurance provision.</td>
</tr>
</tbody>
</table>
Required Endorsements

The following endorsements must be submitted with the Certificate of Insurance:

1. The Aviation General Liability and Pollution Liability policies shall contain an Additional Insured endorsement providing coverage at least as broad as ISO forms CG 2010 or CG 2033 naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds. Blanket coverage may also be provided which will state - As Required by Written Agreement.

2. The Aviation General Liability and Pollution Liability policies shall contain a primary non-contributing endorsement evidencing that the LESSEE's insurance is primary and any insurance or self-insurance maintained by County of Orange shall be excess and non-contributing.

3. The Workers' Compensation policy shall contain a Waiver of Subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees. Blanket coverage may also be provided which will state - As Required by Written Agreement.

4. The Commercial Property policy shall contain a Loss Payee endorsement naming the County of Orange as respects the COUNTY’S financial interest when applicable.

All insurance policies required by this lease shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Aviation General Liability policy shall contain a severability of interests clause, also known as a “separation of insureds” clause (standard in the ISO CG 001 policy).

If LESSEE’s Pollution Liability policy is a claims-made policy, LESSEE shall agree to maintain coverage for two (2) years following termination of the Lease.

Insurance certificates should be forwarded to the COUNTY address provided in the Clause (NOTICES) below or to an address provided by Airport Director. LESSEE has ten (10) business days to provide adequate evidence of insurance or this Lease may be cancelled.

COUNTY expressly retains the right to require LESSEE to increase or decrease insurance of any of the above insurance types throughout the term of this Lease. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

COUNTY shall notify LESSEE in writing of changes in the insurance requirements. If LESSEE does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this Lease may be in breach without further notice to LESSEE, and COUNTY shall be entitled to all legal remedies.
SECTION 11.02 INDEMNITY

To the fullest extent authorized by law, the LESSEE shall indemnify, defend with counsel approved in writing by COUNTY, and hold the COUNTY, its officers, directors, employees, agents and those special districts and agencies for which COUNTY’s Board of Supervisors acts as the governing body harmless from any and all claims, demands, or liability of any kind or nature arising out of or related to the LESSEE's operations at the Airport, including the cost of defense arising therefrom. LESSEE's indemnity obligations stated herein also apply to those actions arising out of or related to LESSEE's officers, agents, successors, assigns, sublessees, subcontractors, and employees. LESSEE's indemnity obligations stated herein shall not apply in the event of any loss, damage, or expense arising from the sole negligence and/or willful misconduct of the COUNTY or of the COUNTY's officers, employees, agents, servants, or independent contractors. The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this Lease.

In the event that any monetary sum is awarded against the COUNTY and the LESSEE because of the concurrent negligence of the COUNTY and the LESSEE or their respective officers, directors, successors, assigns, subcontractors, sublessees, or employees, an apportionment of liability to pay such award shall be made by a court of competent jurisdiction. Both the COUNTY and the LESSEE agree that neither party shall request a jury apportionment. Nothing stated in this Lease and in this indemnity obligation shall be construed as authorizing any award of attorneys' fees in any action to enforce the terms of this Lease. The rights and obligations set forth in this paragraph shall survive the termination of this Lease.

ARTICLE XII - FEDERAL GRANT ASSURANCES AND REQUIREMENTS

SECTION 12.01 CIVIL RIGHTS AND NONDISCRIMINATION

A. LESSEE agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If LESSEE transfers its obligation to another, the transferee is obligated in the same manner as LESSEE.

B. LESSEE, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:

1) LESSEE will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Lease.
2) LESSEE, with regard to the work performed by it during the Lease, will not discriminate on the grounds of race, color, or national origin, in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

3) In all solicitations, either by competitive bidding or negotiation made by LESSEE for work to be performed under a subcontract, including procurement of materials, or leases of equipment, each potential subcontractor or supplier will be notified by LESSEE of the LESSEE’s obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4) LESSEE will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the COUNTY or the FAA to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, LESSEE will so certify to the COUNTY or the FAA, as appropriate, and will set forth what efforts it has made to obtain this information.

5) In the event of LESSEE’s noncompliance with the non-discrimination provisions of this Lease, COUNTY will impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to: withholding payments under the contract until LESSEE complies, and/or cancelling, terminating, or suspending a contract, in whole or in part.

6) LESSEE will include the provisions of paragraphs one through six in every sublease or subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. LESSEE will take action with respect to any sublease, subcontract or procurement as the COUNTY or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if LESSEE becomes involved in, or is threatened with litigation by a subtenant, subcontractor, or supplier because of such direction, LESSEE may request the COUNTY to enter into any litigation to protect the interests of the COUNTY. In addition, LESSEE may request the United States to enter into the litigation to protect the interests of the United States.

C. LESSEE, for itself, personal representatives, 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) In the event facilities are constructed, maintained or otherwise operated on the Leased Premises for a purpose for which a FAA activity, facility, or program is
extended or for another purpose involving the provision of similar services or benefits, LESSEE will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2) No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

3) In the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, national origin, age, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination.

4) LESSEE will use the Leased Premises in compliance with all other requirements imposed by or pursuant to List of discrimination Acts and Authorities.

D. LESSEE shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or service.

E. LESSEE, for itself, its assignees, and successors in interest agrees to comply with the following Nondiscrimination Acts and Authorities, including without limitation:

1) Title VI of the Civil Rights Acts of 1964, 42 U.S.C. § 2000d et seq. (prohibiting discrimination on the basis of race, color, national origin);

2) 49 Code of Federal Regulations part 21, Non-discrimination In Federally-Assisted Programs of The Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964;

3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 (prohibiting unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects);

4) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. (prohibiting discrimination on the basis of disability), and 49 CFR part 27;

5) The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq. (prohibiting discrimination on the basis of age);
(6) Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47123 (prohibiting discrimination based on race, creed, color, national origin, or sex);

(7) The Civil Rights Restoration Act of 1987, Pub.L 100-209, (broadening the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients, and contractors, whether such programs or activities are federally funded or not;

(8) Titles II and III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12189, as implemented by 28 CFR parts 35 and 36, and 49 CFR parts 37 and 38 (prohibiting discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities);

(9) The FAA’s Nondiscrimination statute, 49 U.S.C. § 47123 (prohibiting discrimination on the basis of race, color, national origin, and sex);

(10) Executive Order 12898, Federal Actions to Address Environmental Justice in the Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

(11) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 70 Fed. Reg. at 74087 – 74100 (defining national origin discrimination to include discrimination because of limited English proficiency); and

(12) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (prohibiting discrimination because of sex in education programs or activities).

F. In the event of breach of any of the above nondiscrimination covenants, COUNTY shall have the right to terminate the Lease in accordance with the provisions of Section 9.02, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

SECTION 12.02 DEVELOPMENT/MAINTENANCE OF AIRPORT

COUNTY reserves the right to further develop or improve the Airport as it sees fit, regardless of the desires or view of LESSEE, and without interference or hindrance. COUNTY reserves 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 of the Airport, together with the right to direct and control all activities of LESSEE in this regard.
SECTION 12.03 LEASE SUBORDINATE TO AGREEMENT WITH U.S.A.

This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between COUNTY and the United States or any lawful requirement of the United States relative to the development, operation or maintenance of the Airport. In the event the FAA, or its successors, request modifications or changes to this Lease which may or may not be condition precedent to obtaining funds for the improvement of the Airport, LESSEE hereby consents to any and all such modifications and changes as may be requested and without further consideration, and LESSEE agrees to immediately execute an amendment to this lease to reflect the requested modifications or changes.

SECTION 12.04 USE TO CONFORM WITH FEDERAL AVIATION REGULATIONS

LESSEE agrees that LESSEE's use of the Leased Premises, including all construction thereon, shall conform to applicable Federal Aviation Regulations.

LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or such other regulation replacing Part 77 as may be adopted by Federal authority) prior to the construction of the improvements described herein and prior to the construction of any future structure or building upon the Leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the Leased Premises.

SECTION 12.05 NONEXCLUSIVE RIGHT

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to conduct aeronautical activities or provide aeronautical services to the public as prohibited by 49 U.S.C. § 40103(e) and 47107(a)(4), as amended from time to time, and the COUNTY reserves the right to grant others the privilege and right of conducting any or all activities of an aeronautical nature.

SECTION 12.06 RESERVATION OF AVIGATION EASEMENT

COUNTY hereby reserves for itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the air space above the surface of the Leased Premises, together with the right to cause in said air space such noise, vibration, fumes, and soot as may be inherent in the operation of aircraft now known or hereafter used for navigation of, or flight in the air, using said air space, or landing at, taking off from, or operating at the Airport.

SECTION 12.07 HEIGHT LIMITATION OF STRUCTURES

LESSEE by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land Leased hereunder (if any) which would penetrate the imaginary surfaces as defined in Part 77 of the Federal Aviation Regulations (as same may be amended from time to time or as such
regulation replacing Part 77 may be adopted by Federal authority) or such other lesser altitude as may be required by COUNTY. In the event the aforesaid covenants are breached, COUNTY reserves the right to enter upon the land Leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of LESSEE. LESSEE shall be responsible for filing Form 7460 for any construction and/or height of construction equipment with the FAA, if required.

LESSEE acknowledges that it accepts the Leased Premises in “as is” condition and by entering into this Lease accepts liability, and agrees to indemnify COUNTY pursuant to Section 11.02 for all existing conditions whether known or unknown on the Commencement Date.

SECTION 12.08 NONINTERFERENCE WITH AIRCRAFT

LESSEE by accepting this Lease agrees for itself, its successors and assigns that it will not make use of the Leased Premises in any manner which might interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, COUNTY reserves the right to enter upon the Leased premises and hereby cause the abatement of such interference at the expense of LESSEE.

SECTION 12.09 WAR OR NATIONAL EMERGENCY

This Lease 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 Airport or the exclusive or nonexclusive use of Airport by the United States during the time of war or national emergency.

SECTION 12.10 DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

It is the policy of the Department of Transportation that disadvantaged business enterprises (DBE) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Lease. To the extent applicable to LESSEE’s operations at the Airport, LESSEE agrees to comply with all DBE requirements.

SECTION 12.11 RESERVATION OF RIGHT OF ENTRY AND EASEMENT FOR NAVIGATIONAL AIDS

COUNTY reserves the right to enter the Leased Premises for the installation and maintenance of Airport navigational aids. Said navigational aids may be installed on land or improvements within the Leased Premises. Said installation and any required maintenance shall be coordinated with LESSEE so as to cause the least interference with LESSEE’s use of the Leased Premises. All installation and maintenance costs will be paid by COUNTY.

COUNTY also reserves the right to grant easements to provide utilities to serve the navigational aids. All utility costs for the operation of navigational aids shall be the responsibility of COUNTY.
SECTION 12.12 ACCESS TO LEASED PREMISES

The COUNTY has exclusive access and control over the perimeter gates to the airfield. LESSEE shall not unlock, tamper or open any Airport perimeter gate on the Leased Premises unless specifically authorized by the COUNTY in writing. In order to meet reasonable requirements for Airport operation and traffic safety and control, COUNTY, at COUNTY’s sole discretion, shall determine and may from time to time change the location of ingress and egress connecting the Leased Premises to public road right-of-way or Airport on-site roads and taxiways. Access locations to the Leased Premises from public road right-of-ways shall be limited to a single location unless an additional access point is approved by COUNTY. Should it be necessary for COUNTY to change the location of said access point LESSEE shall be given sixty (60) days prior written notice.

SECTION 12.13 AIRPORT MAINTENANCE AND CONSTRUCTION BY COUNTY

COUNTY may, from time to time, need to perform construction, maintenance, repairs or installations on, near or under the Leased Premises. Such work may include, but is not limited to, construction and maintenance of Airport aprons, taxiways and access roads; repair or installation of utilities; and improvement or repair of Airport drainage. Should such work by COUNTY adversely affect LESSEE's operations within or from the Leased Premises, LESSEE shall only be entitled to a reduction in rent payable to COUNTY during the period of interference which shall be reduced in proportion to the interference with LESSEE's use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation, payment or damages.

SECTION 12.14 AMERICANS WITH DISABILITIES ACT

LESSEE shall be solely and fully responsible for complying with the Americans with Disabilities Act of 1990 (“ADA”) in connection with: (a) the Leased Premises or any portion thereof and its operations thereon, LESSEE’s furnishings, trade fixtures and equipment; (b) removing physical barriers; (c) providing auxiliary aids and services for use of the LESSEE’s furnishings, trade fixtures and equipment, where necessary or required; and (d) modifying its policies, practices and procedures to comply with the ADA. LESSEE shall develop a work plan to correct or avoid any violations or non-compliance with the ADA, and to address the processing of disability complaints. LESSEE shall deliver to the COUNTY, upon the COUNTY’s request, a copy of each report and work plan. The COUNTY’s approval of or acceptance of any aspect of the LESSEE’s activities under this Lease shall not be deemed or construed in any way as a representation that such item, activity or practice complies with the ADA. LESSEE agrees to indemnify, defend, and hold the COUNTY harmless from and against any and all costs incurred by the COUNTY with respect to the LESSEE’s failure to comply with the ADA.
ARTICLE XIII - MISCELLANEOUS PROVISIONS

SECTION 13.01 TIME

Time is of the essence in this Lease.

SECTION 13.02 LEASE ORGANIZATION

The various headings and numbers herein, the grouping of provisions of this Lease into separate sections and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.

SECTION 13.03 AMENDMENTS

This Lease sets forth all of the agreements and understandings of the parties with regard to its subject matter and any modification must be written and properly executed by both parties.

SECTION 13.04 SIGNS

LESSEE agrees not to construct, maintain or allow any sign upon the Leased Premises except as approved by Airport Director. Unapproved signs, banners, flags, etc., may be removed by Airport Director without prior notice to LESSEE.

SECTION 13.05 PERMITS AND LICENSES

LESSEE shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with the operation of the Leased Premises as set forth herein. No permit approval or consent given hereunder by COUNTY in its governmental capacity shall affect or limit LESSEE's obligations hereunder, nor shall any approvals or consents given by COUNTY as a party to this Lease, be deemed approval as to compliance or conformance with applicable governmental codes, laws, ordinances, rules, or regulations.

LESSEE’s obligation under this section includes the responsibility to pay any and all fees associated with permitting, including any development fees due to the Transportation Corridor Agency which may be assessed at the time of permitting.

SECTION 13.06 TAXES AND ASSESSMENTS

This Lease may create a possessory interest which is subject to the payment of taxes levied on such interest. It is understood and agreed that all taxes and assessments (including but not limited to possessory interest tax, personal property taxes, and taxes and fees associated with permitting, including without limitation any development fees due to the Transportation Corridor Agency) which become due and payable upon the Leased Premises or upon fixtures, equipment, or other property installed or constructed thereon, shall be the full responsibility of LESSEE, and LESSEE shall cause said taxes and assessments to be paid promptly.
SECTION 13.07  CIRCUMSTANCES WHICH EXCUSE PERFORMANCE

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. However, nothing in this Section shall excuse LESSEE from the prompt payment of any rental or other charge required of LESSEE except as may be expressly provided elsewhere in this Lease.

SECTION 13.08  PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 13.09  WAIVER OF RIGHTS

The failure of COUNTY or LESSEE to insist upon strict performance of any of the terms, covenants or conditions of this Lease shall not be deemed a waiver of any right or remedy that COUNTY or LESSEE may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants and conditions of the Lease thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of this Lease. Any waiver, in order to be effective, must be signed by the party whose right or remedy is being waived.

SECTION 13.10  RESERVATIONS TO COUNTY

The Leased Premises are accepted “as is” by LESSEE subject to any and all existing easements and encumbrances. COUNTY reserves the right to install, lay, construct, maintain, repair and operate sanitary sewers, drains, storm water sewers, pipelines, manholes and connections; water, oil and gas pipelines; telephone and telegraph power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across, under and along the Leased Premises or any part thereof; and to enter the Leased Premises for any and all such purposes. COUNTY also reserves the right to grant franchises, easements, rights of way and permits in, over, upon, through, across, under and along any and all portions of the Leased Premises. No right reserved by COUNTY in this Section shall be so exercised as to interfere unreasonably with LESSEE's operations hereunder or to impair the security of any secured creditor of LESSEE.

COUNTY agrees that rights granted to third parties by reason of this Section shall contain provisions that the surface of the land shall be restored as nearly as practicable to its original condition upon the completion of any construction. COUNTY further agrees that should the exercise of these rights temporarily interfere with the use of any or all of the Leased Premises by
LESSEE, LESSEE shall only be entitled to a reduction in the rent payable to COUNTY during the period of interference, which shall be reduced in proportion to the interference with LESSEE's use of the Leased Premises. LESSEE shall not be entitled to any other form of compensation.

SECTION 13.11  AUTHORITY OF LESSEE

If LESSEE is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with the by-laws of said corporation, and that this Lease is binding upon said corporation.

LESSEE has had access to legal advice from an attorney with respect to the advisability of entering into this Lease. COUNTY has made no statement or representation to LESSEE regarding any fact relied upon in entering into this Lease; and LESSEE did not rely upon any statement, representation, or promise of COUNTY in executing this Lease. LESSEE has made its own independent investigation of all facts pertaining to this Lease and the Lease Premises, and of all the matters pertaining thereto, as LESSEE deemed necessary. LESSEE expressly acknowledges it has read and understood the terms and conditions set forth in this Lease and has authority to execute this Lease.

SECTION 13.12  COUNTY REPRESENTATIVE

The Board of Supervisors hereby designates the Airport Director to be its designated representative for purposes of contact between the COUNTY and LESSEE in connection with this Lease, including, without limitation, the giving of consents and approvals in a timely manner and in accordance with the terms hereof. The Board of Supervisors may at any time, by notice given to LESSEE, remove the Director as the COUNTY’s representative and appoint another individual to act as the County’s representative.

SECTION 13.13  PUBLIC RECORDS

LESSEE understands that written information submitted to and/or obtained by COUNTY from LESSEE related to this Lease and/or the Leased Premises, either pursuant to this Lease or otherwise, may be open to inspection by the public as required by the California Public Records Act (Government Code § 6250, et seq.) as now in force or hereafter amended, or any Act in substitution thereof.

SECTION 13.14  NATIONAL SECURITY

LESSEE agrees to follow all laws, rules, regulations, and/or executive orders of the United States promulgated to protect national security, including, without limitation, the following: (1) the Trading with the Enemy Act of 1917, 50 U.S.C. App. § 1, et seq., as amended; (2) the International Emergency Economic Powers Act of 1976, 50 U.S.C. § 1701, et seq., as amended; (3) the Anti-Terrorism and Arms Export Amendments Act of 1989, codified at Section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. § 2405W, as amended; (4)
Executive Order No. 13224 on Terrorist Financing (effective, September 24, 2001, as may be amended or supplemented); (5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 10756, as amended); and (6) the regulations of the United Stated Department of the Treasury Office of Foreign Assets Control (including the prohibitions against doing business with persons or entities named on the list of “Specially Designated Nationals and Blocked Persons,” as modified from time to time).

SECTION 13.15 RELATIONSHIP OF PARTIES

The relationship of the parties hereto is that of COUNTY and LESSEE, and it is expressly understood and agreed that COUNTY does not in any way or for any purpose become a partner of LESSEE in the conduct of LESSEE's business or otherwise, or a joint venturer with LESSEE; and the provisions of this Lease and the agreements relating to rent payable hereunder are included solely for the purpose of providing a method by which rental payments are to be measured and ascertained. This Lease is intended for the sole benefit of the parties hereto and their successors, and, unless otherwise provided herein, or by law, no rights are created, or are intended to be created, for the benefit of, or enforceable by, any third parties.

SECTION 13.16 ATTORNEYS’ FEES

In any action or proceeding to enforce or interpret any provision of this Lease, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorneys’ fees, costs and expenses.

SECTION 13.17 PORT OF ENTRY DESIGNATION

LESSEE acknowledges the Airport’s desire to be granted USCBP Port of Entry status by the federal government, and will support Airport in any efforts to that end. LESSEE shall refrain from undertaking any action to diminish the likelihood of the Airport receiving a Port of Entry designation.

SECTION 13.18 TRAINING AND CUSTOMER SERVICE PLANS

LESSEE will implement a customer service plan and training plan as provided for in Training and Customer Service Plan, Exhibit I, attached hereto, which plans may be amended, updated, or superseded from time to time, with the concurrence of the Airport Director.

SECTION 13.19 LESSEE’S SERVICE OF ALCOHOL

LESSEE shall comply with all applicable federal, State, and local laws and regulations for the service of alcohol. LESSEE agrees to adhere to the guidelines of 14 CFR Part 91.17 in serving alcohol to aircraft crewmembers. LESSEE shall maintain appropriate insurance coverage for the service of alcohol.
SECTION 13.20   NOTICES

All notices pursuant to this Lease shall be addressed to either party as set forth below and shall be
sent through the United States Mail, in the State of California, duly registered or certified, return
receipt requested with postage prepaid or by an overnight carrier service. If any notice is sent by
an overnight carrier service, the same shall be deemed to have been served or delivered twenty-
four (24) hours after mailing. Notwithstanding the above, COUNTY may also provide notices to
LESSEE by personal delivery or by regular mail postage prepaid and any such notice so given
shall be deemed to have been given upon the date of personal delivery or three (3) days after the
date of deposit in the United States Mail, respectively.

TO: COUNTY

John Wayne Airport
3160 Airway Avenue
Costa Mesa, CA  92626

TO: LESSEE

Bradford W. Wright
Chief Financial Officer
Clay Lacy Aviation, Inc.
7435 Valjean Avenue
Van Nuys, CA 91406

Either party hereto may from time to time, by written notice to the other in the method described
above, designate a different address which shall be substituted for the one above specified.

[Signature Page Follows.]
Corporate Resolution of Signing Authority

WHEREAS, the Corporation is determined to grant signing and authority to certain person(s) described hereunder.

RESOLVED, that the Board of Directors is hereby authorized and approved to authorize and empower the individuals identified on Exhibit A to make, execute, endorse and deliver in the name of and on behalf of the corporation, but shall not be limited to, any and all written instruments, agreements, documents, execution of deeds, powers of attorney, transfers, assignments, contracts, obligations, certificates and other instruments of whatever nature entered into by this Corporation.

The undersigned certifies that he is the properly elected and qualified Secretary of the books, records and seal of Clay Lacy Aviation, Inc., a corporation duly conformed pursuant to the laws of the state of California, and that said meeting was held in accordance with state law and with the Bylaws of the above-named corporation.

This resolution has been approved by the Board of Directors of Clay Lacy Aviation, Inc. on November 1, 2019.

I, as authorized by the Company, hereby certify and attest that all the information above is true and correct.

Bradford W. Wright
Secretary
Clay Lacy Aviation, Inc.
JOHN WAYNE AIRPORT
FBO LEASE

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

LESSEE, Clay Lacy Aviation, Inc.

By: ____________________________

APPROVED AS TO FORM:
County Counsel
By: ____________________________

APPROVED AS TO AUDIT AND ACCOUNTING:
Auditor-Controller
By: ____________________________

RECOMMENDED FOR APPROVAL:
John Wayne Airport
By: ____________________________
Barry A. Rondinella
Airport Director

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. Sec. 25103, Reso 79-1535
Attest:

COUNTY
COUNTY OF ORANGE

Robin Stieler
Clerk of the Board of Supervisors
County of Orange

Chairwoman, Board of Supervisors
Real Property Conveyance Questionnaire* for ASR  
(*Applies to sale, lease, license, or easement of County or District owned assets)

Instructions:
- This questionnaire was developed with input from Auditor Controller, Internal Auditor and CEO Real Estate to assure County leadership is fully informed.
- Insert the complete answer after each question below.
- When completed, save and include as an Attachment to your ASR.
- In the body of the ASR focus on the considerations relevant to the decision.
- If you need assistance, please contact CEO Real Estate.

1. What property interest is being considered for conveyance (e.g. fee, lease, license, easement)?

   The property interest being conveyed is a leasehold interest in County owned property at John Wayne Airport.

   a) Why is this property being considered for lease, license, sale or other conveyance?

      The lease is for a fixed base operator (FBO) who will lease the property and construct improvements to provide related services and amenities to the aviation community. Generally, this is not a service that is provided directly by the County, and it has historically been provided by a private lessee.

   b) How and who identified this property as a potential conveyance?

      John Wayne Airport (JWA) and CEO Real Estate staff based on how this type of service is generally handled within the FBO market.

   c) What factors are key in recommending this property for conveyance?

      These sorts of general aviation services are provided routinely at airports through a leasehold structure. In addition, they provide additional revenue for airport operation.

   d) How does the proposed conveyance fit into the County’s/District’s strategic or general plan?

      The lease and fixed base operations are consistent with the General Aviation Improvement Plan, which was approved by the Board of Supervisors (Board) on March 13, 2018. The GAIP approved the traditional land lease financial development model lease for the GAIP to allow JWA to develop a self-sustaining GA operation.

   e) What are the short and long term anticipated uses of the property?

      This property has historically been used for FBOs, and the GAIP anticipates the long-term use will remain the same.

   f) Are there any limitations on the use of the property in the conveyance documents?

      The leases require that the property be used for an FBO.

2. What analysis has been performed as to whether to convey the proposed real property interest?

   N/A – this is a historical use that is supported by the GAIP.
3. How was the conveyance price, or lease/license rent, determined?

An appraisal was performed to set the rent.

a) Who performed the appraisal or market study and what certifications do they possess?

   Pacific Real Estate Consultants: Licensed California Real Estate Broker and Certified General Real Estate Appraiser, State of California

b) How does the price/rent compare with comparable properties?

   The lease rates in the leases are with the market for this sort of operation and lease.

c) Does the setting of the price/rent follow industry standards and best practices?

   Yes.

d) What are the specific maintenance requirements and other costs within the agreement and who is responsible? Provide an estimate of the costs to the County/District if applicable.

   All costs for construction and maintenance are borne by the lessee and not the County.

4. What additional post-conveyance remodeling or upgrade costs will be needed for the property to meet its intended use?

While the leasehold premises currently are improved for FBO purposes, the leases require the lessees to construct new improvements and facilities.

a) Will any of the upgrades be required to meet County, ADA, or other standards and requirements?

   Yes, they are required to meet the terms of the lease and will also comply with applicable laws, such as the ADA.

b) Include estimates of the costs.

   $86,508,650 for ACI Jet
   $57,897,531 for Clay Lacy

c) What entity will be responsible for the costs?

   The lessees are responsible for the costs.

5. Can the County terminate the sale/easement, lease/license?

Yes, the County can terminate the leases for cause in the event of default.

a) What would be necessary to terminate the agreement and when can it be terminated?

   An uncured default pursuant to the terms of the lease.

b) Are there penalties to terminate the sale/easement, lease/license?

   N/A

6. What entity will be responsible for the payment(s)?
The lessees are responsible for any and all payments under the lease.

a) How will the funds received be used or applied?
   Funds received will be used for the operation of JWA.

b) What fund number will the funds from the conveyance ultimately be deposited into?
   JWA Fund 280 – Operating Fund

c) If restricted funds might be created or supplemented, check with the Auditor Controller’s General Accounting Unit and Counsel if you have questions about whether restricted funds are involved.

d) If restricted funds might be created or supplemented, has County Counsel advised that the destination fund for the payment(s) is properly restricted?

7. Does the proposed sale/easement, lease/license agreement comply with the CEO Real Estate standard language?

Yes.

8. If this is a lease, is it a straight lease, an operating lease, a lease with an option to purchase, or a capital lease (see details below)?

Operating Lease
MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Vice Chairman Andrew Do, First District

Subject: Supplemental Item for 9/15/2020

Please add this item as a Supplemental Item to the 9/15/2020 Board of Supervisor’s Agenda:

Drive Thru and Mobile Flu Vaccine Clinics
AGENDA STAFF REPORT

MEETING DATE: 9/15/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS
DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT:
AGENCY/DEPARTMENT CONTACT PERSON(S):
Vice Chairman Andrew Do
Chris Wangsaporn (714) 834-3110
Veronica Carpenter (714) 834-3110

SUBJECT: Drive Thru and Mobile Flu Vaccine Clinics

<table>
<thead>
<tr>
<th>CEO CONCUR</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
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<tr>
<td>N/A</td>
<td>N/A</td>
<td>Discussion 3/5 vote</td>
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Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: N/A

# of Positions: 0

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years: No

Prior Board Action: N/A

RECOMMENDED ACTION(S):
1. Direct the Health Care Agency, or designee, to conduct free drive thru influenza (flu) vaccine clinic, with walk up capabilities, in each of the five supervisorial districts.
2. Direct the Health Care Agency, or designee, to develop a free mobile flu vaccine clinic operational plan by September 30, 2020.
3. Direct the Health Care Agency, or designee, to provide public education in English, Spanish, Vietnamese, Korean, and Chinese in accordance with the county’s Language Access Policy.

SUMMARY: Implementing innovative ways to administer the flu vaccine to Orange County residents will increase access to the vaccine during the COVID-19 pandemic and public outreach will provide necessary education in multiple languages.

BACKGROUND INFORMATION:
According to the California Department of Public Health, influenza (flu) is a contagious respiratory illness caused by influenza viruses, causing mild to severe illness. Serious outcomes of flu infection can result in hospitalization or even death.
Some people – such as older people, young children, and people with certain health conditions – are at high risk of serious flu complications. There are two main types of flu viruses: Type A and Type B. The influenza A and B viruses that routinely spread in people (human influenza viruses) are responsible for seasonal flu epidemics each year.

Flu symptoms can look a lot like those of COVID-19, including cough, sore throat, fever, fatigue, difficulty breathing, runny or stuffy nose, body aches, headache, and occasionally vomiting and diarrhea. Complications include pneumonia, acute respiratory distress, ear or sinus infections, and worsening of chronic medical conditions.

The U.S. Centers for Disease Control and Prevention (CDC) that in the past decade, between 12,000 and 61,000 people have died annually in the U.S. because of complications from influenza. As of late August, more than 180,000 people in the U.S. have died due to COVID-19. Public Health experts are worried that both severe illnesses occurring at once will overwhelm hospitals and first responders and result in a "twindemic."

The CDC recommends a yearly flu vaccine for everyone 6 months of age and older as the first and most important step in protecting against this serious disease. Getting the flu vaccine as soon as it becomes available each year is best. It takes about two weeks after vaccination for antibodies to develop in the body and provide protection against the flu. Influenza seasons are unpredictable and can begin as early as October. The CDC and American Medical Association recommend September and October are the best times to be vaccinated to achieve immunity throughout the flu season, though getting the shot later is better than not at all.

Due to COVID-19, primary care visits have decreased greatly and people who are at high-risk of contracting COVID-19 are encouraged to stay at home. Drive thru and mobile vaccine clinics, with walk up capabilities, will increase access for Orange County residents who want a flu vaccine and may be fearful of going to a doctor's office or pharmacy to receive one.

HCA shall also conduct a public outreach campaign in all of the threshold languages, as established by the Language Access Policy, on the basic steps individuals and families may take to prevent contracting the flu and other respiratory infections. Additionally, HCA shall provide information to the public on how to distinguish between COVID-19 and the seasonal flu.

**FINANCIAL IMPACT:** N/A

**STAFFING IMPACT:** N/A

**ATTACHMENT(S):** N/A
MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Vice Chairman Andrew Do, First District
      Supervisor Doug Chaffee, Fourth District

Subject: Supplemental Item for 9/15/2020

Please add this item as a Supplemental Item to the 9/15/2020 Board of Supervisor’s Agenda:

COVID-19 Testing for Asian Pacific Islander, and Middle Eastern and North African communities
AGENDA STAFF REPORT

MEETING DATE: 9/15/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS: All Districts
DISTRICT(S): Vice Chairman Andrew Do
SUBMITTING AGENCY/DEPARTMENT: Supervisor Doug Chaffee
DEPARTMENT CONTACT PERSON(S): Chris Wangsaporn (714) 834-3110
LaShe Rodriguez (714) 834-3440

SUBJECT: COVID-19 TESTING FOR ASIAN PACIFIC ISLANDER, AND MIDDLE EASTERN AND NORTH AFRICAN COMMUNITIES

CEO CONCUR: N/A
COUNTY COUNSEL REVIEW: N/A
CLERK OF THE BOARD: Discussion 3/5 Vote

Budgeted: N/A
Current Year Cost: N/A
Annual Cost: N/A
Staffing Impact: N/A
# of Positions: 0
Sole Source: N/A
Current Fiscal Year Revenue: N/A
Funding Source: CARES ACT Funding
County Audit in last 3 years: No
Prior Board Action: N/A

RECOMMENDED ACTION(S):
1. Direct the Health Care Agency, or designees, to develop a COVID-19 testing strategy and operational plan to expand testing into Asian Pacific Islander (API) and Middle Eastern and North African (MENA) communities in Orange County, and identify non-traditional venues for mobile sites for COVID-19 testing services.
2. Direct the Health Care Agency, or designees, to identify community-based organizations to administer the API and MENA COVID-19 testing strategy following the California Department of Public Health (CDPH) COVID-19 testing guidelines.

SUMMARY: Developing a COVID-19 testing strategy and plan for those in API/MENA communities will eliminate many linguistic, cultural, transportation and other barriers exist for these vulnerable communities.

BACKGROUND INFORMATION:

On February 26, 2020, the County of Orange declared a local emergency and a local health emergency to prepare for the novel coronavirus (COVID-19). Since that time, as of September 9, 2020, the cumulative
number of cases identified has reached 49,996 and 703,855 tests have been administered across public and private labs.

In May, the Testing Ad Hoc (Ad Hoc), comprised of Vice Chairman Do and Supervisor Chaffee, was established to quickly, strategically, and significantly increase the County’s COVID-19 testing capacity. The Ad Hoc works to ensure that every Orange County resident who needs a test can get one.

At the recommendation of the Ad Hoc, the Health Care Agency (HCA) launched the Latino Health Equity Initiative (LHEI) in partnership with Latino Health Access to increase targeted testing in the cities of Santa Ana and Anaheim. With the help of Families Together of Orange County, Serve the People and Care Ambulance, over 5,000 individuals were tested since July 6, 2020, with a daily capacity to test approximately 600 individuals.

In addition to the LHEI, the robust COVID-19 testing landscape in Orange County includes:

- Two COVID-19 Drive Thru Testing Super Sites in the city of Anaheim at the Convention Center and in the city of Costa Mesa at the Orange County Fair Grounds
- OC COVID-19 Testing Network consisting of twelve community health centers that offer testing and a medical assessment, including for those who do not have health insurance.
- State of California OptumServe Testing Sites that are recommended for people without symptoms (asymptomatic) – such as healthcare workers, first responders, and other essential workers; and those who have had close contact to someone with COVID-19.
- Drive Thru Testing Clinics, Urgent Cares, and Labs that are operated by private healthcare providers.

Throughout Orange County, many linguistic, cultural, transportation and other barriers exist for vulnerable communities. Current testing is difficult to access for those in API/MENA communities. Higher infection rates are being observed in zip codes with a high density of API/MENA businesses and residents. Orange County is nearly one quarter API/MENA with a significant number having a limited English proficiency and many community members living in ethnic enclaves.

Given the immigrant background of API/MENA communities and the high percentage of workers who are essential and may be low income, the impact of testing inaccessibility is urgent. Moreover, higher infection rates are being observed in zip codes with a high density of API/MENA businesses and residents. The county is the third largest API county in the country. In light of the high percentage of API/MENA residents, barriers to testing accessibility needs to be more strategically addressed.

**FINANCIAL IMPACT:** N/A

**STAFFING IMPACT:** N/A

**ATTACHMENT(S):** N/A
AGENDA STAFF REPORT

MEETING DATE: 09/15/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Chairwoman Michelle Steel
Supervisor, Second District
DEPARTMENT HEAD REVIEW:
DEPARTMENT CONTACT PERSON(S): Arie Dana (714) 834-3220
Tom Hatch (714) 834-2836

SUBJECT:

<table>
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<tr>
<th>CEO CONCUR</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
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<td>Discussion</td>
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<td>3 Votes Board Majority</td>
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<th>CEO Signature</th>
<th>County Counsel Signature</th>
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Budgeted: N/A  Current Year Cost: N/A  Annual Cost: N/A

Staffing Impact: No  # of Positions: N/A  Sole Source: N/A
Current Fiscal Year Revenue: N/A  Funding Source: N/A  County Audit in last 3 years N/A

Prior Board Action: N/A

RECOMMENDED ACTION

Approve and implement Veterans Employment Preference Policy with an effective date of September 15, 2020.

SUMMARY:

The County of Orange currently provides hiring preference for veterans in a limited scope to a narrowly defined candidate pool. Specifically, veterans’ preference is provided by way of percentage points that are credited to a candidate’s passing score on a limited number of assessments to eligible veterans and active service members seeking employment with the County of Orange.
The proposed policy will provide a preference in the employment process to all eligible veterans including eligible veterans of the National Guard and Reserves, as well as eligible spouses of disabled and deceased veterans.

This policy will provide veterans, and eligible spouses, an opportunity to receive an interview in the selection process for employment and paid internship openings who meet the criteria outlined below. As a result, Orange County’s veterans’ employment preference policy will be one of the most veteran-friendly in the State and will increase the County's ability to successfully attract veteran candidates and their eligible spouses.

BACKGROUND INFORMATION:

In February 2020, Chairwoman Michelle Steel directed the County Executive Officer (CEO) and the Chief Human Resources Officer (CHRO) to explore the feasibility of expanding the County’s existing veterans’ hiring preference program—one that provides preferential points to veterans only in certain circumstances. Human Resource Services (HRS) was then responsible for researching other jurisdictions in the state of California and developing a program that could potentially be the most veteran-friendly program in the region and return with recommendations to the Board by the end of May 2020. Due to the significant impacts of the COVID-19 public health crisis, along with the complexity of evaluating surrounding jurisdiction’s policies, modifying the County’s Recruitment Rules, and determining procedural impacts, this project was delayed, with the support of the Chairwoman’s Office, to a later date. The policy now before the Board greatly enhances the employment preference program and honors and recognizes the service of the men and women who served as well as the sacrifices made by their spouses. This program also paves the way for veterans to enter the civilian workforce seamlessly.

Orange County veterans of the Armed Forces have proudly served a prominent role in the defense of our country. Orange County is currently home to the Seal Beach Naval Weapons Station and Los Alamitos Joint Forces Training Base. According to the U.S. Census Bureau, approximately 112,000 veterans reside in Orange County. In addition, the U.S. Department of Defense data shows that the state of California is home to the greatest number of active duty personnel (164,000) and reserve forces (56,000).

The men and women of our Armed Forces generally offer to a prospective employer: exceptional training, advanced life skills, dedication, leadership, loyalty, discipline, mission dedication, organizational skills, and a solid work ethic. The County of Orange recognizes their service, as well as their spouses’ sacrifices, and desires to attract that kind of esprit de corps in its workforce.

VETERANS EMPLOYMENT PREFERENCE POLICY PARAMETERS

Veterans preference consideration will only be applied to participants not currently employed by the County of Orange and who are applying for open competitive recruitments, excluding promotional job opportunities, transfers, and reassignments. Eligible candidates must apply for positions and will be offered an interview as part of the selection process if they provide proof of eligibility, as set forth under the definitions

1. Meet the minimum qualifications as stated in the job specific recruitment bulletin; and if applicable, meet any other required desirable or special qualifications (e.g., licenses, certifications) as stated in the specific job recruitment bulletin.

2. Achieve a passing score for any and all examination or assessment components and receive an overall passing score for a specific recruitment.
3. Demonstrate possession of any required skills, competencies, or experience for a specific position.

In the event the number of veterans employment preference policy candidates exceeds the number of the regular candidate pool referred for a specific position, a random selection from the veterans candidate pool will be referred equal to the number of non-veteran candidates.

Adoption of this policy is recommended to provide an enhanced hiring preference program for veterans, and their eligible spouses.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT:
Attachment A – Veterans Employment Preference Policy
A. Policy
The County of Orange recognizes the service and sacrifice given by the men and women of our Armed Forces and their families and values the benefit of the training, talents, and life skills that they are able to bring to our organization. As such, the County is committed to providing a mechanism to give preferential consideration in the employment process to veterans and their eligible spouses and will provide eligible participants the opportunity to receive interviews in the selection process for employment and paid internship openings.

B. Purpose
To assist qualified applicants in transitioning from military to civilian careers and to provide preferential employment consideration to spouses of veterans impacted by their service and sacrifice, while allowing the County to benefit by providing an opportunity to consider a skilled and well-trained applicant pool.

C. Authority
This policy is established at the direction of the CEO or designee. On February 25, 2020, the Board of Supervisors directed the County Executive Officer (CEO) and Chief Human Resources Officer (CHRO) to propose revisions to the existing program, expanding the preference criteria for eligible veterans and their eligible dependents during the hiring process.

D. Scope
This policy applies to qualified:
1. Veterans of the Armed Forces, including veterans of the National Guard and Reserves
2. Spouses of disabled veterans and spouses of a deceased veteran due to service-connected causes

E. Responsibilities
Human Resource Services (HRS) is responsible for maintaining this policy, ensuring it is kept up to date and communicating with applicants. HRS is to be contacted regarding any information contained in this policy.
F. Definition of Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Veteran</td>
<td>The term &quot;veteran&quot; means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.</td>
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<tr>
<td>Veterans of the National Guard and Reserves</td>
<td>&quot;Veterans of the National Guard and Reserves&quot; means any person who served at least 180 days of active duty in the National Guard or reserve component of the Army, Navy, Air Force, or Marine Corps; or who served at least 20 years in the National Guards or Reserves under conditions other than dishonorable.</td>
</tr>
<tr>
<td>Armed Forces</td>
<td>The term &quot;Armed Forces&quot; means the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.</td>
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G. Procedures

Policy Parameters
Veterans employment preference consideration will only be applied to participants not currently employed by the County of Orange and who are applying for open competitive recruitments, excluding promotional job opportunities, transfers, and reassignments.

Eligibility Requirements
Participants are subject to the County’s Recruitment Rules and Policies and the deadline and requirements as stated on the specific job posting. In addition, participants must provide proof of eligibility, as set forth under requirements, by the application deadline. Participants must:

1. Meet the minimum qualifications as stated in the job specific recruitment bulletin; and if applicable, meet any other required desirable or special qualifications (i.e. licenses/certifications) as stated in the specific job recruitment bulletin.
2. Achieve a passing score for all examination or assessment components and receive an overall passing score for a specific recruitment.
3. Demonstrate possession of any required skills, competencies, or experience for a specific position.

Selection Interview Referral Parameters
HRS will verify and refer qualified applicants as defined under this policy to the selection interview process.

1. Eligible applicants will be referred as Special Category Eligibles consistent with the provisions of the Recruitment Rules and Policies.
2. All Veterans Employment Preference Policy (VEPP) eligible candidates will be placed in a separate candidate pool and will be referred for interview in addition to non-VEPP candidates.
3. In the event the number of VEPP candidates exceeds the number of non-VEPP candidates referred for a specific position, a random selection from the VEPP pool will be referred equal to the number of non-veteran candidates consistent with the Recruitment Rules and Policies.

Documentation Requirements

Eligible applicants must provide proof of eligibility as described below at time of application submission for the specific recruitment. Required documents are as follows:

1. Veterans of the Armed Forces, and veterans of the National Guard and Reserves.
   i. Veterans of the Armed Forces will be required to provide proof of honorable or general discharge, including Form DD-214.
   ii. Veterans of the National Guard and Reserves must provide a copy of Form NGB-22 and proof they have served active duty for a minimum of 180 consecutive days or served at least 20 years in the National Guard or Reserves.

2. Spouses of disabled veterans and spouses of a deceased veteran due to service-connected causes.
   i. Spouses of a disabled veteran will be required to provide a copy of their marriage certificate, their spouse’s DD-214 form, and a disability award letter from the office of Veteran’s Affairs reflecting the veteran’s disability rating. “Disabled veteran” means any veteran as defined in Section 18540.4 who is currently declared by the United States Veterans Administration to be 10 percent or more disabled as a result of service in the Armed Forces. Proof of such disability shall be deemed conclusive if it is of record in the United States Veterans Administration.
   ii. Spouses of a deceased veteran are eligible if they have not remarried and their spouse died due to service-connected causes. Applicants will be required to provide a copy of their spouse’s DD-214 Form, copy of their marriage certificate, a copy of their spouse’s death certificate and the latest disability award letter from the VA reflecting the veteran’s disability (if applicable). Cause of death must be related to service-connected causes.
September 9, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the September 15, 2020, Board Hearing.

Agency: Sheriff-Coroner
Subject: Rancho Santiago Community College Criminal Justice Tuition Fees Agreement
Districts: 1

Reason for supplemental: This item needs to be heard as soon as possible to allow the Sheriff-Coroner Department to continue contracting with Rancho Santiago Community College District for tuition/registration fees for the Criminal Justice Classes. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: [Signature]
Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
    County Executive Office
    County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 9/15/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 1
SUBMITTING AGENCY/DEPARTMENT: Sheriff-Coroner
DEPARTMENT HEAD REVIEW: 
DEPARTMENT CONTACT PERSON(S): Jon Briggs (714) 647-1806
Andy Stephens (714) 538-2712

SUBJECT: Rancho Santiago Community College Criminal Justice Tuition Fees Agreement

CEO CONCUR

Digital signature by Frank Kim
Of and on behalf of County
of Orange, CA-CEO,
Email: frank.kim@ocgov.com,
Date: 6/20/20 10:22:40

COUNTY COUNSEL REVIEW
Approved Agreement as to Form
Action

CLERK OF THE BOARD
Discussion
3 Votes Board Majority

CEO Signature
County Counsel Signature

Budgeted: Yes
Current Year Cost: $223,500

Annual Cost:
FY 2021-22 $298,000
FY 2022-23 $298,000
FY 2023-24 $74,500

Staffing Impact: No

# of Positions: 

Current Fiscal Year Revenue: N/A

Funding Source: State: 61% (Proposition 172),
Other: 39% (Peace Officer Standards & Training)

Sole Source: Yes

County Audit in last 3 years: No


RECOMMENDED ACTION(S):
Authorize the County Procurement Officer or authorized Deputy to execute sole source agreement with the Rancho Santiago Community College District for tuition/registration fees for the Criminal Justice Classes, for the term of October 1, 2020, through September 30, 2023, in an amount not to exceed $894,000, renewable for one additional two-year term.

SUMMARY:
Approval of the sole source agreement with the Rancho Santiago Community College District will allow the Sheriff-Coroner Department to contract for tuition/registration fees for the Criminal Justice Classes.
BACKGROUND INFORMATION:

The Rancho Santiago Community College District (District) provides the Sheriff-Coroner Department’s (Sheriff) law enforcement training in support of Sheriff’s Criminal Justice Academy (Academy). The District provides all of the necessary supplies and equipment to successfully present the Peace Officer Standards and Training (POST) Regular Basic Course Academy program. Additionally, in order for the college and the County to receive funding for the students enrolled in these classes, the college must possess the ability to access Full Time Equivalent Student funding from the State of California. Recruits attending the Academy obtain college credits for their Academy training. In order to receive college credits, the recruits must be registered as students at Santa Ana College within the District. The Academy is located within the attendance area of Santa Ana College. Note that due to COVID-19 Pandemic class sizes are limited and still will be conducted via in-person learning. Presently, no other community college can provide such facilities to accommodate the training needs to present this program to the Academy recruits. The proposed agreement is a sole source agreement and a completed Sole Source Request Form is attached to this Agenda Staff Report (Attachment C).

The following table details the recent agreement history with the District for Criminal Justice Classes.

<table>
<thead>
<tr>
<th>Board of Supervisors Approved</th>
<th>Amendment Number or Agreement</th>
<th>Agreement Term</th>
<th>Agreement Amount</th>
<th>Comments</th>
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<tbody>
<tr>
<td>9/11/12</td>
<td>Contract</td>
<td>9/18/12 - 9/17/17</td>
<td>$950,000</td>
<td>New five-year agreement</td>
</tr>
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<td>3/14/17</td>
<td>1</td>
<td>9/18/17 - 3/31/18</td>
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<td>Extended agreement to align the term of this agreement with two other agreements with the District.</td>
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<tr>
<td>3/27/18</td>
<td>2</td>
<td>4/1/18 - 3/31/19</td>
<td>$190,000</td>
<td>Extended agreement by one year to negotiate with the District to combine three agreements into one and to modify the terms of the agreement.</td>
</tr>
<tr>
<td>3/26/19</td>
<td>3</td>
<td>4/1/19 - 3/31/20</td>
<td>$190,000</td>
<td>Extended agreement by one year to negotiate with the District to combine three agreements into one and to modify the terms of the agreement.</td>
</tr>
</tbody>
</table>

The proposed agreement with the District establishes the amounts of the registration and tuition fees. The tuition unit rate is set by the State legislature and is subject to change. The current tuition rate is $46 per unit.

Sheriff intended to combine three existing agreements with the District into one. However, Sheriff and the District decided to continue to contract separately for the Criminal Justice Classes. Sheriff now requests approval of a new sole source agreement with the District for Criminal Justice Classes, for the term of
October 1, 2020, through September 30, 2023, in the amount of $894,000, renewable for one additional two-year term.

The proposed agreement includes mutual indemnification language. CEO/Risk Management has reviewed the mutual indemnity language and deemed it to be acceptable as both entities public entities and are self-insured. A Risk Assessment or Modification of Insurance Terms Form is attached (Attachment C).

Contractor performance has been confirmed as at least satisfactory. Sheriff has verified that there are no concerns that must be addressed with respect to contractor's ownership/name, litigation status or conflicts with County interests. This agreement does not currently include subcontractors or pass through to other providers. See Attachment D for Contract Summary Form. This agreement is submitted for Board of Supervisors approval less than 30 days prior to its effective date as the agreement is scheduled to be approved by the District's Board on September 14, 2020.

FINANCIAL IMPACT:
Appropriations for this agreement are included in the Sheriff-Coroner's FY 2020-21 Budget for Budget Control 060, Sheriff-Coroner, and will be included in the budgeting process for future fiscal years. The California Commission on POST reimburses the County for the Basic Academy tuition. Tuition for other classes is paid by the County through Proposition 172 revenue. This agreement contains language allowing the Sheriff-Coroner Department to terminate the agreement or reduce the level of services without penalty with cause or without cause in the event that funding is reduced and/or not available to continue funding the agreement, and the District to terminate the agreement with or without cause.

STAFFING IMPACT:
N/A

ATTACHMENT(S):
Attachment A - Agreement MA-060-21010188
Attachment B - Sole Source Request and BidSync Form
Attachment C - Risk Assessment or Modification of Insurance Terms Form
Attachment D - Contract Summary Form
AGREEMENT MA-060-21010188

REGISTRATION AND TUITION FEES FOR CRIMINAL JUSTICE ACADEMY CLASSES

BETWEEN

THE COUNTY OF ORANGE, THROUGH ITS SHERIFF-CORONER DEPARTMENT

AND

THE RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
ON BEHALF OF SANTA ANA COLLEGE
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AGREEMENT REGARDING REGISTRATION AND TUITION FEES FOR CRIMINAL JUSTICE ACADEMY CLASSES
BETWEEN
THE COUNTY OF ORANGE, THROUGH ITS SHERIFF-CORONER DEPARTMENT
AND
THE RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
ON BEHALF OF SANTA ANA COLLEGE

THIS AGREEMENT, hereinafter referred to as "Agreement", is made and entered into, effective October 1, 2020, between the RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT, hereinafter referred to as "DISTRICT" and the COUNTY OF ORANGE, a political subdivision of the State of California, hereinafter referred to as "COUNTY."

RECITALS:

WHEREAS, COUNTY desires to enter into this Agreement with DISTRICT for Registration and Tuition Fees for Criminal Justice Academy Classes; and

WHEREAS, DISTRICT has the personnel, expertise, facility and equipment to provide the special services required herein; and

WHEREAS, DISTRICT is agreeable to providing such services on the terms and conditions hereinafter set forth by this AGREEMENT; and

WHEREAS, DISTRICT has cooperated with COUNTY for a number of years in the training programs; and

WHEREAS, there is mutual benefit to COUNTY and DISTRICT in continuing their relationship in providing the training programs, which includes permitting the attendance of students who have not been hired or sponsored by public police agencies;

NOW, THEREFORE, COUNTY and DISTRICT mutually agree as follows:

AGREEMENT

I. DISTRICT’S RESPONSIBILITIES:

A. Services- DISTRICT’S responsibilities shall be to diligently furnish to the COUNTY the services as set forth in Attachment A, hereby incorporated in this Agreement by this reference.
II. APPLICABLE LAW, VENUE, INTERPRETATION:

This Agreement shall be interpreted according to the laws of the State of California and the Parties agree that venue for any action concerning or arising out of this Agreement shall be in Orange County, California. The provisions of this Agreement shall be construed in all cases as a whole, according to their fair meaning, and not strictly for or against either Party.

III. TERM OF AGREEMENT, EXTENSIONS, AND TERMINATION:

This Agreement shall commence on October 1, 2020 and continue through September 30, 2023, and may be renewed by mutual written agreement of both Parties for an additional two (2) year term.

A. Termination: Either Party may terminate this Agreement at any time, with or without cause, upon written notice given to the other Party at least one hundred eighty (180) days prior to the date specified for the termination. The failure of either Party to comply with any of the provisions, covenants or conditions of this agreement shall be a material breach of this agreement and shall constitute “cause”. Termination may not occur without the completion of each training program that is currently in progress. In the event of termination, each Party shall fully pay and discharge all obligations contained in this Agreement in favor of the other Party accruing prior to the termination date. Each Party shall be released from all obligations or performance that would otherwise accrue after the termination date. Neither Party shall incur any liability to the other because of the termination.

IV. AUTHORITY; DOCUMENTATION REVIEW, AUDIT, AND RETENTION:

A. Full Authority: Each Party warrants to the other that it has full authority to administer this Agreement, including but not limited to, the rights to terminate, amend, extend, modify, or alter specific terms in accordance with the terms of this Agreement.

B. Access to Documents: Each Party is entitled to full access and authority to audit all pertinent records of the other Party concerning this Agreement. The Parties agree that inspection of records is subject to applicable law recognizing the privacy rights of students and/or employees. Within 48-hours of the receipt of written audit notice, the Party from whom records are requested shall make those records available to the requesting Party. The Parties agree to cooperate fully to facilitate audits by the other Party.

C. Audit: The Parties agree that an audit includes an examination or making an excerpt or transcript from books, records, invoices, materials, payroll, or personnel data related to all matters covered by this Agreement. The Parties agree to maintain books and records in an accessible location and condition for a period of not less than 5 years after termination of this Agreement.

V. OWNERSHIP OF WRITINGS, ETC. PRESENTED IN TRAINING PROGRAM:
All writings, documents, illustrations, or any other works of authorship fixed in any tangible or digital medium of expression ("writing") prepared by District or County and its Instructors shall be and shall remain the property of the Party who prepared the writing.

VI. INDEMNIFICATION:

A. District agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnites”) harmless from and against any claims, demands or liability of any kind or nature, including but not limited to personal injury, death, or property damage, arising from or related to the services, goods or other performance provided by District pursuant to this Agreement (“Claims”).

B. County agrees to indemnify, defend, and hold District, its officers, employees, and agents harmless from any third party claims, demands or liability for personal injury, death, or property damage, arising from the County’s performance pursuant to this Agreement (“Claims”).

C. In the event that third-party loss is attributed to the concurrent act(s) or omission(s) of both Parties, the ultimate financial responsibility of each Party for said loss shall be apportioned according to the Party’s percentage of fault as determined by mutual agreement between the Parties or by a court of competent jurisdiction. Neither party shall request a jury apportionment.

D. This indemnification shall survive termination of this Agreement or final payment therefore.

VII. SEVERABILITY:

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

VIII. ASSIGNMENT:

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Agreement nor any portion thereof may be assigned by District without the express written consent of County. Any attempt by District to assign the performance or any portion thereof of this Agreement without the express written consent of County shall be invalid and shall constitute a breach of this Agreement.

Neither Party may assign nor transfer any or all of that Party’s rights, burdens, duties, or obligations under this Agreement without the prior written consent of the other Party.
IX. INSURANCE REQUIREMENTS:

A. Insurance and Self Insurance: Without limiting in any way any of the defense, indemnity, and hold-harmless obligations of this Agreement, the Parties each will obtain, pay for, and maintain in full force and effect during the effective dates of this Agreement policies of insurance, or, self-insurance, a memorandum or memoranda of coverage providing coverage as follows:

1. Commercial General Liability insurance and/or coverage, which shall include coverage for: “bodily injury”, “property damage”, “advertising injury”, and “personal injury”, including, but not limited to, coverage for products and completed operations, with combined single policy limits or limits of liability of not less than $1,000,000 per occurrence and not less than $2,000,000 in the aggregate, if the policy or memorandum of coverage is subject to any aggregate policy limit or aggregate limit of liability.

2. Business or Commercial Automobile Liability insurance or coverage written on an “occurrence” basis with policy limits or limits of liability of not less than $1,000,000 per accident. It must cover owned, hired, non-owned motor vehicles, with a combined single policy limit or limit of liability for bodily injury and property damage of not less than $1,000,000.

3. Workers Compensation insurance with statutory limit and Employers’ Liability with a $1,000,000 limit per occurrence.

B. Additional Insured Endorsements: Each Party to this Agreement shall cause the Commercial General Liability insurance or self-insurance program required by this Agreement to be endorsed to name the other Party as an additional insured.

C. Subrogation Waivers: The Workers’ Compensation policy shall be endorsed to state that all rights of subrogation are waived as to each Party to this Agreement.

D. Proof of Insurance or Coverage: Each Party to this Agreement shall provide to the other Party at least annually, current Certificates of Insurance with endorsements as required by this Agreement of coverage required by this Agreement.

X. INDEPENDENT CONTRACTOR:

District shall be considered an independent contractor and neither District, its employees, nor anyone working under District shall be considered an agent or an employee of County. Neither, District, its employees or anyone working for District shall qualify for workers’ compensation or other fringe benefits of any kind through County.

XI. PERFORMANCE WARRANTY:
District shall warrant all work under this Agreement, taking necessary steps and precautions to perform the work to County’s satisfaction. District shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the District under this Agreement. District shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary services, supervision, classroom materials, classroom furniture/equipment, and necessary supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, District shall be fully responsible for all work performed by subcontractors.

XII. FORCE MAJEURE:

District shall not be assessed or be found in breach during any delay beyond the time named for the performance of this Agreement caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided District gives written notice of the cause of the delay to County within 36 hours of the start of the delay and District avails himself of any available remedies.

XIII. CONFIDENTIALITY:

District agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Agreement. All such records and information shall be considered confidential and kept confidential by District and District’s staff, agents and employees.

XIV. COMPLIANCE WITH LAWS:

District represents and warrants that services to be provided under this Agreement shall fully comply, at District’s expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. District acknowledges that County is relying on District to ensure such compliance, and pursuant to the requirements of paragraph “C” above, District agrees that it shall defend, indemnify and hold County and County INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

XV. CONTINGENCY OF FUNDS:

District acknowledges that funding or portions of funding for this Agreement may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County’s Board of Supervisors for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming,
or are otherwise limited, County may immediately terminate or modify this Agreement without penalty.

XVI. DRUG-FREE WORKPLACE:

The District hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The District will:

A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by government code section 8355(a)(1).

B. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:

   a. The dangers of drug abuse in the workplace;
   b. The organization’s policy of maintaining a drug-free workplace;
   c. Any available counseling, rehabilitation and employee assistance programs; and
   d. Penalties that may be imposed upon employees for drug abuse violations.

C. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Agreement:

   a. Will receive a copy of the company’s drug-free policy statement; and
   b. Will agree to abide by the terms of the company’s statement as a condition of employment under this agreement.

Failure to comply with these requirements may result in termination of the Agreements, and the District may be ineligible for award of any future County agreements if the County determines that any of the following has occurred:

1. The District has made false certification, or
2. The District violates the certification by failing to carry out the requirements as noted above.

XVII. NEWS/INFORMATION RELEASE:

The District agrees that it will not issue any news releases in connection with either the award of this Agreement or any subsequent amendment of or effort under this Agreement without first obtaining review and written approval of said news releases from the County’s Public Information Officer.

XVIII. PRECEDENCE:
The Agreement consists of this Agreement and its exhibits and attachments. In the event of a conflict between or among the Agreement documents, the order of precedence shall be the provisions of the main body of this Agreement, i.e., those provisions set forth in the recitals and articles of this Agreement, and then the exhibits and attachments.

XIX. NOTICES:

All notices required or permitted to be given under this Agreement shall be deemed duly given and effective if in writing and personally delivered or deposited in the U.S. Mail, postage to be prepaid, sent by a reputable overnight courier service (with package tracking capability), or sent by certified mail, return receipt requested, first class postage prepaid, addressed to the following:

**District:** Rancho Santiago Community College District  
2323 North Broadway  
Santa Ana, CA 92706  
Attn: Peter Hardash  
Email: hardash_peter@rsccd.edu  
Ph: (714) 480-7340  

Santa Ana College  
1530 West 17th Street  
Santa Ana CA, 92706  
Attn: Dr. Jeffrey N. Lamb  
Lamb_Jeffrey@sac.edu  
Ph: (714) 564-6080

**County:** County of Orange  
Sheriff-Coroner Department/Training Division  
1900 W. Katella Ave.  
Orange, CA 92667  
Attn: Training Division Captain  
Ph: (714) 538-9668  

Sheriff-Coroner Department/Purchasing Services Unit  
320 N. Flower Street, 2nd Floor  
Santa Ana, CA 92703  
Attn: Maria Ayala, Procurement Contract Specialist  
mayala@ocsd.org  
Ph: (714) 834-6360  
Fax: (714) 834-6411

A Party may change its designated representative and/or address for the purpose of receiving notices under this Agreement by notifying the other Party of the change in writing and in the manner described in this section.
XX. NO DISCRIMINATION:

The District shall not discriminate against any person in the provision of services, or employment of persons on the basis of race, religion, medical condition, disability, marital status, sex, age or sexual orientation, or other basis set forth in Government Code section 11135. The District further understand that harassment of any student or employee of either Party because of that person’s race religion, gender, disability, medical condition, marital status, age or sexual orientation is strictly prohibited.

XXI. APPROVAL:

In accordance with Education Code section 81655, this Agreement is valid and an enforceable obligation of the District only after it has been approved or ratified by the Board of Trustees of the Rancho Santiago Community College District as evidenced by a motion duly passed and adopted by the Board Trustees.

In accordance with the Government Code, including but not limited to sections 25303, 25330 et seq., and 26227, this Agreement is valid and an enforceable obligation of the County only after it has been approved by either the Orange County Board of Supervisors, as evidenced by a minute order reflecting such approval, or by an officer to whom the authority has been duly delegated by the Board of Supervisors.

XXII. AGREEMENT:

This writing, and any amendments hereto, constitute the entire Agreement between the Parties. This Agreement may not be altered or modified except by the express written consent of both the County and District. Each Party acknowledges there are no other provisions or representations that have not been incorporated into this Agreement. The County acknowledges that changes to any provision of this Agreement can only be made by action of the Board of Trustees of the District. The District acknowledges that changes to any provision of this Agreement may only be made by action of the Orange County Board of Supervisors.

XXIII. TIME IS OF THE ESSENCE:

Time is of the essence for each of the provisions of this Agreement.

XXIV. ALTERATION OF TERMS:

This Agreement fully expresses all understanding of DISTRICT and COUNTY with respect to the subject matter of this Agreement, and shall constitute the total Agreement between the parties for these purposes. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed by duly authorized agents of both parties.

(Signature page follows)
IN WITNESS WHEREOF, the Board of Trustees of the Rancho Santiago Community College District has caused the Agreement to be subscribed by its Chairperson and the seal of said Board to be hereto affixed and attested by the Executive Officer thereof, and County has caused the same to be subscribed on its behalf by the Chairperson of the Orange County Board of Supervisors and/or its duly authorized officer.

County

By

Print Name

Title

Date

Approved by the Board of Supervisors: _________________

Approved as to Form
Office of the County Counsel
Orange County, California

Rancho Santiago Community College District

By

Print Name  Peter J. Hardash

Title  Vice Chancellor, Business Operations/Fiscal Services

Date
ATTACHMENT A

SCOPE OF WORK

1. Scope of Services: District shall provide Criminal Justice Academy Classes for the Orange County Sheriff's Department recruits. The recruits in the Sheriff's Criminal Justice Academy shall be able to obtain college credits for courses taken as part of their academy training, and their continuing professional development training.

2. The District shall provide basic and advanced training programs and courses deemed of benefit to the Orange County Sheriff’s Department and outside Law Enforcement Agency personnel that are approved by the Commission on Peace Officer Standards and Training (POST) and Standards and Training for Corrections (STC).

3. District shall provide classes deemed of benefit to the Orange County Sheriff's Department, and regional law enforcement designed for entry level and advanced law enforcement personnel, offered in various formats depending on the subject matter being taught, and certified by POST and STC Commissions. The classes to be presented will be selected based on the mutual agreement of the OCSD Training Division Commander and the Santa Ana College Assistant Dean of Criminal Justice. Courses authorized to be paid by this agreement are as follows:

All College approved Criminal Justice related courses are authorized at current tuition unit rate of $46/unit. Unit rate is subject to change by State Legislature and this contract shall be modified without additional County Board approval to reflect the revised rate.
ATTACHMENT B

PAYMENT AND COMPENSATION

1. Compensation: This is a firm-fixed fee agreement between the County of Orange via the Sheriff-Coroner and Rancho Santiago Community College District (RSCCD) for Registration and Tuition Fees for Criminal Justice Academy Classes.

2. Registration and Tuition Fees: The fees to be paid by County for the services as set forth in Attachment A, hereby incorporated in this Agreement by Reference are as follows:

   Rate: $46.00 per unit (Per Education Code (EDC) Article 1. 76300)

   The tuition unit rate is set by the State Legislature and is subject to change

   Description of courses: All College approved Criminal Justice related courses.

   Contract shall not exceed: $894,000 for the term of 10/1/2020 – 9/30/23.

3. Contractor’s Expense: The District will be responsible for all costs related to photo copying, telephone communications and fax communications while on County sites during the performance of work and services under this Agreement.

4. Payment Terms – Payment in Arrears: Invoices are to be submitted upon completion of each course to the user agency/department to the ship-to address, unless otherwise directed in this Agreement. District shall reference Agreement number on invoice. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to the County and verified and approved by the agency/department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the District.

   Billing shall cover services and/or goods not previously invoiced. The District shall reimburse the County for any monies paid to the District for goods or services not provided or when goods or services do not meet the Agreement requirements within ninety (90) days.

   Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Agreement and shall not be construed as acceptance of any part of the goods or services.

5. Taxpayer ID Number: The District shall include its taxpayer ID number on all invoices submitted to the County for payment to ensure compliance with IRS requirements and to expedite payment processing.

6. Payment – Invoicing Instructions: The District will provide an invoice on the District’s letterhead for goods delivered and/or services rendered. In the case of goods, the District will
leave an invoice with each delivery. Each invoice will have a number and will include the following information:

a. District’s name and address  
b. District’s remittance address, if different from 1 above  
c. District’s Taxpayer ID Number  
d. Name of County Agency/Department  
e. Delivery/service address  
f. Master Agreement No. MA-060-21010188  
g. Agency/Department’s Account Number  
h. Date of invoice  
i. Product/service description, quantity, and prices  
j. Sales tax, if applicable  
k. Freight/delivery charges, if applicable  
l. Total

Invoice and support documentation are to be forwarded to:

Sheriff-Coroner Department/Training Division  
1900 W. Katella Ave.  
Orange, CA 92867  
Attn: OCSD Training Division Administrative Manager  
Ph: 714-538-9668

7. Payment (Electronic Funds Transfer (EFT))

The County offers Contractors the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment via EFT will also receive an Electronic Remittance Advice with the payment details via e-mail. An e-mail address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the agency/department representative listed in Section 9. Notices. Upon completion of the form, please mail, fax or email to the address or phone listed on the form.

8. Payment – County shall send payments to the following remittance address:

Santa Ana College  
Criminal Justice Academies  
15991 Armstrong Ave.  
Tustin, CA 92782
## SECTION II – DEPARTMENT INFORMATION  (Complete in its entirety)

<table>
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<tr>
<th>Department: Orange County Sheriff-Coroner Department</th>
<th>Date: July 30, 2020</th>
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</thead>
<tbody>
<tr>
<td>Vendor Name: Rancho Santiago Community College District</td>
<td>Sole Source BidSync Number: 060-C021321-SS</td>
</tr>
</tbody>
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Is the above named vendor a retired employee of the County of Orange?  ☐ Yes  ☑ No

If "Yes", review and Approval is required from CEO Human Resource Services prior to contract execution.

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<tr>
<th>Contract Term [Dates]: 10/1/20 – 9/30/23</th>
<th>Is Agreement Grant Funded? ☐ Yes ☑ No</th>
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<td>Contract Amount? Revenue Generating</td>
<td>Is this renewable? If yes, how many years? 2 years</td>
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<tr>
<td>Type of Request: ☑ New  ☐ Multi-Year  ☐ Renewal  ☐ Amendment  ☐ Increase</td>
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<tr>
<td>Renewal Year: 10/1/23 – 9/30/24 and 10/1/24 – 9/30/25</td>
<td>Did vendor provide a sole source affidavit? ☐ Yes ☑ No</td>
<td>If yes, please attach</td>
</tr>
<tr>
<td>Board Date: 9/15/20</td>
<td>ASR Number: 20-000030</td>
<td>If not scheduled to go to the Board explain why? N/A</td>
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</tbody>
</table>

Does Contract Include Non-Standard Language?  If yes, explain in detail. Rancho Santiago Community College District’s Terms and Conditions were approved by both CEO Risk Management and County Counsel.

Was Contract Approved by Risk Mgmt.? Yes | Was Contract Approved by County Counsel? Yes

Were any exceptions taken?  If yes, explain in detail. Rancho Santiago Community College District’s Terms and Conditions were approved by both CEO Risk Management and County Counsel.

☑ DPA certifies that they have read and verified that the information is true and satisfies the sole source requirements listed in the County Contract Policy Manual.

☐ Solicitation Exemption
   (For purchases with special circumstances, and/or when it is determined to be in the best interest of the County.)
SECTION III – SOLE SOURCE JUSTIFICATION

1. Provide a description of the type of contract to be established. (For example: is the contract a commodity, service, human service, public works, or other – please explain.) Attach additional sheet if necessary.

The Orange County Sheriff-Coroner Department’s Training Division is seeking to establish a revenue-generating sole source contract with the Rancho Santiago Community College District for registration and tuition fees for classes presented by the Training Division.

2. Provide a detailed description of services/commodities and how they will be used within the department. If this is an existing sole source, please provide some history of its origination, Board approvals, etc. (This information may be obtained from the scope of work prepared by the County and the vendor’s proposal that provides a detailed description of the services/supplies.) Attach additional sheet if necessary.

The Orange County Sheriff-Coroner Department’s Training Division will collect registration and tuition fees for students enrolled in Criminal Justice Academy Classes and continuing professional development training classes. Fees are collected for recruits, Orange County Sheriff-Coroner Department employees and outside agencies’ personnel enrolled in courses presented by the Training Division. Students shall obtain college credits for courses taken. Prior Board approvals on 3/24/20, 3/26/19 and 3/27/18.

3. Explain why the recommended vendor is the only one capable of providing the required services and/or commodities. How did you determine this to be a sole source and what specific steps did you take? Please list all sources that have been contacted and explain in detail why they cannot fulfill the County’s requirements. Include vendor affidavit and/or other documentation which supports your sole source. (Responses will include strong programmatic and technological information that supports the claim that there is only one vendor that can provide the services and/or commodities. Your response will include information pertaining to any research that was conducted to establish that the vendor is a sole source, include information pertaining to discussions with other potential suppliers and why they were no longer being considered by the County.) Attach additional sheet if necessary.

The Rancho Santiago Community College District (RSCCD) provides the Orange County Sheriff-Coroner Department with a stand-alone Regional Training Academy Campus. RSCCD provides all of the necessary supplies and equipment to successfully present the POST Regular Basic Course Academy program. Presently, no other community college can provide such facilities to accommodate the training needs to present this program. The Orange County Sheriff-Coroner’s Department has partnered with the RSCCD for over 45 years and established the Sheriff’s Academy as the premier program in the State of California. Recruits attending the Academy will obtain college credits for their Academy training. In order to receive college credits, the recruits must be registered as students at Santa Ana College within the RSCCD. The Academy is located within the attendance area of Santa Ana College (CA Northern Region). Per Title 5 of the California Code of Regulations, California Community College Districts have exclusivity within their respective districts to enter into instructional service agreements. RSCCD currently serves the entire County of Orange.

The Orange County Sheriff-Coroner Department utilizes a number of different scenarios and tactics within one physical location. A move to a new location would take a significant amount of time and would severely impact our delivery of mandatory training. This would create a substantial hardship and cost to the County.
4. How does recommended vendor's prices or fees compare to the general market? 
   Attach quotes for comparable services or supplies. Attach additional sheet if necessary.

   Community college tuition rates are standard throughout the state. The tuition rate is established by the state legislature.

5. If the recommended vendor was not available, how would the County accomplish this particular task? 
   Attach additional sheet if necessary.

   It would create a significant hardship on the County. Presently, the Orange County Sheriff-Coroner Department does not have existing facilities to accommodate the training needs of the Regional Sheriff's Academy, such as classroom space, physical fitness training space, ability to conduct practical applications (scenario-based training), orientation, graduation ceremonies and the day-to-day operational needs of the Training Division. The Orange County Sheriff-Coroner Department would need to create contracts with off-site venues for classroom and training space in order to absorb the impact of the loss of the Regional Sheriff's Academy facility. Such a move would take a significant amount of time to successfully accomplish and would severely impact the delivery of training to local and regional training partners.

6. Please provide vendor history – name change, litigation, judgments, aka, etc. for the last 7 years.

   Unable to locate any vendor history through internet search.

7. If vendor is a retired, former employee, has the vendor previously been rehired as a contractor within the last three years?  □ Yes   ✗ No

   If yes, provide explanation/support for hiring the retired, former employee as a vendor and provide contract dates, scope of work, and total amounts paid under each contract.

8. Explain (in detail) why a request for Solicitation Exemption is needed. (Only applicable for Solicitation Exemption)
   Attach additional sheet if necessary.

   N/A
Sole Source Request Form

SECTION IV – AUTHOR/REQUESTOR

<table>
<thead>
<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>[Signature]</td>
<td>Kevin LaPiana</td>
<td>07.30.20</td>
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SECTION V – CEO Human Resource Services APPROVAL (Review and approval is required when vendor is a Retired, Former Employee.)

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SECTION VI – DEPUTY PURCHASING AGENT CONCURRENCE

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<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>[Signature]</td>
<td>Frederick Lyle Rosson</td>
<td>08.05.20</td>
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</tbody>
</table>

SECTION VII – DEPARTMENT HEAD APPROVAL

<table>
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<tr>
<th>Signature:</th>
<th>Print Name:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>[Signature]</td>
<td>Brian West</td>
<td>07.31.20</td>
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</table>

SECTION VIII – COUNTY PROCUREMENT OFFICE

Prior to execution of a contract, the County Procurement Officer or designee shall approve All Sole Source requests for Commodities that exceed $250,000, Capitol Assets and services exceeding $75,000, and All other Sole Source requests that require Board approval despite the amount. Approvals are obtained electronically through the County’s online bidding system.

SOLICITATION EXEMPTION – CEO USE ONLY:

| Board of Supervisor Notification Date: |
| Comments: |

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<tr>
<th>CPO:</th>
<th>☐ Approved</th>
<th>☐ Denied</th>
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<tr>
<td>CFO:</td>
<td>☐ Approved</td>
<td>☐ Denied</td>
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<tr>
<th>CPO Authorized Signature:</th>
<th>Date:</th>
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<tbody>
<tr>
<td>CFO Authorized Signature:</td>
<td>Date:</td>
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</tbody>
</table>
Release Bid Workflow

Name: Maria Robles-Ayala
Phone: 714-834-6160
Email: MRayala@ocsd.org
Status: Submitter Aug 6, 2020 12:46:17 PM PDT

Bid Information
Bid Number: 08603170-01
Bid Title: 55 - RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT

Status: Approved

View Workflow History

Questions? Contact a BidSync representative: 800-990-9339 or email: support@bidsync.com

Copyright © 1999-2018 - BidSync - All rights reserved.
Use this form to request a Risk Assessment and determine Proper Insurance Requirements when developing an Agreement. **Please attach Agreement and prior Risk Approval(s) if any**

Date: 08/19/2020

TO: RiskMgmtInsurance@ocgov.com

FROM: Christian Abueg

County Employee (Contact for Questions)  Sheriff-Coroner Department
Phone# (Including area code): 714-834-2214

CONTRACT TYPE: □ Commodities  □ Public Works  □ Service  □ Lease/License

□ A & E  □ Other ______

Vendor Name: Rancho Santiago Community College  Contract#/RFP#: N/A

IFB: Yes  □ No  □

Contract Amount: ______

Insurance Type to be Reviewed for Waiver or Modification of Terms

□ Commercial General Liability (CGL)  □ Workers’ Compensation (W/C)  □ Property Insurance

□ Commercial Auto Liability (AL)  □ Employer’s Liability  □ Indemnification

□ Professional Liab. (Errors & Omissions)  □ Sexual Misconduct  □ Limitation of Liab.

□ Network Security & Privacy Liab.  □ Technology Error & Omissions

□ Other ______

Request and Justification: The attached agreement between the Sheriff-Coroner Department (Sheriff) and Rancho Santiago Community College District (District) for Registration and Tuition Fees for Criminal Justice Academy Classes. This agreement allows Sheriff and District to continue the Peace Officer Standards and Training (POST) Regular Basic Course Academy program. Sheriff is able to use all necessary supplies, facilities and equipment to accommodate the training needs for Academy recruits. It contains mutual indemnification provision. This agreement has been reviewed and approved by County Counsel. However it deviates from our normal standard and requires Risk Management Approval.

To Be Completed By CEO/Risk Management

☑ Approved  □ Denied  □ Approved as Modified

Comments: Mutual indemnity is appropriate as this is a collaborative effort.

Rhonda Marshall  08-25-20
Manager/CEO/Risk Management  Date

Note: CEO Risk Mgmt. acts as an advisory to departments regarding Risk Assessment. Any changes to a contract requires formal modification.
**Contract Summary Form**

Rancho Santiago Community College District

<table>
<thead>
<tr>
<th>Summary of Significant Changes</th>
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<tr>
<th>Subcontractors</th>
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<tbody>
<tr>
<td>This contracts do not include subcontractors or pass through to other providers.</td>
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<tr>
<th>Contract Operating Expenses</th>
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<tr>
<td>See attached excerpt from the contract below, which details the pricing in the not to exceed amount of $894,000.</td>
</tr>
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Page 14 of 15:
Payment and Compensation:

2. Registration and Tuition Fees: The fees to be paid by County for the services as set forth in Attachment A, hereby incorporated in this Agreement by Reference are as follows:
   
   Rate: **$46.00 per unit (Per Education Code (EDC) Article 1. 76300)**
   
   The tuition unit rate is set by the State Legislature and is subject to change
   Description of courses: All College approved Criminal Justice related courses.
   Contract shall not exceed: $894,000 for the term of 10/1/2020 – 9/30/23.
September 9, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the September 15, 2020, Board Hearing.

Agency: Sheriff-Coroner
Subject: Rancho Santiago Community College Criminal Justice Instructional Services Agreement
Districts: 1

Reason for supplemental: This item needs to be heard as soon as possible to allow the Sheriff-Coroner Department to continue contracting with Rancho Santiago Community College District for law enforcement instructional services and the use of its facilities. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
     County Executive Office
     County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 9/15/20
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 1
SUBMITTING AGENCY/DEPARTMENT: Sheriff-Coroner
DEPARTMENT HEAD REVIEW: 

DEPARTMENT CONTACT PERSON(S): Jon Briggs (714) 647-1806
Andy Stephens (714) 538-2712

SUBJECT: Rancho Santiago Community College Criminal Justice Instructional Services Agreement

<table>
<thead>
<tr>
<th>CEO CONCUR</th>
<th>COUNTY COUNSEL REVIEW</th>
<th>CLERK OF THE BOARD</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Approved Agreement As to Form</td>
<td>Discussion</td>
</tr>
<tr>
<td>CEO Signature</td>
<td>County Counsel Signature</td>
<td>3 Votes Board Majority</td>
</tr>
</tbody>
</table>

Budgeted: Yes

Current Year Cost: See Financial Impact Section

Annual Cost: See Financial Impact Section

Staffing Impact: No

# of Positions:

Current Fiscal Year Revenue: See Financial Impact Section

Funding Source: Other: 100% (Rancho Santiago Community College District)

County Audit in last 3 years: No


RECOMMENDED ACTION(S):
Authorize the County Procurement Officer or authorized Deputy to execute sole source revenue agreement with the Rancho Santiago Community College District for the Use of District Facilities and the Provision of Instructional Services at the rate of $1.50 for each student course hour, for the term of October 1, 2020, through September 30, 2023, in an anticipated agreement revenue amount of $625,000 per year for a total of $1,875,000 for the initial three-year term, renewable for one additional two-year term.

SUMMARY:
Approval of the sole source agreement with Rancho Santiago Community College District will allow the Sheriff-Coroner Department to contract with Rancho Santiago Community College District to reimburse the County for law enforcement instructional services and the use of its facilities.
BACKGROUND INFORMATION:

Since 1980, the Rancho Santiago Community College District (District) and the Sheriff-Coroner Department (Sheriff) have been jointly providing law enforcement training programs for Sheriff's employees as well as those hired by public police agencies. Sheriff's Training Division is affiliated with the District's Santa Ana College for all Peace Officer Standards and Training (POST) and Advanced Officer Training courses. As part of this joint training effort, the District has been reimbursing the County $30,000 annually for consultant services provided by Sheriff regarding the planning, organization and implementation of courses that will meet the needs of law enforcement for training purposes and expert strategic planning advice related to the growth of the criminal justice programs. The District provides Sheriff's law enforcement training in support of Sheriff's Regional Training Academy Campus (Academy). The District provides all of the necessary supplies and equipment to successfully present the POST Regular Basic Course Academy program.

Additionally, Sheriff and the District, through Santa Ana College, have participated by agreement in a mutually beneficial, cooperative arrangement regarding such law enforcement training for many years. Sheriff permits the District's use of the Sheriff's Katella Training Facility in Orange for District training programs, and the District allows Sheriff to conduct its training classes at the District's Academy Facility in Tustin. Sheriff permits the attendance of Santa Ana College students who have not been hired or sponsored by a public police agency. The District uses a portion of the Full Time Equivalent Student (FTES) funding received from the State of California to provide Sheriff's training program with supplies, personnel, instructional equipment/services, consultants and other costs. Sheriff coordinates with the District in creating course outlines and scheduling, and instructors hired by Sheriff are subject to the approval of the District. The District provides Sheriff's law enforcement training in support of Sheriff's Academy. The District provides all of the necessary supplies and equipment to successfully present the POST Regular Basic Course Academy program.

In order for the District and the County to receive funding for the students enrolled in these classes, the District must possess the ability to access FTES funding from the State of California. Recruits attending the Academy obtain college credits for their Academy training. In order to receive college credits, the recruits must be registered as students at Santa Ana College within the District. The Academy is located within the attendance area of Santa Ana College. Note that due to COVID-19 Pandemic class sizes are limited and still will be conducted via in-person learning. Presently, no other community college can provide such facilities to accommodate the training needs to present this program to the Academy recruits. The proposed agreement is a sole source agreement and a completed Sole Source Request Form is attached to this Agenda Staff Report (Attachment B).

Previously, Sheriff contracted separately for consulting services, the use of the facility and support staff. Sheriff desired to combine agreement for administrative purposes. The original agreement for the consulting services was approved by the Board of Supervisors (Board) on August 4, 2009, for the term of August 22, 2009, through August 21, 2010, in the annual not to exceed amount of $30,000. This agreement was renewed each year in the same amount through August 21, 2014. Following that period, extensions were approved while contract negotiations ensued to negotiate to combine the agreements into one. All extensions had an annual agreement amount of $30,000. The final agreement extension was approved by the Board on March 26, 2019.

Sheriff's last agreement for law enforcement training programs was approved by the Board on December 14, 2010, for the five-year term of January 1, 2010, through December 31, 2015, in the total contract amount of $550,000. The District reimbursed Sheriff for the cost of one Information Processing Technician position as clerical support for the program and a Facilities Maintenance Specialist I position, in the amount of
$110,000 per year through 2014. On August 12, 2014, the Board approved an increase of $51,600 to allow the District to reimburse Sheriff's staff in that amount for the remaining 18 months of the five-year agreement. As with the previously mentioned District agreement for the consulting services, extensions were subsequently approved while contract negotiations ensued to negotiate to combine the agreements into one. The final agreement extension was approved by the Board on March 24, 2020, for the agreement term of April 1, 2020, through September 30, 2020, in the amount of $72,000 for a revised cumulative total agreement amount of $1,285,600.

Sheriff now requests approval of a new sole source agreement with the District for the Use of District Facilities and the Provision of Instructional Services, for the term of October 1, 2020, through September 30, 2023. The proposed agreement includes a provision for the payment for each student course hour at the rate of $1.50 for each hour, for an anticipated agreement total revenue amount of $625,000 per year for a total of $1.875 million for the initial three-year term. The estimated revenue is based on the most recent annual student course hours reported. Student hours vary from year to year, which may result in changes to revenue.

The proposed agreement includes mutual indemnification language. The County Executive Office of Risk Management has reviewed the mutual indemnity language and deemed it to be acceptable as both are public entities that are self-insured. A Risk Assessment or Modification of Insurance Terms Form is attached (Attachment C).

Contractor performance has been confirmed as at least satisfactory. Sheriff has verified that there are no concerns that must be addressed with respect to contractor's ownership/name, litigation status or conflicts with County interests. This agreement is submitted for Board approval less than 30 days prior to its effective date as the agreement is scheduled to be approved by the District's Board on September 14, 2020. No redline version is attached as the new agreement combines two previous agreements into one.

FINANCIAL IMPACT:

All County costs associated with this agreement are reimbursed by Rancho Santiago Community College District. Revenue for this agreement is included in the Sheriff-Coroner's FY 2020-21 Budget for Budget Control 060, and will be included in the budgeting process in future years. This agreement is paid one time per year in arrears. This agreement contains language allowing the Sheriff-Coroner Department to terminate the agreement or reduce the level of services without penalty with cause or without cause in the event that funding is reduced and/or not available to continue funding the agreement, and the District to terminate the agreement with or without cause.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Agreement MA-060-21010186
Attachment B - Sole Source Request and BidSync Form
Attachment C - Risk Assessment or Modification of Insurance Terms Form
AGREEMENT MA-060-21010186

REGARDING USE OF DISTRICT FACILITIES AND THE PROVISION OF INSTRUCTIONAL SERVICES AGREEMENT

BETWEEN

THE COUNTY OF ORANGE, THROUGH ITS SHERIFF-CORONER DEPARTMENT

AND

THE RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
ON BEHALF OF SANTA ANA COLLEGE
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EXHIBIT I, SAMPLE RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
INDIVIDUAL INSTRUCTOR SERVICES AGREEMENT .................................................. 22-24

AGREEMENT REGARDING USE OF DISTRICT FACILITIES AND THE PROVISION OF
INSTRUCTIONAL SERVICES
BETWEEN
THE COUNTY OF ORANGE, THROUGH ITS SHERIFF-CORONER DEPARTMENT
AND
THE RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
ON BEHALF OF SANTA ANA COLLEGE

THIS AGREEMENT (the “Agreement”) is dated and effective October 1, 2020 (“Effective Date”) between the County of Orange, a political subdivision of the State of California, acting by and through its Orange County Sheriff-Coroner Department ( “County,” or “Sheriff,” or “Department” as the circumstances may dictate), and the Rancho Santiago Community College District, on behalf of Santa Ana College, a California community college district and political subdivision of the State of California (“District” or “Santa Ana College,” as the circumstances may dictate). County and District are also referred to collectively as the “Parties” and individually as “Party.” The term of this Agreement shall be as set forth in Section XIV., below.

RECITALS

WHEREAS, the County, by and through the Sheriff, and in conjunction with the District, conducts basic and advanced training programs and courses for Sheriff personnel and outside Law Enforcement Agency personnel that are approved by the Commission on Peace Officer Standards and Training (POST) and Standards and Training for Corrections (STC), and which are also attended by students of the District who have not been hired or sponsored by public law enforcement agencies; and

WHEREAS, the County desires to affiliate with the District in order to have such training programs and courses approved for college credit through the District at its Santa Ana College facilities and at facilities operated by the County; and

WHEREAS, Santa Ana College is an accredited educational institution empowered to grant college credits for educational training courses, and therefore, subject to Federal law, the laws of the State of California, the Regulations of the Board of Governors of the California Community Colleges, in general, and specifically as they relate to the offering of courses for credit; and

WHEREAS, in order to maintain its accreditation status, Santa Ana College must remain in full compliance with the eligibility requirements and accreditation standards of the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (“ACCJC”); and

WHEREAS, the District may obtain apportionment funding from the State of California based on the number of Full Time Equivalent Students (“FTES”) enrolled in the training programs and courses; and
WHEREAS, the Parties agree that in order for the District to be able to provide the facilities and instructional services set forth herein, the programs and courses offered pursuant to this Agreement must be offered in such a manner that the program generates sufficient apportionment funding such that the cost of providing the facilities and instructional services agreed to herein does not reduce or limit the District’s ability to fund other programs and activities offered by the District and its colleges; and

WHEREAS, there is mutual benefit to County and District in continuing their relationship in providing the training programs and courses; and

WHEREAS, the Orange County Board of Supervisors, pursuant to Government Code Section 26227, has authorized the Sheriff to collaborate with the District in providing such training courses and programs;

NOW, THEREFORE, in consideration of the promises and the mutual covenants set forth in this Agreement, the Parties agree as follows:

AGREEMENT

I. EDUCATIONAL COURSES AND PROGRAMS – OBLIGATIONS OF THE PARTIES

A. Educational Courses and Programs: The District will offer, at its Santa Ana College Criminal Justice Academy facility, located at 15991 Armstrong Ave., Tustin, CA 92782, and at the County’s facility located at 1900 West Katella Avenue, Orange, California 92867, mutually agreed upon and approved educational programs and courses to meet the needs of the County and its Sheriff’s Department Criminal Justice Academy. Courses and programs will be designed for entry level and advanced law enforcement personnel, offered in various formats depending on the subject matter being taught, and certified by POST and STC Commissions.

1. Obtaining State Apportionment Funding based on Student Attendance in the Courses and Programs Contemplated by this Agreement It is an essential element of this Agreement that the attendance of students pursuant to this Agreement shall be credited to the District for purposes of receiving apportionment funding from the State. The County shall cooperate at all times in assisting the District to accomplish this purpose, and will act in accordance with the requirements of this Agreement, as well as comply with such other lawful requests for assistance as the District may deem necessary in order to receive apportionment funding based on the student attendance associated with this Agreement.

2. County Certification of No Other Funding Sources By entering into this Agreement, the County certifies that the courses and programs to be conducted, and for which District shall pay the County pursuant to Section
I.G, will not be fully funded by other sources. (See Education Code § 84752 and 5 CCR §§ 58050, 58051, and 58051.5).

3. **Open Enrollment** Enrollment in courses and programs eligible for college credit and District receipt of apportionment funding shall be open to any persons who have been admitted to Santa Ana College (“District students”) and have met any applicable prerequisites pursuant to District policy and the Title 5 of the California Code of Regulations (hereinafter “Title 5”). (See 5 CCR §§ 51006(a), 58050, 58051, and 58051.5.)

4. **Prerequisites** The parties agree that the Santa Ana College Criminal Justice Academies facility shall be clearly identified as being open to the general public, but enrollment may be limited to those who meet such prerequisites as may be established pursuant to the California Code of Regulations. (See 5 CCR §§ 51006(a), 55003.) Similarly, courses and programs offered at the County’s Katella Avenue facility for apportionment purposes shall be clearly identified as being open to the general public, but enrollment may be limited to those who meet such prerequisites as may be established pursuant Title 5. (See 5 CCR §§ 51006(a), 55003.)

5. **Approval of Curriculum** Courses and programs to be provided shall be deemed by the Sheriff’s Department as being of benefit to Sheriff personnel and regional law enforcement. The District and the County shall be jointly responsible for assuring that the courses and programs contemplated by this Agreement are approved by the Santa Ana College’s curriculum committee as meeting Title 5 course standards and that the District’s Board of Trustees has approved the courses and programs. The District will only offer and seek apportionment for courses and programs approved by the Office of the Chancellor of the California Community Colleges, or as otherwise authorized by law.

B. **District Review of Instructors and Materials:** Instructors who teach courses within the scope of this Agreement shall be selected initially by the Sheriff’s Training Division. The District will review the qualifications of all training instructors employed for the purpose of teaching courses and programs pursuant to the scope of this Agreement (referred to herein as “Instructors”) and evaluate the quality of instruction and instructional materials to ensure that they meet the needs of the students, the policies and procedures of the District, the regulations of the Board of Governors of the California Community Colleges, and the accreditation requirements of the ACCJC.

1. The Instructors shall meet the minimum qualifications for instruction in vocational subjects in a California community college and for other similar courses given at the District. The District shall have the primary right to control and direct the instructional activities of the Instructors.
pursuant to Title 5, sections 58050 et seq. Each Instructor shall at least annually complete an Individual Instructor Services Agreement (Exhibit I).

2. Each Instructor shall complete the District’s process for employment as a part-time temporary (“adjunct”) faculty member, including but not limited to the District’s application for employment, provision of unofficial transcripts, satisfaction of the requirement for tuberculosis testing, fingerprinting as required by Education Code section 87013 (“LiveScan”), and District receipt of official transcripts.

3. The County and District shall each designate one or more members of its training staff as being responsible for ensuring that each course offered pursuant to this Agreement complies with Title 5, section 51006. The County shall ensure the County’s Instructors timely execute an Individual Instructor Services Agreement.

4. The County shall notify the District within five (5) days of any change in designation of an Instructor. The County shall also provide the District with the information necessary to execute a replacement Individual Instructor Services Agreement.

5. As required by Title 5, section 55630(c), the District and the County shall document that as to each course or program, they have determined: 1) the enrollment period; 2) student enrollment fees; 3) the number of class hours sufficient to meet the stated performance objective; 4) how supervision and evaluation of students will occur; and 5) the process for withdrawal of students prior to course or program completion.

6. The County and the District shall conduct all aspects of this Agreement in accordance with all applicable sections of Title 5, including but not limited to sections 51006, 53410, 55002, 55003, 55005, 55230, 55232, 58050, 58051(c)-(g), 58051.5, 58056, 58058(b), 58102, 58104, 58106, 58108, 78015, 84752, and guidelines for instructional service agreements between community colleges and public agencies as published by the Chancellor’s Office of the California Community Colleges.

C. County and District Support:

The County will provide support staff and additional personnel, including clerical; equipment, including but not limited to training equipment (e.g. ammunition, bullet proof vest, eye and ear protective gear, lethal or less than lethal equipment for shooting at the ranges, uniforms); materials (e.g. books, training packets); day-to-day management support; on-site supervision; contract services; and other related services necessary to conduct the educational courses and programs offered under this Agreement.
The District will provide support staff and additional personnel, including clerical; materials; day-to-day management support; on-site supervision; contract services; and other related services necessary to conduct the educational courses and programs offered under this Agreement.

District and County shall also provide support as noted in section II.C.

D. Instructor Compensation:

1. Instructors who are employees of the County shall also be employees of the District for purposes of enabling the District to receive state apportionment funding based on the number of FTES generated by this Agreement. If these Instructors are working an assigned shift for their employing agency during their hours of instruction, they shall be paid by the County as part of their normal compensation and no additional compensation shall be paid to such employee for such instruction. If these Instructors are not working an assigned shift for their employing agency during their hours of instruction, they shall be paid by the District as described in Section I.D.2.

2. The District shall pay all Instructors of District-approved courses for instructional time in accordance with the District’s salary schedule for part-time, temporary faculty, when said Instructors are not being paid by another employing agency. (See Education Code § 87482.5.)

3. No Instructor employed by the District on a part-time, temporary basis may be permitted by either Party to work more than the statutorily required percentage of the hours per week considered a full-time assignment for regular employees having comparable duties. (Education Code § 87482.5.)

E. Attendance Accounting and Instruction:

1. District shall schedule at its Criminal Justice Academy facility, consistent with Section III. A. below, portions of the training programs and courses that have been: a) mutually approved by the Sheriff and offered by the District, b) approved in accordance with the District’s policies and procedures and the Board of Governor’s regulations, and c) published in the current College catalogue.

2. County shall schedule at its facility located at 1900 West Katella Avenue, consistent with Section III.B. below, portions of the training programs and courses that have been: a) approved by the Sheriff to be offered by the District, b) approved in accordance with the District’s policies and procedures and the Board of Governor’s regulations, and c) published in the current College catalogue.
3. **Student Enrollment Information:** The District and County shall be jointly responsible for assuring that all necessary application, enrollment, attendance, grading, and supporting documentation for students enrolled in the training programs and courses is submitted in a complete and timely manner. In order for the District to be able to timely submit course and program documentation, all application, enrollment, attendance, grading and supporting documentation, including the OCSD Course Roster, shall be submitted to the District no later than three working days following the closing date of each course section.

4. Records of student attendance and achievement will be maintained by the County. Records will be open for review at all times by the District.

5. The District may at any time request, receive, and review class rosters, attendance records and grade sheets. District shall, upon request, be permitted to review examinations used for the awarding of grades and to supervise the grading process.

6. District shall provide County a monthly District Class Profile Report reflecting course name and student attendance hours.

F. Students who receive instruction pursuant to this Agreement shall be enrolled at Santa Ana College, and the instruction provided shall be under the control and management of the District’s Board of Trustees and Santa Ana College. The Parties shall not charge students who receive instruction pursuant to the Agreement any additional tuition, fees, or charges of any kind beyond those the District is required to charge, or may charge, as a matter of law.

1. Where appropriate, students may be charged for material fees in accordance with District policy and procedures, as well as the regulations of the Board of Governors.

2. The District will assist the Sheriff’s Department in student registration procedures, associated paperwork, and other support services.

G. **Payment to County:** The District agrees to pay the County for costs associated with the operation of all training programs and courses, at a rate of $1.50 per student hour for all classes pursuant to the program. (See 5 CCR § 58003.1). Payment to County will be determined as follows:

1. County shall provide District a Course Roster showing the student attendance course hours. These reports will be submitted upon the completion of each course per Section I.E.3.

2. County will validate the District Class Profile Report to the OCSD Course Roster per Section I.E.3 and prepare the annual invoice according to the Payment and Compensation per Attachment A.
3. District shall pay County in one annual payment for actual student course hours attended according to OCSD Course Rosters submitted to the College.

4. Payment will represent prior fiscal year (July 1st through June 30th). The invoice will be generated by August 31st and shall be paid to the County by October 1st of each fiscal year covered by this Agreement.

II. USE OF FACILITIES

A. Use of District Facilities: The District will provide the nonexclusive use of its facilities at the Santa Ana College Criminal Justice Academy, located at 15991 Armstrong Ave., Tustin, CA 92782, free of charge, except as provided elsewhere in this Agreement, for use by the County’s Sheriff’s Department in conjunction with the programs and courses contemplated by this Agreement, on an as-needed, and space available basis. To the extent possible, the District will provide these facilities during normal business hours and at such other times as the Parties’ representatives may agree to in writing.

B. Use of County Facilities: The County will provide the nonexclusive use of its facilities located at 1900 West Katella Avenue, Orange, California 92867, free of charge for purposes of this Agreement, except as provided elsewhere in this Agreement, for use by the County’s Sheriff’s Department in conjunction with the programs and courses contemplated by this Agreement, on an as-needed, and space available basis. To the extent possible, the County will provide these facilities during normal business hours, and at such other times as the Parties’ representatives may agree to in writing.

C. District and County Facilities: Except as noted herein, each Party shall be responsible and pay for the necessary day-to-day management support, on-site supervision, and other related services and supplies necessary to conduct the training courses and programs offered under this Agreement.

   1. County shall provide the following for both facilities:
      a. Maintenance of building
      b. Janitorial services & supplies
      c. Janitorial equipment
      d. Landscape

   2. District shall provide the following for both facilities:
      a. Instructional equipment/services & supplies
b. Communication/audio-visual equipment

c. Rental and/or repair of instructional equipment, including classroom visual and audio equipment (tables, computers, and projectors, etc.)

3. Mutual responsibility will include the Lease of Additional Facilities.

District is responsible for managing and providing the classroom related equipment and supplies in II.C.2.a-c, II. C.3. and the support in I.C. for the courses and programs conducted at the Training Facility, the Santa Ana College Criminal Justice Academy at 15991 Armstrong Avenue, Tustin, CA 92782. Although County is responsible for the general management and maintenance of the Training Facility at 1900 West Katella Avenue, Orange, CA 92867 (“Training Facility”), the District is responsible for providing the Katella facility classroom related equipment and supplies in II.C.2.a-c, II.C.3. and the support in I.C. for the courses and programs conducted at the Training Facility.

Facilities made available pursuant to this Agreement shall be managed and maintained in such condition that each facility meets all applicable federal, state, and local health regulations and that the facilities are adequate for the courses and programs offered and the number of students projected to attend.

III. JOINT RESPONSIBILITIES

A. Annual Planning Meeting: County and District shall conduct a minimum of one annual planning meeting on or before May 31st of each fiscal year or on an as needed basis to meet the training program’s needs and discuss the following:

1) The type of courses and trainings to be offered, the scheduling of the courses to be offered, and identification of the location for the courses and trainings.

2) The decisions reached shall be memorialized and the agreed Course and Training Catalogue shall be published and made available to both Parties. Each Party agrees to use its best efforts to achieve a course and training schedule that is comprehensive and detailed.

3) In the event an agreement is not reached by the Parties, the current Course and Training curriculum will continue.

B. Community College District Standards: The County shall coordinate with the District to ensure that all personnel, equipment, and materials used in carrying out the Parties’ responsibilities under this Agreement conform to State of California mandated standards governing instructional programs for community colleges.

IV. INDEPENDENT CONTRACTOR
District shall be considered an independent contractor and neither District, its employees, nor anyone working under District shall be considered an agent or an employee of County. Neither, District, its employees or anyone working for District shall qualify for workers’ compensation or other fringe benefits of any kind through County.

V. FORCE MAJEURE

Neither District nor County shall be assessed or be found in breach during any delay beyond the time named for the performance of this Agreement caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided District and or County gives written notice of the cause of the delay to the other party within 36 hours of the start of the delay and avails itself of any available remedies.

VI. CONFIDENTIALITY

District agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Agreement. All such records and information shall be considered confidential and kept confidential by District and District’s staff, agents and employees.

VII. COMPLIANCE WITH LAWS

District represents and warrants that services to be provided under this Agreement shall fully comply, at District’s expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. District acknowledges that County is relying on District to ensure such compliance, and pursuant to the requirements of paragraph “XII” below, District agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

VIII. CONTINGENCY OF FUNDS

County acknowledges that funding related to this program or portions of funding for this Agreement may be contingent upon state budget approval; receipt of funds from the State of California to District; and inclusion of sufficient funding for the services hereunder in the budget approved by District’s Board of Trustees for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, District or County may immediately terminate or modify this Agreement without penalty.

District acknowledges that funding or portions of funding for this Agreement may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County’s Board of Supervisors for each fiscal year.
covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Agreement without penalty. County acknowledges that District may obtain apportionment funding from the State of California based on the number of FTES.

IX. DRUG-FREE WORKPLACE

The District hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The District will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by government code section 8355(a)(1).

2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
   a. The dangers of drug abuse in the workplace;
   b. The organization’s policy of maintaining a drug-free workplace;
   c. Any available counseling, rehabilitation and employee assistance programs; and
   d. Penalties that may be imposed upon employees for drug abuse violations.

3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Agreement:
   a. Will receive a copy of the company’s drug-free policy statement; and
   b. Will agree to abide by the terms of the company’s statement as a condition of employment under this Agreement.

Failure to comply with these requirements may result in termination of the Agreement, and the District may be ineligible for award of any future County agreements if the County determines that any of the following has occurred:

1. The District has made false certification, or
2. The District violates the certification by failing to carry out the requirements as noted above.

X. NEWS/INFORMATION RELEASE

Each party agrees that it will not issue any news releases in connection with either the award of this Agreement or any subsequent amendment of or effort under this Agreement without first obtaining review and written approval of said news releases from the County.
through the County’s OCSD Public Information Officer and the District through the Santa Ana College’s Public Information Officer.

XI. PRECEDENCE

The Agreement consists of this Agreement and its attachments and exhibits. In the event of a conflict between or among the Agreement documents, the order of precedence shall be the provisions of the main body of this Agreement, i.e., those provisions set forth in the recitals and articles of this Agreement, and then the attachments, and then the exhibits.

XII. INDEMNIFICATION AND LIABILITY

A. District agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from and against any claims, demands or liability of any kind or nature, including but not limited to personal injury, death, or property damage, arising from or related to the services, goods or other performance provided by District pursuant to this Agreement (“Claims”).

B. County agrees to indemnify, defend, and hold District, its officers, employees, and agents harmless from any third party claims, demands or liability for personal injury, death, or property damage, arising from the County’s receipt of services, goods or other performance pursuant to this Agreement (“Claims”).

C. In the event that third-party loss is attributed to the concurrent act(s) or omission(s) of both Parties, the ultimate financial responsibility of each Party for said loss shall be apportioned according to the Party’s percentage of fault as determined by mutual agreement between the Parties or by a court of competent jurisdiction. Neither party shall request a jury apportionment.

D. This mutual indemnification shall survive termination of this Agreement or final payment therefore.

XIII. INSURANCE REQUIREMENTS

A. Insurance and Self Insurance: Without limiting in any way any of the defense, indemnity, and hold-harmless obligations of this Agreement, the Parties each will obtain, pay for, and maintain in full force and effect during the effective dates of this Agreement policies of insurance, or, self-insurance, a memorandum or memoranda of coverage providing coverage as follows:

1. Commercial General Liability insurance and/or coverage, which shall include coverage for: “bodily injury”, “property damage”, “advertising injury”, and “personal injury”, including, but not limited to, coverage for products and completed operations, with combined single policy limits or limits of liability of not less than $1,000,000 per occurrence and not less
than $2,000,000 in the aggregate, if the policy or memorandum of coverage is subject to any aggregate policy limit or aggregate limit of liability.

2. Business or Commercial Automobile Liability insurance or coverage written on an “occurrence” basis with policy limits or limits of liability of not less than $1,000,000 per accident. It must cover owned, hired, non-owned motor vehicles, with a combined single policy limit or limit of liability for bodily injury and property damage of not less than $1,000,000.

3. Workers Compensation insurance with statutory limit and Employers’ Liability with a $1,000,000 limit per occurrence.

B. Additional Insured Endorsements: Each Party to this Agreement shall cause the Commercial General Liability insurance or self-insurance program required by this Agreement to be endorsed to name the other Party as an additional insured.

C. Subrogation Waivers: The Workers’ Compensation policy shall be endorsed to state that all rights of subrogation are waived as to each Party to this Agreement.

D. Proof of Insurance or Coverage: Each Party to this Agreement shall provide to the other Party at least annually, current Certificates of Insurance with endorsements as required by this Agreement of coverage required by this Agreement.

XIV. TERM OF AGREEMENT, EXTENSIONS, AND TERMINATION

This Agreement shall commence October 1, 2020 and continue through September 30, 2023, and may be renewed by mutual agreement of both Parties for an additional two-year term.

A. Termination: Either Party may terminate this Agreement at any time, with or without cause, upon written notice given to the other Party at least one hundred eighty (180) days prior to the date specified for the termination. The failure of either Party to comply with any of the provisions, covenants or conditions of this agreement shall be a material breach of this agreement and shall constitute “cause”. Termination may not occur without the completion of each training program that is currently in progress. In the event of termination, each Party shall fully pay and discharge all obligations contained in this Agreement in favor of the other Party accruing prior to the termination date. Each Party shall be released from all obligations or performance that would otherwise accrue after the termination date. Neither Party shall incur any liability to the other because of the termination.

B. In the event of termination, each Party shall fully pay and assign college credit pursuant to the terms of this Agreement in favor of the other Party accruing prior to the termination date.
XV. AUTHORITY; DOCUMENTATION REVIEW, AUDIT, AND RETENTION

A. Full Authority: Each Party warrants to the other that it has full authority to administer this Agreement, including but not limited to, the rights to terminate, amend, extend, modify, or alter specific terms in accordance with the terms of this Agreement.

B. Access to Documents: Each Party is entitled to full access and authority to audit all pertinent records of the other Party concerning this Agreement. The Parties agree that inspection of records is subject to applicable law recognizing the privacy rights of students and/or employees. Within 48-hours of the receipt of written audit notice, the Party from whom records are requested shall make those records available to the requesting Party. The Parties agree to cooperate fully to facilitate audits by the other Party.

C. Audit: The Parties agree that an audit includes an examination or making an excerpt or transcript from books, records, invoices, materials, payroll, or personnel data related to all matters covered by this Agreement. The Parties agree to maintain books and records in an accessible location and condition for a period of not less than 5 years after termination of this Agreement.

XVI. OWNERSHIP OF WRITINGS, ETC. PRESENTED IN TRAINING PROGRAM

All writings, documents, illustrations, or any other works of authorship fixed in any tangible or digital medium of expression (“writing”) prepared by District or County and its Instructors shall be and shall remain the property of the Party who prepared the writing.

XVII. PRIOR AGREEMENTS NULL AND VOID

All prior Agreements and any amendments thereto, are null and void as of the effective date of this Agreement. This provision includes, but is not limited to, all prior agreements between the Parties relating to the use of District facilities and the provision of training programs and courses for law enforcement personnel, retention of consultants, and the payment of student fees and tuition by and between the Rancho Santiago Community College District on behalf of Santa Ana College, and the County of Orange, through its Sheriff-Coroner Department, and includes without limitation agreements and amendments thereto bearing the following identification numbers: MA-060-11010909 (Facility uses; supplies; Maintenance worker/Information Processing Tech); and Z1000000068 (Consultant Services, Law Enforcement Training); renewed as MA-060-11010253; MA-060-11012581; MA-060-13010020; and MA-060-14010056.

XVIII. NOTICES

All notices required or permitted to be given under this Agreement shall be deemed duly given and effective if in writing and personally delivered or deposited in the U.S. Mail, postage to be prepaid, sent by a reputable overnight courier service (with package tracking capability), or sent by certified mail, return receipt requested, first class postage prepaid,
addressed to the following:

**District:**

Rancho Santiago Community College District  
2323 North Broadway  
Santa Ana, CA 92706  
Attn: Peter Hardash  
Email: hardash_peter@rsccd.edu  
Ph: (714) 480-7340

Santa Ana College  
1530 West 17th Street  
Santa Ana CA, 92706  
Attn: Dr. Jeffrey N Lamb, Ph.D.  
Lamb_Jeffrey@sac.edu  
Ph: (714) 564-6080

**County:**

County of Orange  
Sheriff-Coroner Department/Training Division  
1900 W. Katella Ave.  
Orange, CA 92667  
Attn: Training Division Captain  
Ph: (714) 538-9668

County of Orange  
Sheriff-Coroner Department/Purchasing Services Unit  
320 N. Flower Street, 2nd Floor  
Santa Ana, CA 92703  
Attn: Maria Ayala, Buyer  
mayala@ocsd.org  
Ph: (714) 834-6360  
Fax: (714) 834-6411

A Party may change its designated representative and/or address for the purpose of receiving notices under this Agreement by notifying the other Party of the change in writing and in the manner described in this section.

**XIX. WAIVER**

Any failure by a Party to comply with any covenant, term or condition of this Agreement may be waived only in writing by the Party in whose favor the covenant, term or condition of this Agreement runs.

**XX. APPLICABLE LAW, VENUE, INTERPRETATION**

This Agreement shall be interpreted according to the laws of the State of California and the Parties agree that venue for any action concerning or arising out of this Agreement shall
be in Orange County, California. The provisions of this Agreement shall be construed in all cases as a whole, according to their fair meaning, and not strictly for or against either Party.

XXI. SEVERABILITY

If a court of competent jurisdiction holds any term or provision of this Agreement void, illegal, or unenforceable for any reason, this Agreement shall remain in full force and effect and shall be interpreted as though such term or provision was not a part of this Agreement. The remaining provisions shall be construed to preserve the intent and purpose of this Agreement, and the Parties agree to negotiate in good faith to modify any invalidated provisions to preserve each Party’s anticipated benefits.

XXII. ASSIGNMENT

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Neither Party may assign nor transfer any or all of that Party’s rights, burdens, duties, or obligations under this Agreement without the prior written consent of the other Party. Any attempt by District to assign the performance or any portion thereof of this Agreement without the express written consent of County shall be invalid and shall constitute of breach of this Agreement.

XXIII. EXECUTION BY FACSIMILE OR IN COUNTERPARTS

The Parties may execute this Agreement in counterparts such that their signatures may appear on separate signature pages. A copy, facsimile, or an original of this Agreement, with all the signature pages appended together, shall be deemed a fully executed Agreement. Signatures transmitted by facsimile or other electronic means shall be deemed original signatures.

XXIV. NO DISCRIMINATION

The Parties shall not discriminate against any person in the provision of services, or employment of persons on the basis of race, religion, medical condition, disability, marital status, sex, age or sexual orientation, or other basis set forth in Government Code section 11135. The Parties further understand that harassment of any student or employee of either Party because of that person’s race religion, gender, disability, medical condition, marital status, age or sexual orientation is strictly prohibited.

XXV. APPROVAL

In accordance with Education Code section 81655, this Agreement is valid and an enforceable obligation of the District only after it has been approved or ratified by the Board of Trustees of the Rancho Santiago Community College District as evidenced by a motion duly passed and adopted by the Board Trustees.

In accordance with the Government Code, including but not limited to sections 25303,
25330 et seq., and 26227, this Agreement is valid and an enforceable obligation of the County only after it has been approved by either the Orange County Board of Supervisors, as evidenced by a minute order reflecting such approval, or by an officer to whom the authority has been duly delegated by the Board of Supervisors.

XXVI. AGREEMENT

This writing, and any amendments hereto, constitute the entire Agreement between the Parties. This Agreement may not be altered or modified except by the express written consent of both the County and District. Each Party acknowledges there are no other provisions or representations that have not been incorporated into this Agreement. The County acknowledges that changes to any provision of this Agreement can only be made by action of the Board of Trustees of the District. The District acknowledges that changes to any provision of this Agreement may only be made by action of the Orange County Board of Supervisors.

(Signature page to follow)
IN WITNESS WHEREOF, the Board of Trustees of the Rancho Santiago Community College District has caused the Agreement to be subscribed by its Chairperson and the seal of said Board to be hereto affixed and attested by the Executive Officer thereof, and County has caused the same to be subscribed on its behalf by the Chairperson of the Orange County Board of Supervisors and/or its duly authorized officer.

County

By

Print Name

Title

Date

Approved by the Board of Supervisors: _________________

Approved as to Form
Office of the County Counsel
Orange County, California

by: ____________________________

Deputy

Rancho Santiago Community College District

By

Print Name  Peter J. Hardash

Title  Vice Chancellor, Business Operations/Fiscal Services

Date
ATTACHMENT A

Payment and Compensation

1. Compensation: This is a firm-fixed fee agreement between the County of Orange via the Sheriff-Coroner and Rancho Santiago Community College District (RSCCD) for Use of Facilities and the Provision of Instructional Services.

2. Fees and Charges: RSCCD will pay the following fees in accordance with the provisions of this Agreement, including but not limited to Section I.G. Payment shall be as follows:

   Rate: $1.50 per student hour for all course hours attended.

3. Payment Terms – Payment in Arrears: County shall submit an annual invoice by August 31st to RSCCD for actual student hours based on prior year student hours per OCSD Course Rosters. Payment to County is due October 1st.

4. Payment – District shall send payments to the following remittance address:

   County of Orange
   PO Box 4005
   Santa Ana, CA  92702-4005
EXHIBIT I

*SAMPLE ONLY. The County makes no representations, authorization or warranties regarding this document or the information contained therein, or its use in establishing agreements between the District and Individual Instructors. It is intended for informational purposes only. In no event will the County of Orange be liable or responsible in any way for any aspect of any relationship or employment between District and Individual Instructors.

RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
INDIVIDUAL INSTRUCTOR SERVICES AGREEMENT

(SAMPLE AGREEMENT ATTACHED)
RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
INDIVIDUAL INSTRUCTOR SERVICES AGREEMENT

The RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT, hereinafter referred to as DISTRICT, is authorized pursuant to Title 5 of the California Administrative Code, to enter into a written contract with ________________________instructor, hereinafter referred to as INSTRUCTOR, who is employed by the Orange County Sheriff’s Department, (or specify the public agency employer) which is a public agency, and is hereinafter referred to as ENTITY. However, for the limited purposes of the Agreement Regarding Use of District Facilities and the Provision of Instructional Services Between the County of Orange, through its Sheriff-Coroner Department and the Rancho Santiago Community College District On Behalf of Santa Ana College (“Facilities Use and Instructional Services Agreement”), which is incorporated herein by this reference, INSTRUCTOR shall also be an employee of the Rancho Santiago Community College District.

INSTRUCTOR agrees to participate in the delivery of approved curriculum as described in the Facilities Use and Instructional Services Agreement. INSTRUCTOR acknowledges that DISTRICT shall have the primary right to control and direct the instructional activities of INSTRUCTOR while INSTRUCTOR is conducting a class or classes given through the Facilities Use and Instructional Services Agreement between the DISTRICT and ENTITY.

The delivery of the curriculum will be in compliance with the provisions of the signed Facilities Use and Instructional Services Agreement between the ENTITY and DISTRICT, and with the catalog and the course outlines from Santa Ana College. Curriculum materials, testing and grading procedures, and materials and services such as those provided by the DISTRICT to its part-time hourly (temporary) faculty shall be provided by DISTRICT to INSTRUCTOR.

If INSTRUCTOR is providing instruction pursuant to the Facilities Use and Instructional Services Agreement, and if INSTRUCTOR is working an assigned shift for ENTITY during the hours of instruction, the INSTRUCTOR shall also be an employee of the DISTRICT for purposes of the Facilities Use and Instructional Services Agreement, but will be compensated by the ENTITY as part of the INSTRUCTOR’s normal compensation and no additional compensation (either salary or benefits) shall be paid to such employee for such instruction by the DISTRICT or any other source. Further, when instruction is provided by INSTRUCTOR pursuant to the Facilities Use and Instructional Services Agreement during INSTRUCTOR’s regularly scheduled shift for ENTITY, the DISTRICT will not be responsible for benefits, including but not limited to, workers compensation, medical insurance, vacation, sick leave, or any other employee benefits that would otherwise accrue to faculty members. All salary and benefits payable or owing to INSTRUCTOR if INSTRUCTOR is working an assigned shift for ENTITY during the hours of instruction are the sole responsibility and liability of the ENTITY that has signed the Facilities Use and Instructional Services Agreement.

If INSTRUCTOR is not working an assigned shift for the ENTITY during the hours of instruction, INSTRUCTOR shall be deemed a part-time employee of the DISTRICT for purposes of the Facilities Use and Instructional Services Agreement, and shall be paid by the DISTRICT in according with its salary schedule for part-time temporary facility. All salary and benefits payable or owing to INSTRUCTOR, if INSTRUCTOR is not working an assigned shift for ENTITY during the hours of instruction, are the sole responsibility and liability of the DISTRICT pursuant to the signed Facilities Use and Instructional Services Agreement with the ENTITY. Benefits for which DISTRICT is responsible include, but are not
limited to, workers compensation, medical insurance, vacation, sick leave, or any other employee benefits that would accrue to part-time faculty members.

Effective Period. This Individual Instructor Services Agreement between INSTRUCTOR and DISTRICT shall be effective for the (TBD ex: 2020-2021 college year, or remaining portions thereof, commencing (Date TBD based on college year and term of this contract). Prior to providing instruction in subsequent college years, INSTRUCTOR shall sign a new agreement for that college year, commencing (Date TBD based on college year and term of this contract). In the event the Facilities Use and Instructional Services Agreement between the DISTRICT and the ENTITY should terminate before the end of any college year, this Individual Instructor Agreement shall also terminate without further notice or obligation at the same time that the Facilities Use and Instructional Services Agreement terminates. Either INSTRUCTOR or DISTRICT may cancel or terminate this Individual Instructor Services Agreement with or without cause upon thirty (30) days written notice even if the Facilities Use and Instructional Services Agreement between the ENTITY and DISTRICT remains in effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below.

INSTRUCTOR: RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT:

BY: ________________________________

Peter Hardash                                          Date

DATE: __________________________________________  Vice Chancellor, Business Operations
**Attachment B - Sole Source Request and Bid Sync Form**

**SECTION II – DEPARTMENT INFORMATION**  
(Complete in its entirety)

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<td>Sole Source BidSync Number: 060-C021413-SS</td>
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Is the above named vendor a retired employee of the County of Orange?  □ Yes  ☒ No

If "Yes", review and Approval is required from CEO Human Resource Services prior to contract execution.

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<td>☐ Multi-Year</td>
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<tr>
<th>Board Date:</th>
<th>ASR Number:</th>
<th>If not scheduled to go to the Board explain why?</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/15/20</td>
<td>20-000049</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Does Contract include Non-Standard Language? If yes, explain in detail.
Rancho Santiago Community College District's Terms and Conditions were approved by both CEO Risk Management and County Counsel.

<table>
<thead>
<tr>
<th>Was Contract Approved by Risk Mgmt.?</th>
<th>Was Contract Approved by County Counsel?</th>
</tr>
</thead>
<tbody>
<tr>
<td>☒ Yes</td>
<td>☒ Yes</td>
</tr>
</tbody>
</table>

Were any exceptions taken? If yes, explain in detail.
Rancho Santiago Community College District's Terms and Conditions were approved by both CEO Risk Management and County Counsel.

☑ DPA certifies that they have read and verified that the information is true and satisfies the sole source requirements listed in the County Contract Policy Manual.

☐ Solicitation Exemption  
(For purchases with special circumstances, and/or when it is determined to be in the best interest of the County.)
SECTION III – SOLE SOURCE JUSTIFICATION

1. Provide a description of the type of contract to be established. *(For example: is the contract a commodity, service, human service, public works, or other – please explain.)* Attach additional sheet if necessary.

This is a firm-fixed revenue generating contract with the Rancho Santiago Community College District (RSCCD) for use of facilities and the provision of instructional services.

2. Provide a detailed description of services/commodities and how they will be used within the department. If this is an existing sole source, please provide some history of its origination, Board approvals, etc. *(This information may be obtained from the scope of work prepared by the County and the vendor’s proposal that provides a detailed description of the services/supplies.)* Attach additional sheet if necessary.

The Orange County Sheriff-Coroner Department’s (OSCD) Training Division and RSCCD, though Santa Ana College, will offer courses to meet the needs of the County and the OCSD’s Criminal Justice Academy. Courses and programs will be designed for entry level and advance law enforcement personnel and be certified by POST and STC Commissions. The training will take place at the OCSD Regional Training Academy and the Katella Training Facility. RSCCD will provide support staff and additional personnel, including clerical staff, materials, management support, on-site supervision, contract services and other related services necessary to conduct the educational courses and programs offered.

Students and recruits must enroll in these course and programs and be registered as students at Santa Ana College to receive college credits. RSCCD receives apportionment funding from the State of California based on the number of Full Time Equivalent Student (FTES) enrolled in the training courses and programs and agrees to pay OSCD the cost associated with the operations of all training programs and courses at a rate per student hours for all classes pursuant to the program. Prior Board approvals on 3/24/20, 3/26/19 and 3/27/18.

3. Explain why the recommended vendor is the only one capable of providing the required services and/or commodities. How did you determine this to be a sole source and what specific steps did you take? Please list all sources that have been contacted and explain in detail why they cannot fulfill the County’s requirements. Include vendor affidavit and/or other documentation which supports your sole source. *(Responses will include strong programmatic and technological information that supports the claim that there is only one vendor that can provide the services and/or commodities. Your response will include information pertaining to any research that was conducted to establish that the vendor is a sole source, include information pertaining to discussions with other potential suppliers and why they were no longer being considered by the County.)* Attach additional sheet if necessary.

RSCCD provides OSCD with a stand-alone Regional Training Academy Campus. OCSD has partnered with the RSCCD for over 45 years and established the Sheriff’s Academy as the premier program in the state. RSCCD provides all of the necessary supplies and equipment to successfully present its programs. Presently, no other community college can provide facilities to accommodate the training needs to present this program, which includes the physical space to utilize a number of different scenarios and tactics. Recruits attending the Academy receive college credits for their Academy training. In order to receive college credits, the recruits must be registered as students at Santa Ana College within the RSCCD. The Academy is located within the attendance area of Santa Ana College (CA Northern Region). Per Title 5 of the California Code of Regulations, California Community College Districts have exclusivity within their respective districts to enter into instructional service agreements. RSCCD currently serves the entire County of Orange.
4. How does recommended vendor’s prices or fees compare to the general market? 
   Attach quotes for **comparable services or supplies**. Attach additional sheet if necessary.

   This is a firm-fixed revenue generating contract.

5. If the recommended vendor was not available, how would the County accomplish this particular task? 
   Attach additional sheet if necessary.

   It would create a significant hardship on the County. Presently, OCSD does not have existing facilities to 
   accommodate the training needs of the Regional Sheriff’s Academy, such as classroom space, physical fitness 
   training space, ability to conduct practical applications (scenario-based training), orientation, graduation 
   ceremonies and the day-to-day operational needs of the Training Division. OCSD would need to create contracts 
   with off-site venues for classroom and training space in order to absorb the impact of the loss of the Regional 
   Sheriff’s Academy facility. Such a move would take a significant amount of time to successfully accomplish and 
   would severely impact the delivery of training to local and regional training partners.

6. Please provide vendor history – name change, litigation, judgments, aka, etc. for the last 7 years.

   Unable to locate any vendor history through internet search.

7. If vendor is a retired, former employee, has the vendor previously been rehired as a contractor within the last 
   three years?  
   ☐ Yes  ☒ No

   If yes, provide explanation/support for hiring the retired, former employee as a vendor and provide 
   contract dates, scope of work, and total amounts paid under each contract.

8. Explain (in detail) why a request for Solicitation Exemption is needed. *(Only applicable for Solicitation Exemption)*

   Attach additional sheet if necessary.

   N/A
Sole Source Request Form

Sole Source Bidsync #040-C021413-SS

SECTION IV – AUTHOR/REQUESTOR

Signature: [Signature]  Print Name: Kevin La Piana  Date: 07-30-20

SECTION V – CEO Human Resource Services APPROVAL  (Review and approval is required when vendor is a Retired, Former Employee.)

Signature:  Print Name:  Date:

SECTION VI – DEPUTY PURCHASING AGENT CONCURRENCE

Signature: [Signature]  Print Name: Frederick Lyle Rosson  Date: 8/5/2020

SECTION VII – DEPARTMENT HEAD APPROVAL

Signature: [Signature]  Print Name: Brian Wayt  Date: 7/31/2020

SECTION VIII – COUNTY PROCUREMENT OFFICE

Prior to execution of a contract, the County Procurement Officer or designee shall approve all Sole Source requests for Commodities that exceed $250,000, Capitol Assets and services exceeding $75,000, and all other Sole Source requests that require Board approval despite the amount. Approvals are obtained electronically through the County’s online bidding system.

SOLICITATION EXEMPTION – CEO USE ONLY:

Board of Supervisor Notification Date:

Comments:

CPO: [ ] Approved  [ ] Denied  
CFO: [ ] Approved  [ ] Denied

CPO Authorized Signature:  Date:  
CFO Authorized Signature:  Date:
Release Bid Workflow

Name: Maria Robles-Ayala
Phone: 714-834-6360
Email: MAyala@ocsd.org
Status: Submitter Aug 6, 2020 11:49:32 PM PDT

Maria Robles-Ayala
Submitter

Ana E. Figueroa
(for OPO 80 Routing: Group)
Approved

Bid Information
Bid Number:
099-0990-9339
Bid Title:
SS - RANCHO SANTIAGO COMMUNITY COLLEGE DISTRICT
Status:
Approved

Questions? Contact a BidSync representative: 800-990-9339 or email: support@bidsync.com

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https://www.bidsync.com/DPX?ac=viewrelbidwf&reqid=1092560

8/6/2020
**RISK ASSESSMENT OR MODIFICATION OF INSURANCE TERMS**

Use this form to request a Risk Assessment and determine Proper Insurance Requirements when developing an Agreement. **Please attach Agreement and prior Risk Approval(s) if any**

Date: 08/25/2020

**TO:** RiskMgmtInsurance@ocgov.com

**FROM:** Christian Abueg  
County Employee (Contact for Questions)  
Phone# (Including area code): 714-834-2214

**Sheriff-Coroner Department**  
County Department

**CONTRACT TYPE:**  
☐ Commodities  
☐ Public Works  
☑ Service  
☐ Lease-License

☐ A & E  
☐ Other ______

**Vendor Name:** Rancho Santiago Community College  
**Contract#/RFP#:** N/A

**IFB:** Yes ☐ No ☑  
**Contract Amount:** ______

**Insurance Type to be Reviewed for Waiver or Modification of Terms**

☐ Commercial General Liability (CGL)  
☐ Workers’ Compensation (W/C)  
☐ Property Insurance

☐ Commercial Auto Liability (AL)  
☐ Employer’s Liability  
☑ Indemnification

☐ Professional Liab. (Errors & Omissions)  
☐ Sexual Misconduct  
☐ Limitation of Liab.

☐ Network Security & Privacy Liab.  
☐ Technology Error & Omissions

☐ Other ______

**Request and Justification:** The attached agreement between the Sheriff-Coroner Department (Sheriff) and Rancho Santiago Community College District (District) for Instructional Services. This agreement allows the continuation of both Sheriff and District to jointly continue providing law enforcement training programs for Sheriff's employees and various public police agencies. It contains mutual indemnification provision. County Counsel has approved this contract. It deviates from our normal standard and also requires Risk Management Approval.

---

**To Be Completed By CEO/Risk Management**

☑ Approved  
☐ Denied  
☐ Approved as Modified

**Comments:** Mutual indemnity is acceptable as this is a collaborative effort.

---

Rhonda Marshall  
Manager/CEO/Risk Management  
08-25-20

**Date**

**Note:** CEO Risk Mgmt. acts as an advisory to departments regarding Risk Assessment. Any changes to a contract requires formal modification.
September 9, 2020

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

The County Executive Office is requesting a Supplemental Agenda Staff Report for the September 15, 2020, Board Hearing.

Agency: Health Care Agency
Subject: Master Agreement for CARES Act Grant Assistance
Districts: All Districts

Reason for supplemental: This Supplemental Agenda Staff Report needs to be heard as soon as possible so that the County can extend funding to assist participating hospitals with necessary COVID-19 preparedness and response activities. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

Michelle Steel, Chairwoman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel
SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT

MEETING DATE: 09/15/2020
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: Health Care Agency
DEPARTMENT HEAD REVIEW: 

DEPARTMENT CONTACT PERSON(S):
Cheryl Meronk (714) 834-4099
Steve Thronson (714) 834-4418

SUBJECT: Master Agreement for CARES Act Grant Assistance

CEOs CONCUR

COUNTY COUNSEL REVIEW

CLERK OF THE BOARD

Discussion

3 Votes Board Majority

Budgeted: Yes  Current Year Cost: $30,000,000  Annual Cost: N/A

Staffing Impact: No  # of Positions: 

Current Fiscal Year Revenue: N/A  

Funding Source: FED: 100% (CARES Act)  

County Audit in last 3 years:

Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Approve the Master Agreement with various providers for Coronavirus Aid, Relief, and Economic Security Act Grant Assistance for Acute Hospitals for Eligible Medical Expenses for the term of September 16, 2020, through December 30, 2020.

2. Authorize the County Procurement Officer or authorized Deputy to execute the individual contracts under the Master Agreement as referenced in Recommended Action #1 above.

SUMMARY:

Approval of the Master Agreement for Coronavirus Aid, Relief, and Economic Security Act Grant Assistance for Acute Hospitals for Eligible Medical Expenses will allow County to extend funding to assist participating hospitals with necessary COVID-19 preparedness and response activities.

BACKGROUND INFORMATION:

Page 1
The County of Orange (County) relies on private hospitals and systems to ensure access and treatment for the acute medical care needs of the County’s residents and visitors. In order to maintain these vital assets at current and increasing levels during the current emergency caused by the COVID-19 pandemic, continued access to a high quality medical care and the ability of the County’s private partners to handle impending COVID-19 surges are critical County interests. These facilities require funding support to prepare for and respond to the COVID-19 pandemic/outbreak. Surge preparations have been unprecedented, requiring conversion of general medical beds to Intensive Care Unit-capable beds (at a minimum cost of $45,000 per bed); tents were purchased and mobilized; and millions of dollars of medical supplies, equipment and personal protective equipment (PPE) were purchased.

The County is the prime recipient of an award issued in connection with Section 601(a) of the Social Security Act, funded under Section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Coronavirus Relief Fund for State, Local and Tribal Governments. Therefore, the Health Care Agency (HCA) proposes to extend grant assistance using CARES Act Funds to support County’s private partner hospitals to respond to the County’s acute medical care needs during the period beginning on March 1, 2020, and ending on December 30, 2020.

The Master Agreement for CARES Act Grant Assistance for Acute Hospitals for Eligible Medical Expenses (Grant Assistance Master Agreement or Contract) proposes to utilize CARES Act funds distributed to HCA to provide grant assistance to 30 acute care hospitals for such expenditures as are eligible under the CARES Act in the amount of $30 million for the term of September 16, 2020, through December 30, 2020, for the following three primary objectives:

- Equipment and Supplies Inventory - Increase inventory and regulate rotation of near-expired items with new inventory to ensure fresh, usable medical supplies and equipment, PPE and ventilators.

- Disaster Resource Centers - Support Health Care Coalition hospitals to secure technical, medical and infection control experts dedicated to COVID-19 Pandemic response and planning.

- Support hospitals in providing COVID-19 Pandemic training(s) and exercises.

**ALLOCATION METHODOLOGY**

Allocation methodology for contracting hospitals is based upon the following two primary categories:

- Hospital Bed Capacity – 25 percent of the funds are based on each hospital’s percentage of total number of licensed hospital beds in Orange County.

- COVID-19 Inpatient Burden – 75 percent of the funds allocated based on the 10-calendar day average number of admitted COVID-19 patients in each hospital, from July 11, 2020, to July 20, 2020.

**PROPOSED FACILITIES LIST**

The Grant Assistance Master Agreement proposes to distribute CARES Act funds as follows:

<table>
<thead>
<tr>
<th>Hospital Name</th>
<th>City</th>
<th>Licensed Beds</th>
<th>% of Total</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AHMC Anaheim Regional Medical Center</td>
<td>Anaheim</td>
<td>256</td>
<td>5.48%</td>
<td>$1,644,247.10</td>
</tr>
<tr>
<td>Anaheim Global Medical Center</td>
<td>Anaheim</td>
<td>126</td>
<td>2.44%</td>
<td>$731,435.45</td>
</tr>
<tr>
<td>Chapman Global Medical Center</td>
<td>Orange</td>
<td>87</td>
<td>1.22%</td>
<td>$366,375.74</td>
</tr>
<tr>
<td>Hospital Name</td>
<td>Location</td>
<td>Beds</td>
<td>Utilization Rate</td>
<td>Reimbursement</td>
</tr>
<tr>
<td>---------------</td>
<td>----------</td>
<td>------</td>
<td>------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Children's Hospital of Orange County</td>
<td>Orange</td>
<td>492</td>
<td>2.52%</td>
<td>$757,237.49</td>
</tr>
<tr>
<td>CHOC Children's at Mission Hospital</td>
<td>Mission Viejo</td>
<td>84</td>
<td>0.29%</td>
<td>$87,542.85</td>
</tr>
<tr>
<td>College Hospital Costa Mesa</td>
<td>Costa Mesa</td>
<td>23</td>
<td>0.05%</td>
<td>$13,563.45</td>
</tr>
<tr>
<td>Foothill Regional Medical Center</td>
<td>Tustin</td>
<td>150</td>
<td>2.99%</td>
<td>$897,615.65</td>
</tr>
<tr>
<td>Fountain Valley Regional Hospital and Medical Center</td>
<td>Fountain Valley</td>
<td>459</td>
<td>9.68%</td>
<td>$2,904,162.02</td>
</tr>
<tr>
<td>Garden Grove Hospital and Medical Center</td>
<td>Garden Grove</td>
<td>191</td>
<td>3.07%</td>
<td>$921,793.98</td>
</tr>
<tr>
<td>HealthBridge Children's Hospital</td>
<td>Orange</td>
<td>9</td>
<td>0.02%</td>
<td>$5,307.44</td>
</tr>
<tr>
<td>Hoag Hospital Irvine</td>
<td>Irvine</td>
<td>96</td>
<td>2.00%</td>
<td>$599,723.72</td>
</tr>
<tr>
<td>Hoag Memorial Hospital Presbyterian</td>
<td>Newport Beach</td>
<td>474</td>
<td>4.90%</td>
<td>$1,468,750.99</td>
</tr>
<tr>
<td>Hoag Orthopedic Institute</td>
<td>Irvine</td>
<td>70</td>
<td>0.14%</td>
<td>$41,280.08</td>
</tr>
<tr>
<td>Huntington Beach Hospital</td>
<td>Huntington Beach</td>
<td>88</td>
<td>1.60%</td>
<td>$480,985.73</td>
</tr>
<tr>
<td>Kindred Hospital – Brea</td>
<td>Brea</td>
<td>52</td>
<td>0.10%</td>
<td>$30,665.20</td>
</tr>
<tr>
<td>Kindred Hospital - Santa Ana</td>
<td>Santa Ana</td>
<td>61</td>
<td>0.12%</td>
<td>$35,972.64</td>
</tr>
<tr>
<td>Kindred Hospital – Westminster</td>
<td>Westminster</td>
<td>125</td>
<td>1.51%</td>
<td>$453,781.99</td>
</tr>
<tr>
<td>La Palma Intercommunity Hospital</td>
<td>La Palma</td>
<td>128</td>
<td>2.44%</td>
<td>$732,614.88</td>
</tr>
<tr>
<td>Los Alamitos Medical Center</td>
<td>Los Alamitos</td>
<td>171</td>
<td>4.30%</td>
<td>$1,290,067.24</td>
</tr>
<tr>
<td>Mission Hospital Laguna Beach</td>
<td>Laguna Beach</td>
<td>152</td>
<td>0.97%</td>
<td>$290,686.97</td>
</tr>
<tr>
<td>Mission Hospital Mission Viejo</td>
<td>Mission Viejo</td>
<td>381</td>
<td>4.84%</td>
<td>$1,451,914.22</td>
</tr>
<tr>
<td>Orange Coast Medical Center</td>
<td>Fountain Valley</td>
<td>255</td>
<td>3.58%</td>
<td>$1,073,556.03</td>
</tr>
<tr>
<td>Orange County Global Medical Center</td>
<td>Santa Ana</td>
<td>312</td>
<td>6.10%</td>
<td>$1,829,298.19</td>
</tr>
<tr>
<td>Placentia-Linda Hospital</td>
<td>Placentia</td>
<td>118</td>
<td>2.50%</td>
<td>$688,710.97</td>
</tr>
<tr>
<td>Saddleback Medical Center</td>
<td>Laguna Hills, San Clemente</td>
<td>369</td>
<td>4.18%</td>
<td>$1,254,803.85</td>
</tr>
<tr>
<td>South Coast Global Medical Center</td>
<td>Santa Ana</td>
<td>118</td>
<td>2.80%</td>
<td>$840,738.00</td>
</tr>
<tr>
<td>St. Joseph Hospital, Orange</td>
<td>Orange</td>
<td>458</td>
<td>10.19%</td>
<td>$3,055,599.33</td>
</tr>
<tr>
<td>St. Jude Medical Center</td>
<td>Fullerton</td>
<td>385</td>
<td>7.13%</td>
<td>$2,138,394.70</td>
</tr>
<tr>
<td>UC Irvine Health</td>
<td>Orange</td>
<td>492</td>
<td>9.11%</td>
<td>$2,733,588.84</td>
</tr>
<tr>
<td>West Anaheim Medical Center</td>
<td>Anaheim</td>
<td>177</td>
<td>3.93%</td>
<td>$1,179,585.26</td>
</tr>
</tbody>
</table>

**TOTALS**: 6359 | 100% | $30,000,000.00

This Master Agreement does not currently include subcontractors. See Attachment B for Contract Summary Form.

The Master Agreement is being submitted for Board approval less than 30 days prior to the start of the contract in order to expedite funding to these healthcare facilities in preparation for the surge of increasing COVID-19 cases. The hospitals have reviewed the Grant Assistance Master Agreement and are satisfied with the contract.

HCA requests that your Honorable Board of Supervisors approve the CARES Act Grant Assistance for Acute Hospitals for Eligible Medical Expenses Agreement, and execution of the individual Agreements with various providers, as referenced in the Recommended Actions.

**FINANCIAL IMPACT:**

Appropriations for this Master Agreement are included in HCA Budget Control 042 FY 2020-21 Budget.
STAFFING IMPACT:
N/A

ATTACHMENT(S):
Attachment A - Master Agreement for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Assistance for Acute Hospitals for Eligible Medical Expenses
Attachment B - Contract Summary Form
CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT AGREEMENT NO. MA-042-21010003 FOR ACUTE HOSPITALS’ ELIGIBLE MEDICAL EXPENSES

This Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Agreement for Acute Hospitals’ Eligible Medical Expenses (Agreement) is made and entered into on September 16, 2020 (Effective Date) between [Provider Legal Name] (Subrecipient), with a place of business at [Provider Legal Address], and the County of Orange, a political subdivision of the State of California (County), through its Health Care Agency (Administrator), with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Subrecipient and County may hereinafter sometimes be referred to individually as “Party” or collectively as “Parties”.

ATTACHMENTS

This Agreement is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Agreement:

Attachment A – Scope of Work
Attachment B – Funding Allocation and Payment Methodology
Attachment C – Additional Funding Regulations
Attachment 1 to Attachment C – Byrd Anti-Lobbying Certification
Attachment D – Guidance for State, Territorial, Local, and Tribal Governments dated April 22, 2020
Attachment E – County of Orange CARES Act Certification – 4.13.20
Attachment F – Coronavirus Relief Fund Reporting and Record Retention Requirements dated July 2, 2020

RECITALS

WHEREAS, on February 26, 2020, County’s Health Officer declared a Local Health Emergency in response to the novel coronavirus (named “COVID-19”) emergency and outbreak threat in Orange County, as necessary for the preservation of public health and safety; and

WHEREAS, on March 2, 2020, the Board of Supervisors adopted Resolution No. 2020-11 ratifying the local health emergency declared by the County’s Health Officer; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in the State of California as a result of the COVID-19 emergency and outbreak; and

WHEREAS, on March 12, 2020, the Governor of the State of California issued Executive Order N-25-20, ordering all California residents to heed any orders and guidance of State and local public health officials, including but not limited to imposition of social distancing measures, to control the spread of COVID-19; and
WHEREAS, on March 13, 2020, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak; and

WHEREAS, on March 22, 2020, the President of United States declared a major disaster exists in the State of California and ordered Federal assistance to supplement State and local recovery efforts in the areas affected by the COVID-19 pandemic; and

WHEREAS, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) has issued the Public Assistance Program and Policy Guide, Version 4 (Guide) that provides guidance on the availability of federal funding to states and local governments during emergencies pursuant to Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act); and

WHEREAS, the Guide identifies the services described herein as an eligible cost during emergencies; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by Congress and signed into law by the President of the United States on March 27th, 2020; and

WHEREAS, the CARES Act established the Coronavirus Relief Fund and the County received an allocation of funds from the Coronavirus Relief Fund under section 601(a) of the Social Security Act, as added by section 5001 of the CARES Act; and

WHEREAS, Section 601(a) and 601(d) of the Social Security Act, as added by Section 5001 of the CARES Act, provides that payments from the CARES Act funds may only be used to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or local government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and

WHEREAS, County is in need of the services/commodities described herein in order to support its efforts to respond to the COVID-19 pandemic in a manner consistent with the above declarations and authorities, including the CARES Act, and any continuing executive orders and declarations as part of the on-going emergencies; and

WHEREAS, the County and Agreement or desire to enter into this Agreement for the County to provide CARES Act Grant Assistance to Subrecipient to use said Grant Assistance for CARES Act eligible medical expenditures such as staffing, commodities, services, and supplies necessary to respond to the COVID-19 pandemic during the period beginning on March 1, 2020 and ending on December 30, 2020, as set forth in more detail in this Agreement.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein, County and Subrecipient do hereby agree as follows:
A. REFERENCED AGREEMENT PROVISIONS

Term: September 16, 2020 through December 30, 2020

Basis for Payment: Formulated Amount

Payment Method: Lump sum, in advance

Aggregate Grant Assistance Amount: $30,000,000

Subrecipient DUNS Number: «DUNS»

Subrecipient TAX ID Number: «TAX_ID»

Notices to County and Subrecipient:

County: County of Orange
Health Care Agency
Contract Services
405 West 5th Street, Suite 600
Santa Ana, CA 92701-4637

Subrecipient: «LC_NAME»
«LC_DBA»
«ADDRESS»
«CITY_STATE_ZIP»
«CONTACT_NAME», «CONTACT_TITLE»
«CONTACT_EMAIL»

B. ALTERATION OF TERMS

1. This Agreement, together with Attachment(s) A, B, C, Attachment 1 to Attachment C, D, E, and F attached hereto and incorporated herein, fully expresses the complete understanding of County and Subrecipient with respect to the subject matter of this Agreement.

2. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of this Agreement or any Exhibits and Attachments, whether written or verbal, made by the Parties, their officers, employees or agents shall be valid unless made in the form of a written amendment to this Agreement, which has been formally approved and executed by both Parties.

C. CONFLICT OF INTEREST

Subrecipient shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to Subrecipient, this obligation shall apply to Subrecipient’s employees, agents, and sub-subrecipients pursuant to the terms and conditions of this Agreement. Subrecipient’s efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and sub-subrecipients...
from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

D. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

1. Subrecipient may not delegate the obligations hereunder, either in whole or in part, without prior written consent of County. Subrecipient shall provide written notification of Subrecipient’s intent to delegate the obligations hereunder, either in whole or part, to Administrator not less than thirty (30) days prior to the effective date of the delegation. Any attempted delegation in derogation of this paragraph shall be void.

2. Subrecipient may not assign the rights hereunder, either in whole or in part, without the written consent of County. Assignment is defined for purposes of this Agreement in subparagraphs a, b, and c, below. Subrecipient shall provide written notification of the assignment, either in whole or part, to Administrator not less than thirty (30) days, or such other reasonable advance notice as may be appropriate to the situation, prior to the effective date of the assignment. For notification regarding a change in the composition of the Subrecipient’s governing body, see subparagraph a, b, and c, below. Subrecipient agrees that if there is an assignment of this Agreement by Subrecipient, as defined below, prior to completion of this Agreement, and County agrees to such assignment, the new assignee (including a changed governing body) shall be required to assume Subrecipient’s duties and obligations contained in this Agreement and complete them to the satisfaction of County. Where the assignment is completed by means of a sale or transfer document, such document shall include that the new assignee shall comply with Subrecipient’s duties and obligations contained in this Agreement and complete them to the satisfaction of County. County reserves the right to immediately terminate the Agreement in the event County determines, in its sole discretion, that the assignee (including the changed governing body) is not qualified or is otherwise unacceptable to County for the provision of services under the Agreement. Any attempted assignment, as defined below, in derogation of this subparagraph shall be void.

a. Nonprofit Entity Assignment. If Subrecipient is a nonprofit organization, any change from a nonprofit corporation to any other corporate structure of Subrecipient shall be deemed an assignment. Assignment also includes changes in more than fifty percent (50%) of the composition of the board of directors within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the board of director’s composition.

b. For-Profit Entity Assignment. If Subrecipient is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of Subrecipient, change to another corporate structure, including a change to a sole proprietorship, shall be deemed an assignment. Assignment also includes a change in fifty percent (50%) or more of board of directors or any governing body of Subrecipient at one time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the board of director’s composition.
c. Governmental Entity Assignment. If Subrecipient is a governmental organization, any change to another structure shall be deemed an assignment. Assignment also includes a change in more than fifty percent (50%) of the composition of its governing body (e.g. board of supervisors, city council, school board, commission, etc.) within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the governing body’s composition.

d. Whether Subrecipient is a nonprofit, for-profit, or a governmental organization, Subrecipient shall provide written notification within thirty (30) calendar days to Administrator when there is change of less than fifty percent (50%) of Board of Directors or any governing body of Subrecipient at one time.

3. Subrecipient’s obligations undertaken pursuant to this Agreement may be carried out by means of subcontracts, provided such sub-subrecipients meet the requirements of this Agreement as they relate to the service or activity under subcontract.

a. No subcontract shall terminate or alter the responsibilities of Subrecipient to County pursuant to this Agreement.

4. Subrecipient shall notify County in writing of any change in the Subrecipient’s status with respect to a mere name change. Subrecipient is also obligated to notify County in writing if the Subrecipient becomes a party to any litigation against County, or a party to litigation that may reasonably affect the Subrecipient’s performance under the Agreement, as well as any potential conflicts of interest between Subrecipient and County that may arise prior to or during the period of Agreement performance.

E. DISPUTE RESOLUTION

1. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute is concerning a question of fact arising under the terms of this Agreement, and it is not disposed of in a reasonable period of time by the Subrecipient and the Administrator, such matter shall be resolved by the County Purchasing Agency by way of the following process:

a. Subrecipient shall submit to the County Purchasing Agency a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Agreement, unless County, on its own initiative, has already rendered such a final decision.

b. Subrecipient’s written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Agreement, Subrecipient shall include with the demand a written statement signed by an authorized representative indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Agreement adjustment for which Subrecipient believes County is liable.
c. Any final decision of the County Purchasing Agency shall be expressly identified as such, shall be in writing, and shall be signed by a County Deputy Purchasing Agent or designee. If the County Purchasing Agency fails to render a decision within ninety (90) calendar days after receipt of Subrecipient's demand, it shall be deemed a final decision adverse to Subrecipient's contentions.

2. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Subrecipient agrees to proceed diligently with the performance of services secured via this Agreement, including the delivery of goods and/or provision of services. Subrecipient's failure to proceed diligently shall be considered a material breach of this Agreement.

3. This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

F. EMPLOYEE ELIGIBILITY VERIFICATION

Subrecipient attests that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees meet the citizenship or alien status requirements set forth in federal statutes and regulations. Subrecipient shall obtain from all employees, verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as they may be hereafter amended. Subrecipient shall retain all such documentation for all covered employees for the period prescribed by the law.

G. FACILITIES, PAYMENTS, AND SERVICES

1. Subrecipient shall operate continuously throughout the term of this Agreement with the appropriate facilities for its licensure and with at least the minimum number and type of staff which meet applicable federal and state requirements.

2. Subrecipient shall, at its own expense, provide and maintain the organizational and administrative capabilities required to carry out its duties and responsibilities under this Agreement and in accordance with all the applicable statutes and regulations pertaining to Medi-Cal Providers.

H. INDEMNIFICATION AND INSURANCE

1. Subrecipient agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage,
arising from or related to the services, products or other performance provided by Subrecipient pursuant to this Agreement. If judgment is entered against Subrecipient and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Subrecipient and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

2. Throughout the term of this Agreement, Subrecipient shall have and maintain such insurance as is necessary and sufficient to provide coverage for any and all associated claims and liabilities arising from Subrecipient’s acceptance and use of CARES Act grant funding allocated to Subrecipient under this Agreement.

3. It is the obligation of Subrecipient to provide notice of insurance requirements to sub-subrecipients and to receive proof of insurance. Such proof of insurance must be maintained by Subrecipient.

I. INSPECTIONS AND AUDITS

1. Administrator, any authorized representative of County, any authorized representative of the State of California, the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or any other of their authorized representatives, shall to the extent permissible under applicable law have access to any books, documents, and records, including but not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client records, of Subrecipient that are directly pertinent to this Agreement, for the purpose of conducting an audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all reasonable times inspect or otherwise evaluate Subrecipient pursuant to this Agreement, and Subrecipient’s premises.

2. Subrecipient shall actively participate and cooperate with any person specified in Subparagraph A. above in any evaluation or monitoring pursuant to this Agreement, and shall provide the above–mentioned persons adequate office space to conduct such evaluation or monitoring.

3. Audit Response

   a. Following an audit report, in the event of non–compliance with applicable laws and regulations governing funds provided through this Agreement, County may terminate this Agreement as provided for in the Termination Paragraph or direct Subrecipient to immediately implement appropriate corrective action. A CAP shall be submitted to Administrator in writing within thirty (30) calendar days after receiving notice from Administrator.

   b. If the audit reveals that money is payable from one Party to the other, that is, reimbursement by Subrecipient to County, or payment of sums due from County to Subrecipient, said funds shall be due and payable from one Party to the other within sixty (60) calendar days of receipt of the audit results. If reimbursement is due from Subrecipient to County, and such reimbursement is not received within said sixty (60)
calendar days, County may, in addition to any other remedies provided by law, reduce any amount owed Subrecipient by an amount not to exceed the reimbursement due County.

4. Subrecipient shall forward to Administrator a copy of any audit report within fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management, financial, programmatic or any other type of audit of Subrecipient’s operations, whether or not the cost of such operation or audit is reimbursed in whole or in part through this Agreement.

J. LICENSES AND LAWS

1. Subrecipient, its officers, agents, employees, affiliates, and sub-subrecipients shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations, waivers, and exemptions necessary pursuant to the terms and conditions of this Agreement and required by the laws, regulations and requirements of the United States, the State of California, County, and all other applicable governmental agencies.

2. Subrecipient shall comply with all applicable governmental laws, regulations, and requirements as they exist now or may be hereafter amended or changed.

3. The Parties acknowledge that each is a Covered Entity, as defined by the Health Insurance Portability and Accountability Act (HIPAA) and is responsible for complying with said regulations for purposes of safeguarding any Protected Health Information (PHI) generated by each party for its own purposes. Except as otherwise limited by said regulation or law, Subrecipient shall provide to County, and County may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Subrecipient as specified in this Agreement, provided such use or disclosure would not violate the Privacy Rule if done by Subrecipient or the Minimum Necessary policies and procedures of Subrecipient as required and/or defined by HIPAA.

4. Subrecipient attests, to the best of its knowledge, that all hospital-based medical/professional staff providing services at Subrecipient’s facility(ies), under this Agreement, are and will continue to be as long as this Agreement remains in effect, the holders of currently valid licenses and/or certifications in the State of California required to perform the services for which they have been hired by hospital to provide and are members in “good standing” of the medical/professional staff of Subrecipient’s facility(ies).

5. Subrecipient shall:

   a. fully comply with all applicable federal and state reporting requirements regarding its employees; and

   b. fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment.

6. Failure of Subrecipient to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage
and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and failure to cure such breach within sixty (60) calendar days shall constitute grounds for termination of this Agreement.

7. It is expressly understood that County may transmit information regarding Subrecipient’s noncompliance to governmental agencies charged with the establishment and enforcement of child support orders or Wage and Earnings Assignment Orders and Notices of Assignment, or as permitted by federal and/or state statute.

K. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS

Subrecipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Agreement. Subrecipient shall be responsible for observing and complying with any applicable Federal, State, or local laws, or rules or regulations affecting any such work. Subrecipient shall provide copies of permits and approvals to the County upon request.

L. STATUTES AND REGULATIONS APPLICABLE TO GRANT

Subrecipient must comply with all applicable requirements of State, Federal, and County of Orange laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Subrecipient must comply with applicable State and Federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Subrecipient must comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Office of Management and Budget (OMB) Circulars. Subrecipient must comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations).

2. Single Audit Act. Since Federal funds are used in the performance of this Agreement, Subrecipient must, as applicable, adhere to the rules and regulations of the Single Audit Act (31 USC Sec. 7501 et seq.), OMB Circular A-133 and any administrative regulation or field memoranda implementing the Act.

3. Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under this Agreement may be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Funds provided under this Agreement may not be used for any purpose designed to support or defeat any pending legislation or administrative regulation.
M. COMPLIANCE WITH GRANT REQUIREMENTS

To obtain the Grant funds, the Department of the Treasury required an authorized representative of the County to agree to certain promises regarding the way the grant funds would be spent. This certification is attached hereto as Attachment E. By signing this certification, the County made material representations to the Department of Treasury in order to receive payments from the Department of Treasury pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020). In accordance with Paragraph H, below, Subrecipient agrees to indemnify, defend, and hold harmless the County of Orange for any sums the State or Federal government contends or determines Subrecipient used in violation of the certification. Subrecipient shall immediately return to the County any funds the County or any responsible State or Federal agency, including the Department of Treasury, determines the Subrecipient has used in a manner that is inconsistent with Paragraph 2, above, of this Agreement. The provisions of this Paragraph shall survive termination of this Agreement.

Subrecipient shall adhere to the Federal Government issued reporting requirements (July 31, 2020) for states and local governments that receive direct funds from the Coronavirus Relief Fund (CRF) established by the CARES Act. Subrecipient shall be responsible for meeting and completing County’s reporting responsibility for CARES Act funding received by Subrecipient under this Agreement. Subrecipient of CRF monies shall register at the System for Award Management (SAM) website https://sam.gov/SAM/ by September 1, 2020 or within ten (10) business days of Agreement execution, and be prepared to be monitored by County or other regulatory body with auspices over CARES Act funding in accordance with Uniform Guidance.

N. AGGREGATE GRANT ASSISTANCE AMOUNT

1. The Aggregate Grant Assistance Amount of County to be distributed in accordance with all Agreements for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Assistance for Acute Hospitals Eligible Medical Expenses is thirty million dollars ($30,000,000), as specified in the Referenced Agreement Provisions of this Agreement. This specific Agreement with Subrecipient is only one of several Agreements to which this Grant Assistance Amount applies. It therefore is understood by the parties that amount distributed to Subrecipient will be only a fraction of the Aggregate Grant Assistance Amount.

2. CFDA Information - This Agreement includes federal funds paid to Subrecipient. The CFDA number(s) and associated information for federal funds paid through this Agreement are as specified below:
<table>
<thead>
<tr>
<th>CFDA#</th>
<th>FAIN#</th>
<th>Program/Service Title</th>
<th>Federal Funding Agency</th>
<th>Federal Award Date</th>
<th>Federal Award Indirect Rate</th>
<th>Amount</th>
<th>R&amp;D Award (Y/N)</th>
</tr>
</thead>
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<tr>
<td>21.019</td>
<td>SLT012</td>
<td>Coronavirus Relief Fund (CRF)</td>
<td>US Department of Treasury</td>
<td>4/22/20</td>
<td>10% de minimus rate</td>
<td>$554,133,765</td>
<td>N</td>
</tr>
</tbody>
</table>

a. Subrecipient may be required to have an audit conducted in accordance with federal regulations. Subrecipient shall be responsible for complying with any federal audit requirements within the reporting period.

b. Administrator may revise the CFDA information listed above, and shall notify Subrecipient in writing of said revisions.

O. NOTICES

1. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Agreement shall be effective:

   a. When written and deposited in the United States mail, first class postage prepaid and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator;

   b. When faxed, transmission confirmed;

   c. When sent by Email; or

   d. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.

2. Formal Notices, such as Termination Notices or notices modifying terms and conditions of this Agreement, as allowed pursuant to this Agreement, shall be effective:

   a. When written and deposited in the United States mail, first class postage prepaid, certified mail, return receipt requested, and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator; or

   b. When delivered by U.S. Postal Service Express Mail, Federal Express, United Parcel Service or any other expedited delivery service.

3. Subrecipient shall notify Administrator, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature, which may expose County to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any County property in possession of Subrecipient.
4. For purposes of this Agreement, any notice to be provided by County may be given by Administrator.

5. For purposes of this Agreement, Subrecipient agrees that the Hospital Association of Southern California may act as a representative of all Subrecipient Hospitals for the purpose of distributing and/or coordinating any notices which may be provided by Administrator and which shall be applicable to all Subrecipient Hospitals. In such instances, notification to HASC shall be deemed as notification to Subrecipient.

P. USE OF GRANT AMOUNT

1. Subrecipient shall use the Grant amount provided under this Agreement to pay for Eligible Expenses, as described in more detail in Attachment A of this Agreement, that: (1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; (2) were not accounted for in the budget most recently approved by Subrecipient as of March 27, 2020; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

2. Subrecipient must utilize the Grant amount in accordance with all Federal and State laws, including but not limited to 42 U.S.C. § 801, subsection (d), and all applicable regulations and guidelines, including guidance issued by the Department of Treasury regarding costs that are payable from Coronavirus Relief Funds, which includes but is not limited to Guidance for State, Territorial, Local, and Tribal Governments dated April 22, 2020 (Attachment D) and Coronavirus Relief Fund Frequently Asked Questions as listed at https://home.treasury.gov/policy-issues/cares/state-and-local-governments.

Q. PAYMENT OF GRANT AMOUNT

1. The County shall pay Subrecipient a Grant amount of $_________ upon full execution of this Agreement. All of Subrecipient’s expenditures of the Grant amount must be for Eligible Expense, as described in more detail in Paragraph B and C of Attachment A to this Agreement.

2. It is understood that the County makes no commitment to fund this Agreement beyond the terms set forth herein.

3. If Subrecipient has not spent any portion of the Grant amount it has received under this Agreement to cover Eligible Expenses by December 30, 2020, Subrecipient shall return to the County by February 1, 2021 the amount remaining unspent as of December 30, 2020.

R. RECORDS MAINTENANCE

Records, in their original form, must be maintained in accordance with requirements prescribed by the County with respect to all matters specified in this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Such records must be retained for a period four (4) years after termination of this Agreement and after final disposition of all pending matters. “Pending matters” include, but are not limited to, an audit, litigation or other actions involving records. Records, in their original form pertaining to matters
covered by this Agreement, must at all times be retained within the County of Orange unless authorization to remove them is granted in writing by the County.

S. RECORDS MANAGEMENT AND MAINTENANCE

1. Subrecipient, its officers, agents, employees and sub-subrecipients shall, throughout the term of this Agreement, prepare, maintain and manage such records as appropriate to the services provided and in accordance with this Agreement and all applicable requirements. This obligation includes maintaining all records needed to support claims submitted by Subrecipient or County for purposes of receiving or spending CARES Act funds.

2. Subrecipient shall ensure appropriate financial records related to cost reporting, expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately, shall retain all such financial records for a minimum of seven (7) years from the commencement of the Agreement, unless a longer period is required due to legal proceedings such as litigation and/or settlement of claims.

3. Subrecipient shall make records pertaining to the costs of services, patient fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange.

4. If Subrecipient is unable to meet the record location criteria above, Administrator may provide written approval to Subrecipient to maintain records in a single location, identified by Subrecipient.

5. Subrecipient may be required to retain all records involving litigation proceedings and settlement of claims for a longer term as reasonably directed by Administrator.

6. Subrecipient, unless Subrecipient is a public institution, shall notify Administrator of any PRA requests related to, or arising out of, this Agreement, within forty-eight (48) hours. Subrecipient shall provide Administrator all information that is requested by the PRA request.

7. If Subrecipient is a public institution, County understands and agrees that Subrecipient is subject to the provisions of the California Public Records Act. In the event Subrecipient receives a request to produce this Agreement, or identify any term, condition, or aspect of this Agreement, Subrecipient shall notify County. Subrecipient shall make its best efforts to notify County no less than three (3) business days prior to releasing such information.

T. SEVERABILITY

If a court of competent jurisdiction declares any provision of this Agreement or application thereof to any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in full force and effect, and to that extent the provisions of this Agreement are severable.
U. STATUS OF PARTIES

1. Each party is, and shall at all times be deemed to be, an independent Subrecipient and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Each party is entirely responsible for compensating staff and consultants employed by that party. This Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between County and Subrecipient or of either party’s employees, agents, consultants, or Subrecipients. Each party assumes exclusively the responsibility for the acts of its employees, agents, consultants, or Subrecipients as they relate to the services to be provided during the course and scope of their employment or respective contracts.

2. County shall neither have, nor exercise, any control or direction over the methods by which Subrecipient shall perform its obligations under this Agreement. The standards of medical care and professional duties of Subrecipient’s employees performing medical services under this Agreement shall be determined, as applicable, by Subrecipient’s Board of Directors and the standards of care in the community in which Subrecipient is located, and all applicable provisions of law and other rules and regulations of any and all governmental authorities relating to licensure and regulation of Subrecipient.

V. TERM

1. The term of this Agreement shall commence as specified in the Referenced Agreement Provisions of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified in the Referenced Agreement Provisions of this Agreement unless otherwise sooner terminated as provided in this Agreement; provided, however, Subrecipient shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

2. Any administrative duty or obligation to be performed pursuant to this Agreement on a weekend or holiday may be performed on the next regular business day.

W. TERMINATION

1. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from Acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or suppliers, vandalism, strikes or other work interruptions by a party’s officers, agents, employees, affiliates, or Subrecipients, or any similar cause beyond the reasonable control of any party to this Agreement. However, all parties shall make good faith efforts to perform under this Agreement in the event of any such circumstance.
2. County may terminate this Agreement immediately, upon written notice, on the occurrence of any of the following events:

   a. The loss by Subrecipient of legal capacity.

   b. Failure of Subrecipient to meet any of its obligations under this Agreement.

   c. The loss of accreditation or any license required by the Licenses and Law Paragraph of this Agreement.

   d. The delegation or assignment by Subrecipient of obligations hereunder to another entity without the prior written consent of County.

3. Contingent Funding

   a. Any obligation of County under this Agreement shall be contingent upon the following:

      1) The continued availability of federal, state and county funds for reimbursement of County’s expenditures, and

      2) Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.

   3) In the event the Grant Assistance under this Agreement is not available or limited pursuant to Paragraph 3.a, above, County may at its sole discretion terminate the Agreement upon thirty (30) days prior written notice to Subrecipient or reduce the Grant Assistance to an amount as deemed appropriate by County.

4. After receiving a notice of termination, Subrecipient shall do the following:

   a. Comply with termination instructions provided by Administrator in a manner that is consistent with prudent business practices.

   b. Obtain immediate clarification from Administrator of any unsettled issues of the Agreement during the remaining allocation period.

   c. Until the date of termination, continue to adhere all contractual obligations required by this Agreement.

5. The rights and remedies of County and Subrecipient provided in this Termination Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

X. THIRD PARTY BENEFICIARY

Neither party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any sub-subrecipients or any clients provided services pursuant to this Agreement.
Y. WAIVER OF DEFAULT OR BREACH

Waiver by either party of any default by the other party shall not be considered a waiver of any other or subsequent default. Waiver by either party of any breach by the other party of any provision of this Agreement shall not be considered a waiver of any other or subsequent breach. Waiver by the other party of any default or any breach by the other party shall not be considered a modification of the terms of this Agreement.

SIGNATURE PAGE Follows
SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement. If the company is a corporation, Subrecipient shall provide two signatures as follows: 1) the first signature must be either the Chairman of the Board, President, or any Vice President; 2) the second signature must be that of the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution or by-laws demonstrating the legal authority of the signature to bind the company.

Subrecipient: [Provider Legal Name]

Print Name
Title

Signature
Date

Print Name
Title

Signature
Date

County of Orange, a political subdivision of the State of California

Purchasing Agent/Designee Authorized Signature:

Print Name
Title

Signature
Date

APPROVED AS TO FORM
Office of the County Counsel
Orange County, California

Massoud Shamei
Print Name
Deputy County Counsel
Title

Signed by: Massoud Shamei
Date: 9/4/2020
ATTACHMENT A

TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010003 FOR ACUTE HOSPITALS’
ELIGIBLE MEDICAL EXPENSES

SCOPE OF WORK

A. BACKGROUND

Orange County does not have a County-owned hospital, and relies on public-private partnership to ensure access and treatment for County’s acute medical care needs. In order to maintain this vital asset at current levels during the current emergency caused by the Coronavirus pandemic (COVID-19) pandemic/outbreak, continued access to a high quality medical system and the ability of the County’s private partners, e.g. hospitals, clinics, skilled nursing facilities, etc., to handle COVID-19 impending surges are critical County interests. These facilities require continued funding support to prepare for and respond to COVID-19 pandemic/outbreak.

COVID-19 surge preparations were unprecedented and hospitals were required to convert general medical beds to ICU capable (at minimum cost is $45k per bed); Surge Tents were mobilized and millions of dollars of medical supplies, equipment, personal protective equipment (PPE) were purchased.

Therefore, County is providing grant assistance using CARES Act Fund to County’s private partners, such as hospitals, to respond to County’s acute medical care needs during the period beginning on March 1, 2020 and ending on December 30, 2020.

B. PURPOSE

This Agreement proposes to utilize CARES Act funds distributed to the County of Orange Health Care Agency to provide grant assistance to thirty-three (33) Acute Care Hospitals for such expenditures as are eligible under the CARES Act in the amount of $30,000,000 during the period of March 1, 2020 through December 30, 2020 in the following three (3) primary objectives:

1. Equipment and Supplies Stockpile - Increase stockpiles and regulate rotation of near-expired items with new inventory to ensure fresh, usable medical supplies and equipment, PPE, and ventilators.

2. Disaster Resource Centers - Support Health Care Coalition (33 acute care hospitals) to secure Technical, Medical, Infection Control Experts dedicated to COVID-19 Pandemic response and planning.

3. Support hospitals in providing COVID-19 Pandemic training(s) and exercises.

C. ELIGIBLE EXPENSES – Eligible costs shall be such expenditures made on the items listed in Paragraph B, above, and must (i) be necessary expenditures incurred due to the public health emergency with respect to COVID–19; (ii) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or
government; and (iii) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. Examples of eligible cost categories include, but are not limited to, financial assistance to private hospitals and other medical facilities.

D. ALLOCATION METHODOLOGY

1. Allocation methodology for contracting hospitals is based upon the following two (2) primary categories:

   a. Hospital Bed Capacity – twenty-five percent (25%) of the funds are based on each hospital’s percentage of total number of licensed hospital beds in Orange County

   b. COVID-19 Inpatient Burden – Seventy-five percent (75%) of the funds allocated based on the ten (10) calendar day average number of admitted COVID-19 patients in each hospital, from 07/11/2020 to 07/20/2020.

E. SUBRECIPIENT’S OBLIGATIONS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C. of Attachment A, within the term of this Agreement.

2. Subrecipient shall make best effort to maintain, throughout the term of this Agreement, for each facility included under this Agreement, a minimum of a fourteen (14) calendar day supply of PPE.

   a. Resource Requests of Subrecipient to County shall be given lower priority through the end of calendar year 2020 as the funding under this Agreement should cover Subrecipient’s PPE needs.

   b. Additionally, at Administrator’s sole discretion, funding allocations under this Agreement may be reduced to reimburse County for Eligible Expenses already requested and received by Subrecipient from County of which Subrecipient has not reimbursed County.

3. Subrecipient shall maintain the licensed bed capacity utilized for the Allocation Methodology referenced in Paragraph D of this Attachment A, throughout the term of this Agreement.

4. Subrecipient shall maintain the resources necessary to meet the COVID-19 Inpatient Burden for the Allocation Methodology referenced in Paragraph D of this Attachment A, throughout the term of this Agreement.

5. Subrecipient shall invoice County, in accordance with Paragraphs B and C of Attachment B to this Agreement, at allocated amount, in accordance with the Funding Allocation Table in Paragraph A of Attachment B.

6. Subrecipient shall not claim costs for any ineligible expenditure, for Eligible Expenditures incurred and paid out (expended) after December 30, 2020, or for any Eligible Expenditures not reported to County on or before December 30, 2020, except as otherwise provided under the Agreement.
7. Subrecipient shall submit reports, in the fashion and form, as specified under Paragraph F of this Attachment A to the Agreement.

8. Subrecipient shall collect and maintain all source documentation in support of all Eligible Expenses.

9. Subrecipient shall return any and all unexpended CARES Act funding, to County to the attention of the Administrator Contract Manager, referenced below in Paragraph G. of this Attachment A, within thirty (30) calendar days of termination or expiration of this Agreement, whichever is earlier.

10. Subrecipient shall make key staff and all source documentation available to County and/or other regulatory body with auspices over CARES Act funding, upon written notice by Administrator and/or other regulatory body with auspices over CARES Act funding, within seven (7) days for the purposes of review, auditing, or other purpose as appropriate for proper oversight of this Agreement.

F. REPORTS

1. Progress Report. On October 1, 2020, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from the grant amount as of September 15, 2020; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraph 2; and (3) identify the balance of the grant amount that Subrecipient has not spent.

2. Final Report. Upon the earlier of Subrecipient’s expenditure of the balance of the grant amount or January 15, 2021, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from the grant amount as of December 30, 2020; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraph B, above; and (3) identify the balance of the grant amount that Subrecipient has not spent, if any.

3. The Subrecipient shall provide a certification signed by its chief executive officer with each report required under this Paragraph F that the statements contained in the report are true and that the expenditures described in the report comply with the uses permitted under Paragraph B, above.

4. Subrecipient shall maintain supporting documentation for the reports required by this Paragraph F consistent with the requirements of Paragraph G.

5. Subrecipient shall submit the following reporting information in the specified format either provided or approved by Administrator:

   a. Daily reporting on the current census of confirmed COVID-19 infected patients and the number of COVID-19 deaths reported for the previous calendar day.

   b. Daily reporting on the current confirmed COVID-19 patients that were primarily admitted for treatment of COVID-19 or for conditions in which COVID-19 was a significant contributing factor.
c. Daily reporting on the number of individuals being treated primarily for COVID-19 or significantly related conditions. Subrecipient shall also report on how many individuals have significant co-morbidities, please identify which ones are present.

d. Daily reporting on those being treated primarily for COVID-19 or significantly related conditions, by age group and ethnicity.

1) 0-17
2) 18-44
3) 45-64
4) 64-84
5) > 85
6) Unknown
7) American Indian/Alaska Native
8) Asian
9) Black or African American
10) Hispanic or Latino
11) Multiple races
12) Native Hawaiian/Pacific Islander
13) Other
14) Unknown
15) White

e. Daily reporting on the admitting physician's impression of how confirmed COVID-19 patients may have contracted the disease, if known.

1) Household contact
2) Work contact
3) Social gathering
4) Recreation
5) Travel
6) Unknown

f. Daily reporting on the average current duration of hospital stays in days for patients being treated primarily for COVID-19 (Patient days divided by number of patients)

g. Reporting on the process for updating data on cases with presumptive COVID-19 patients of subsequent negative test results.

h. Daily reporting on the number of positive COVID-19 that are reported as presumptive. Daily reports to State Database (Snowflake Server).

6. FISCAL

a. Expenditure and Revenue Report. Subrecipient shall submit monthly Expenditure and Revenue Reports to Administrator. These reports will be on a form approved by Administrator and will report year-to-date actual costs and revenues for Subrecipient as described in this Agreement.
b. Year-End Projections. In conjunction with the Expenditure and Revenue Report, Subrecipient shall provide monthly year-end projections that shall include year-to-date actual costs and revenues and anticipated year-end actual costs and revenues for Subrecipient as described in this Agreement.

c. The Expenditure and Revenue and Year-End Projection report shall be received by Administrator no later than the twentieth (20th) day following the end of the month being reported.

7. PROGRAMMATIC - Subrecipient shall submit, on forms provided or approved by County, fiscal and/or programmatic reports as requested by County concerning Subrecipient's activities as they relate to this Agreement. County will be specific as to the nature of the information requested and allow fifteen (15) calendar days for Subrecipient to respond.

8. ADDITIONAL REPORTS – Subrecipient shall submit, on forms provided or approved by Administrator, any additional programmatic reports, as requested by Administrator or other regulatory body with auspices over CARES Act funding, concerning Subrecipient's activities as they relate to this Agreement. Administrator will be specific as to the nature of the information requested and allow fifteen (15) calendar days for Subrecipient to respond, unless deadlines imposed by regulatory bodies dictate otherwise.

9. Subrecipient must request in writing any extensions to the due date of the monthly required report(s). If an extension is approved by Administrator, the total extension will not exceed more than five (5) calendar days.

G. County Contact Information: To direct communications to the above referenced County staff, Subrecipient shall initiate contact as indicated herein. County reserves the right to make changes to the contact information below by verbal or written notice to Subrecipient. Said changes shall not require an amendment to this Attachment or the Agreement to which it is incorporated.

Administrator Program Manager
County of Orange
Health Care Agency
405 W. Santa Ana Boulevard, Suite 458
Santa Ana, California 92701
Attention: Cheryl Meronk
E-mail: cmeronk@ochca.com
Telephone: (714) 834-4099

Administrator Contract Manager
County of Orange
Health Care Agency
405 W. 5th Street, Suite 600
Santa Ana, California 92701
Attention: Kurt Nelson
E-mail: knelson@ochca.com
Telephone: (714) 834-5820
Administrator Privacy Officer
County of Orange
Orange County Information Technology (OCIT)
1055 N. Main Street
Santa Ana, California 92701
Attention: Linda Le
E-mail: linda.le@ocit.ocgov.com
Telephone: (714) 834-4082

Administrator Information Security Officer
County of Orange
Health Care Agency
200 W. 5th Street
Santa Ana, California 92701
Attention: David Castellanos
E-mail: dcastellanos@ochca.com
Telephone: (714) 834-3433

H. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment A to the Agreement.
ATTACHMENT B

TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010003 FOR ACUTE HOSPITALS’
ELIGIBLE MEDICAL EXPENSES

FUNDING ALLOCATION AND PAYMENT METHODOLOGY

A. Funding Allocation Table – funding shall be allocated to Subrecipient in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the table below:

<table>
<thead>
<tr>
<th>Medical Center</th>
<th>Allocation</th>
<th>% of Total</th>
<th>Beds</th>
<th>ERG %</th>
<th>ERA %</th>
<th>All ACH%</th>
<th>TotalAch%</th>
<th>10-Day Average 10 Day Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Healthbridge Children's Hospital</td>
<td>$5,307.44</td>
<td>0.02%</td>
<td>9</td>
<td>0.14%</td>
<td>5,307.44</td>
<td>0.02%</td>
<td>5,307.44</td>
<td>0.02%</td>
</tr>
<tr>
<td>College Hospital Costa Mesa</td>
<td>$13,563.45</td>
<td>0.05%</td>
<td>23</td>
<td>0.36%</td>
<td>13,563.45</td>
<td>0.05%</td>
<td>13,563.45</td>
<td>0.05%</td>
</tr>
<tr>
<td>Kindred Hospital - Bea</td>
<td>$30,465.20</td>
<td>0.10%</td>
<td>52</td>
<td>0.82%</td>
<td>30,465.20</td>
<td>0.10%</td>
<td>30,465.20</td>
<td>0.10%</td>
</tr>
<tr>
<td>Kindred Hospital - Santa Ana</td>
<td>$35,972.04</td>
<td>0.12%</td>
<td>61</td>
<td>0.96%</td>
<td>35,972.04</td>
<td>0.12%</td>
<td>35,972.04</td>
<td>0.12%</td>
</tr>
<tr>
<td>Hoag Orthopedic Institute</td>
<td>$41,280.08</td>
<td>0.14%</td>
<td>70</td>
<td>1.00%</td>
<td>41,280.08</td>
<td>0.14%</td>
<td>41,280.08</td>
<td>0.14%</td>
</tr>
<tr>
<td>CHOC Children’s at Mission Hospital</td>
<td>$87,542.85</td>
<td>0.29%</td>
<td>64</td>
<td>1.22%</td>
<td>87,542.85</td>
<td>0.29%</td>
<td>87,542.85</td>
<td>0.29%</td>
</tr>
<tr>
<td>Chapman Global Medical Center</td>
<td>$366,375.74</td>
<td>1.21%</td>
<td>87</td>
<td>1.73%</td>
<td>366,375.74</td>
<td>1.21%</td>
<td>366,375.74</td>
<td>1.21%</td>
</tr>
<tr>
<td>Huntington Beach Hospital</td>
<td>$480,988.73</td>
<td>1.60%</td>
<td>88</td>
<td>1.78%</td>
<td>480,988.73</td>
<td>1.60%</td>
<td>480,988.73</td>
<td>1.60%</td>
</tr>
<tr>
<td>Hoag Hospital Irvine</td>
<td>$559,237.72</td>
<td>1.86%</td>
<td>96</td>
<td>1.51%</td>
<td>559,237.72</td>
<td>1.86%</td>
<td>559,237.72</td>
<td>1.86%</td>
</tr>
<tr>
<td>Placentia-Linda Hospital</td>
<td>$698,710.07</td>
<td>2.30%</td>
<td>118</td>
<td>2.13%</td>
<td>698,710.07</td>
<td>2.30%</td>
<td>698,710.07</td>
<td>2.30%</td>
</tr>
<tr>
<td>South Coast Global Medical Center</td>
<td>$840,738.00</td>
<td>2.80%</td>
<td>118</td>
<td>2.13%</td>
<td>840,738.00</td>
<td>2.80%</td>
<td>840,738.00</td>
<td>2.80%</td>
</tr>
<tr>
<td>Kindred Hospital - Westminster</td>
<td>$453,781.99</td>
<td>1.51%</td>
<td>125</td>
<td>2.10%</td>
<td>453,781.99</td>
<td>1.51%</td>
<td>453,781.99</td>
<td>1.51%</td>
</tr>
<tr>
<td>Anaheim Global Medical Center</td>
<td>$731,435.45</td>
<td>2.44%</td>
<td>136</td>
<td>2.44%</td>
<td>731,435.45</td>
<td>2.44%</td>
<td>731,435.45</td>
<td>2.44%</td>
</tr>
<tr>
<td>La Palma Intercountry Hospital</td>
<td>$732,614.88</td>
<td>2.44%</td>
<td>138</td>
<td>2.46%</td>
<td>732,614.88</td>
<td>2.44%</td>
<td>732,614.88</td>
<td>2.44%</td>
</tr>
<tr>
<td>Foothill Regional Medical Center</td>
<td>$897,615.65</td>
<td>2.99%</td>
<td>150</td>
<td>2.56%</td>
<td>897,615.65</td>
<td>2.99%</td>
<td>897,615.65</td>
<td>2.99%</td>
</tr>
<tr>
<td>Mission Hospital Laguna Beach</td>
<td>$280,886.87</td>
<td>0.97%</td>
<td>152</td>
<td>2.59%</td>
<td>280,886.87</td>
<td>0.97%</td>
<td>280,886.87</td>
<td>0.97%</td>
</tr>
<tr>
<td>Los Alamitos Medical Center</td>
<td>$1,280,067.24</td>
<td>4.30%</td>
<td>171</td>
<td>2.86%</td>
<td>1,280,067.24</td>
<td>4.30%</td>
<td>1,280,067.24</td>
<td>4.30%</td>
</tr>
<tr>
<td>West Anaheim Medical Center</td>
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<td>3.93%</td>
<td>177</td>
<td>2.91%</td>
<td>1,210,538.26</td>
<td>3.93%</td>
<td>1,210,538.26</td>
<td>3.93%</td>
</tr>
<tr>
<td>Garden Grove Hospital and Medical Center</td>
<td>$921,793.98</td>
<td>3.07%</td>
<td>182</td>
<td>3.03%</td>
<td>921,793.98</td>
<td>3.07%</td>
<td>921,793.98</td>
<td>3.07%</td>
</tr>
<tr>
<td>Orange Coast Medical Center</td>
<td>$1,073,586.03</td>
<td>3.53%</td>
<td>255</td>
<td>4.01%</td>
<td>1,073,586.03</td>
<td>3.53%</td>
<td>1,073,586.03</td>
<td>3.53%</td>
</tr>
<tr>
<td>AHMC Anaheim Regional Medical Center</td>
<td>$1,644,747.10</td>
<td>5.47%</td>
<td>256</td>
<td>4.05%</td>
<td>1,644,747.10</td>
<td>5.47%</td>
<td>1,644,747.10</td>
<td>5.47%</td>
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<tr>
<td>Orange County Global Medical Center</td>
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<td>6.10%</td>
<td>312</td>
<td>4.92%</td>
<td>1,829,298.19</td>
<td>6.10%</td>
<td>1,829,298.19</td>
<td>6.10%</td>
</tr>
<tr>
<td>Saddleback Medical Center</td>
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<td>4.18%</td>
<td>369</td>
<td>5.90%</td>
<td>1,254,803.85</td>
<td>4.18%</td>
<td>1,254,803.85</td>
<td>4.18%</td>
</tr>
<tr>
<td>Mission Hospital Mission Viejo</td>
<td>$1,451,914.22</td>
<td>4.84%</td>
<td>381</td>
<td>6.20%</td>
<td>1,451,914.22</td>
<td>4.84%</td>
<td>1,451,914.22</td>
<td>4.84%</td>
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<tr>
<td>St. Jude Medical Center</td>
<td>$2,138,394.71</td>
<td>7.13%</td>
<td>385</td>
<td>6.35%</td>
<td>2,138,394.71</td>
<td>7.13%</td>
<td>2,138,394.71</td>
<td>7.13%</td>
</tr>
<tr>
<td>St. Joseph Medical Center</td>
<td>$3,055,399.33</td>
<td>10.19%</td>
<td>458</td>
<td>7.22%</td>
<td>3,055,399.33</td>
<td>10.19%</td>
<td>3,055,399.33</td>
<td>10.19%</td>
</tr>
<tr>
<td>Fountain Valley Regional Hospital and Medical Center</td>
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<td>9.68%</td>
<td>467</td>
<td>7.45%</td>
<td>2,964,162.02</td>
<td>9.68%</td>
<td>2,964,162.02</td>
<td>9.68%</td>
</tr>
<tr>
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<td>4.90%</td>
<td>474</td>
<td>7.45%</td>
<td>1,468,760.35</td>
<td>4.90%</td>
<td>1,468,760.35</td>
<td>4.90%</td>
</tr>
<tr>
<td>Children’s Hospital of Orange County</td>
<td>$757,237.49</td>
<td>1.26%</td>
<td>492</td>
<td>7.74%</td>
<td>757,237.49</td>
<td>1.26%</td>
<td>757,237.49</td>
<td>1.26%</td>
</tr>
<tr>
<td>UC Irvine Health</td>
<td>$2,733,588.84</td>
<td>9.12%</td>
<td>492</td>
<td>7.74%</td>
<td>2,733,588.84</td>
<td>9.12%</td>
<td>2,733,588.84</td>
<td>9.12%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$30,000,000.00</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>6355</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>3,750,000.00</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>3,750,000.00</strong></td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>
B. PAYMENTS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C. of Attachment A, within the term of this Agreement.

2. Subrecipient’s Eligible Expenses shall not to exceed Subrecipient’s allocation in accordance with Paragraph D. of Attachment A, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B.

3. Subrecipient shall invoice County as specified in Paragraph C. below.

C. PAYMENT METHOD

1. County shall pay Subrecipient a lump sum, within sixty (60) business days of Agreement execution in accordance with Funding Allocation Table in Paragraph A of this Attachment B.

2. Subrecipient understands and agrees that the total of all payments to Subrecipient shall not exceed Subrecipient’s allocation in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B. Subrecipient accepts further that the total of all payments to all Subrecipients shall not exceed the Aggregate Grant Assistance Amount as specified in the Referenced Agreement Provisions of this Agreement.

3. Subrecipient agrees that all payments are interim payments only, and subject to auditing by County and/or other regulatory body with auspices over CARES Act funding and maybe subject to recoupment in the event said expenditures:

a. are not in accordance with Paragraphs B and C of Attachment A; and

b. cannot be substantiated by source documentation collected and maintain by Subrecipient, to include but not be limited to receipts, purchase orders, ledgers, books, check stubs, invoices, records, etc. confirming expenses incurred and paid out (expended). Lack of supporting source documentation of any expenditure invoiced to County and reimbursed to Subrecipient under this Agreement shall be immediately subject to recoupment by County.

4. Subrecipient’s invoice shall be on a form approved or supplied by Administrator and provide such information as is required by Administrator, to include but not be limited to provider letterhead/logo, legal entity name (corresponding with Agreement), remit to address, invoice date, invoice number, contracted service (from header of Agreement), Agreement term, Agreement period, amount requested for payment, MA number, DO number, tax ID number, vendor number, and County coding string. Invoices are due within forty-five (45) calendar days of Agreement execution, and payments to Subrecipient should be released by County no later than twenty-one (21) days after receipt/processing of the correctly completed invoice form.
5. Subrecipient agrees that, at Administrator’s sole discretion, County shall not be obligated to reimburse Subrecipient for invoices submitted later than ninety (90) calendar days of Agreement execution or December 1, 2020, whichever is earlier. County may withhold or delay any payment if Subrecipient fails to comply with any provision of the Agreement.

6. County may withhold any or all of the funds specified in this Attachment B of the Agreement, consistent with the regulations pertaining to the specific funding source, in order to recover any overpayments made of said funds to Subrecipient in previous agreements or to recover funds due County from Subrecipient pursuant, but not limited, to the following:
   
a. Subrecipient’s failure to comply with the provisions of this Agreement.
   
b. Subrecipient is found to be non-compliant with the conditions for receiving funds including, but not limited to, inability to document eligible expenditures.
   
c. Audit exceptions and/or fiscal disallowances by the state and/or County for funds received by Subrecipient pursuant to this Agreement.
   
d. Recovery of any overpayments made in previous agreements between Subrecipient and County for other contracted services.

7. County shall not reimburse Subrecipient for expenditures under this Agreement incurred, paid out (expended), and reported to County after December 20, 2020, as the County must incur and pay out (expend) per CARES Act funding requirements, and will need time to process information received from all contracting providers receiving CARES Act funding under this Agreement and others.

D. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment B to the Agreement.
ATTACHMENT C
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010003 FOR ACUTE HOSPITALS’
ELIGIBLE MEDICAL EXPENSES

ADDITIONAL FUNDING REGULATIONS

A. Contract Work Hours and Safety Standards Act

1. Overtime requirements. No Subrecipient or sub-subrecipient contracting for any part of
the contract work which may require or involve the employment of laborers or mechanics
shall require or permit any such laborer or mechanic in any workweek in which he or she
is employed on such work to work in excess of forty hours in such workweek unless such
laborer or mechanic receives compensation at a rate not less than one and one-half times
the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of
the clause set forth in paragraph (1) of this section the Subrecipient and any sub-
subrecipient responsible therefor shall be liable for the unpaid wages. In addition, such
Subrecipient and sub-subrecipient shall be liable to the United States (in the case of work
done under contract for the District of Columbia or a territory, to such District or to such
territory), for liquidated damages. Such liquidated damages shall be computed with
respect to each individual laborer or mechanic, including watchmen and guards,
employed in violation of the clause set forth in paragraph (1) of this section, in the sum of
$27 for each calendar day on which such individual was required or permitted to work in
excess of the standard workweek of forty hours without payment of the overtime wages
required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The County shall upon its own
action or upon written request of an authorized representative of the Department of Labor
withhold or cause to be withheld, from any moneys payable on account of work performed
by the Subrecipient or sub-subrecipient under any such contract or any other Federal
contract with the same prime Subrecipient, or any other federally-assisted contract
subject to the Contract Work Hours and Safety Standards Act, which is held by the same
prime Subrecipient, such sums as may be determined to be necessary to satisfy any
liabilities of such Subrecipient or sub-subrecipient for unpaid wages and liquidated
damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The Subrecipient or sub-subrecipient shall insert in any subcontracts the
clauses set forth in paragraph (1) through (4) of this section and also a clause requiring
the sub-subrecipients to include these clauses in any lower tier subcontracts. The prime
Subrecipient shall be responsible for compliance by any sub-subrecipient or lower tier
sub-subrecipient with the clauses set forth in paragraphs (1) through (4) of this section.

B. Clean Air Act and The Federal Water Pollution Control Act
1. Clean Air Act
   a. The Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
   b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
   c. The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

2. Federal Water Pollution Control Act
   a. The Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
   b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
   c. The Subrecipient agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

C. Suspension and Debarment

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Subrecipient is required to verify that none of the Subrecipient’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. The Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

3. This certification is a material representation of fact relied upon by County. If it is later determined that the Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees...
to include a provision requiring such compliance in its lower tier covered transactions.

D. Byrd Anti-Lobbying Amendment - 31 U.S.C. § 1352 (as amended) Subrecipients who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency. Subrecipient must execute the certification, as provided in Attachment C.

E. Procurement of Recovered Materials

1. In the performance of this contract, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

2. Competitively within a timeframe providing for compliance with the contract performance schedule;

3. Meeting contract performance requirements; or

4. At a reasonable price.

   a. Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

   b. The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

F. Access To Records

1. The Subrecipient agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Subrecipient which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

2. The Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

3. The Subrecipient agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
4. In compliance with the Disaster Recovery Act of 2018, the County and the Subrecipient acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

G. Department of Homeland Security (DHS) Seal, Logo, and Flags - The Subrecipient shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

H. Compliance with Federal Law, Regulations, And Executive Orders - This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Subrecipient will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

I. No Obligation by Federal Government - The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Subrecipient, or any other party pertaining to any matter resulting from the contract.

J. Program Fraud and False or Fraudulent Statements or Related Acts - The Subrecipient acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Subrecipient’s actions pertaining to this contract.

K. Equal Employment Opportunity - The Subrecipient shall comply with U.S. Executive Order 11246 entitled, “Equal Employment Opportunity” as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The Subrecipient shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

L. Regarding handicapped persons, the Subrecipient will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Subrecipient agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

M. Regarding Americans with disabilities, Subrecipient agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.
ATTACHMENT 1 to ATTACHMENT C

TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT AGREEMENT NO. MA-042-21010003 FOR ACUTE HOSPITALS’ ELIGIBLE MEDICAL EXPENSES

CERTIFICATION REGARDING ANTI-LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Subrecipient, [Provider Legal Name], certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

___________________________________
Signature of Subrecipient’s Authorized Official

___________________________________
Name and Title of Subrecipient’s Authorized Official

___________________________________
Date
Contract Summary Form

Master Agreement for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Assistance for Acute Hospitals for Eligible Medical Expenses

SUMMARY OF SIGNIFICANT CHANGES

1. Not applicable as this is a new grant assistance contract to address financial support of hospitals.

SUBCONTRACTORS

This contract does not currently include subcontractors or pass through to other providers.

CONTRACT OPERATING EXPENSES

This contract is a financial/fiscal pass through and does not contain a budget or provision of any services and therefore does not include administrative costs, indirect costs, or flex funds.

ALLOCATION METHODOLOGY

Allocation methodology for contracting hospitals is based upon the following two primary categories:

- Hospital Bed Capacity – 20 percent of the funds are based on each hospital’s percentage of total number of licensed hospital beds in Orange County.
- COVID-19 Inpatient Burden – 75 percent of the funds allocated based on the ten calendar day average number of admitted COVID-19 patients in each hospital, from June 11, 2020, to June 20, 2020.

Below is the anticipated funding allocation table for hospitals:

<table>
<thead>
<tr>
<th>Hospital Name</th>
<th>City</th>
<th>Licensed Beds</th>
<th>% of Total</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>AHMC Anaheim Regional Medical Center</td>
<td>Anaheim</td>
<td>256</td>
<td>5.48%</td>
<td>$1,644,247.10</td>
</tr>
<tr>
<td>Anaheim Global Medical Center</td>
<td>Anaheim</td>
<td>126</td>
<td>2.44%</td>
<td>$731,435.45</td>
</tr>
<tr>
<td>Chapman Global Medical Center</td>
<td>Orange</td>
<td>87</td>
<td>1.22%</td>
<td>$366,375.74</td>
</tr>
<tr>
<td>Children's Hospital of Orange County</td>
<td>Orange</td>
<td>492</td>
<td>2.52%</td>
<td>$757,237.49</td>
</tr>
<tr>
<td>CHOC Children's at Mission Hospital</td>
<td>Mission Viejo</td>
<td>84</td>
<td>0.29%</td>
<td>$87,542.85</td>
</tr>
<tr>
<td>College Hospital Costa Mesa</td>
<td>Costa Mesa</td>
<td>23</td>
<td>0.05%</td>
<td>$13,563.45</td>
</tr>
<tr>
<td>Foothill Regional Medical Center</td>
<td>Tustin</td>
<td>150</td>
<td>2.99%</td>
<td>$897,615.65</td>
</tr>
<tr>
<td>Fountain Valley Regional Hospital and Medical Center</td>
<td>Fountain Valley</td>
<td>459</td>
<td>9.68%</td>
<td>$2,904,162.02</td>
</tr>
<tr>
<td>Hospital Name</td>
<td>City</td>
<td>Licensed Beds</td>
<td>% of Total</td>
<td>Allocation</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>--------------------------</td>
<td>---------------</td>
<td>------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Garden Grove Hospital and Medical Center</td>
<td>Garden Grove</td>
<td>191</td>
<td>3.07%</td>
<td>$921,793.98</td>
</tr>
<tr>
<td>HealthBridge Children's Hospital</td>
<td>Orange</td>
<td>9</td>
<td>0.02%</td>
<td>$5,307.44</td>
</tr>
<tr>
<td>Hoag Hospital Irvine</td>
<td>Irvine</td>
<td>96</td>
<td>2.00%</td>
<td>$599,723.72</td>
</tr>
<tr>
<td>Hoag Memorial Hospital Presbyterian</td>
<td>Newport Beach</td>
<td>474</td>
<td>4.90%</td>
<td>$1,468,750.99</td>
</tr>
<tr>
<td>Hoag Orthopedic Institute</td>
<td>Irvine</td>
<td>70</td>
<td>0.14%</td>
<td>$41,280.08</td>
</tr>
<tr>
<td>Huntington Beach Hospital</td>
<td>Huntington Beach</td>
<td>88</td>
<td>1.60%</td>
<td>$480,985.73</td>
</tr>
<tr>
<td>Kindred Hospital - Brea</td>
<td>Brea</td>
<td>52</td>
<td>0.10%</td>
<td>$30,665.20</td>
</tr>
<tr>
<td>Kindred Hospital - Santa Ana</td>
<td>Santa Ana</td>
<td>61</td>
<td>0.12%</td>
<td>$35,972.64</td>
</tr>
<tr>
<td>Kindred Hospital - Westminster</td>
<td>Westminster</td>
<td>125</td>
<td>1.51%</td>
<td>$453,781.99</td>
</tr>
<tr>
<td>La Palma Intercommunity Hospital</td>
<td>La Palma</td>
<td>128</td>
<td>2.44%</td>
<td>$732,614.88</td>
</tr>
<tr>
<td>Los Alamitos Medical Center</td>
<td>Los Alamitos</td>
<td>171</td>
<td>4.30%</td>
<td>$1,290,067.24</td>
</tr>
<tr>
<td>Mission Hospital Laguna Beach</td>
<td>Laguna Beach</td>
<td>152</td>
<td>0.97%</td>
<td>$290,686.97</td>
</tr>
<tr>
<td>Mission Hospital Mission Viejo</td>
<td>Mission Viejo</td>
<td>381</td>
<td>4.84%</td>
<td>$1,451,914.22</td>
</tr>
<tr>
<td>Orange Coast Medical Center</td>
<td>Fountain Valley</td>
<td>255</td>
<td>3.58%</td>
<td>$1,073,556.03</td>
</tr>
<tr>
<td>Orange County Global Medical Center</td>
<td>Santa Ana</td>
<td>312</td>
<td>6.10%</td>
<td>$1,829,298.19</td>
</tr>
<tr>
<td>Placentia-Linda Hospital</td>
<td>Placentia</td>
<td>118</td>
<td>2.30%</td>
<td>$688,710.97</td>
</tr>
<tr>
<td>Saddleback Medical Center</td>
<td>Laguna Hills, San Clemente</td>
<td>369</td>
<td>4.18%</td>
<td>$1,254,803.85</td>
</tr>
<tr>
<td>South Coast Global Medical Center</td>
<td>Santa Ana</td>
<td>118</td>
<td>2.80%</td>
<td>$840,738.00</td>
</tr>
<tr>
<td>St. Joseph Hospital, Orange</td>
<td>Orange</td>
<td>458</td>
<td>10.19%</td>
<td>$3,055,599.33</td>
</tr>
<tr>
<td>St. Jude Medical Center</td>
<td>Fullerton</td>
<td>385</td>
<td>7.13%</td>
<td>$2,138,394.71</td>
</tr>
<tr>
<td>UC Irvine Health</td>
<td>Orange</td>
<td>492</td>
<td>9.11%</td>
<td>$2,733,588.84</td>
</tr>
<tr>
<td>West Anaheim Medical Center</td>
<td>Anaheim</td>
<td>177</td>
<td>3.93%</td>
<td>$1,179,585.26</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>6359</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$30,000,000.00</strong></td>
</tr>
</tbody>
</table>
TO: Robin Stieler, Clerk of the Board

FROM: Chairwoman Michelle Steel, Supervisor Second District

SUBJECT: Appointment to the Assessment Appeals Board No. 5

Please add the following item of business to the supplemental calendar for the September 15, 2020 Board meeting agenda. The title of the item should read:

Chairwoman Steel – Assessment Appeals Board, No. 5 – Re-Appoint Min Chai, Irvine, to the fill the position for the three year term beginning September 7, 2020, through September 3, 2023.
APPLICATION FOR COUNTY OF ORANGE
BOARD, COMMISSION OR COMMITTEE

Return to:
Clerk of the Board of Supervisors
333 West Santa Ana Blvd., Suite 465
Santa Ana, California 92701
Website: www.ocgov.com/gov/cob/

Instructions: Please complete each section below. Be sure to enter the title of the Board, Commission or Committee for which you desire consideration. For information or assistance, please contact the Clerk of the Board of Supervisor’s Office at (714) 834-2206. Please print in ink or type.

NAME OF BOARD, COMMISSION, OR COMMITTEE TO WHICH YOU ARE APPLYING FOR MEMBERSHIP (SEE LIST AT HTTP://WWW.OCGOV.COM/GOV/COB/BC C/CONTACT):
Assessment Appeals Board

SUPERVISORIAL DISTRICT IN WHICH YOU RESIDE: □ First  □ Second  □ Third  □ Fourth  □ Fifth

APPLICANT NAME AND RESIDENCE ADDRESS:
Min K. Chai

First Name  Middle Name  Last Name

CA
Street Address  City  State  Zip Code
N/A

Home Phone Number  Cell Phone Number

Email Address

CURRENT EMPLOYER:  MKC Law Group APC

OCCUPATION/JOB TITLE:  Attorney/Owner

BUSINESS ADDRESS:

BUSINESS PHONE NUMBER:

EMPLOYMENT HISTORY: Please attach a resume to this application and provide any information that would be helpful in evaluating your application.

ARE YOU A CITIZEN OF THE UNITED STATES:  ■ YES  □ NO

IF NO, NAME OF COUNTRY OF CITIZENSHIP:

ARE YOU A REGISTERED VOTER?  ■ YES  □ NO

IF YES, NAME COUNTY YOU ARE REGISTERED IN: Orange County
LIST ALL CURRENT PROFESSIONAL OR COMMUNITY ORGANIZATIONS AND SOCIETIES OF WHICH YOU ARE A MEMBER.

<table>
<thead>
<tr>
<th>ORGANIZATION/SOCIETY</th>
<th>FROM (MO/YR)</th>
<th>TO (MO/YR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>OC Bar Association</td>
<td>1/2013</td>
<td>Present</td>
</tr>
<tr>
<td>OC Korean American Bar Association</td>
<td>1/2005</td>
<td>Present</td>
</tr>
<tr>
<td>CA Bar Association</td>
<td>1/2002</td>
<td>Present</td>
</tr>
</tbody>
</table>

WITHIN THE LAST FIVE YEARS, HAVE YOU BEEN AFFILIATED WITH ANY BUSINESS OR NONPROFIT AGENCY(IES)? □ YES □ NO

DO YOU OWN REAL OR PERSONAL PROPERTY OR HAVE FINANCIAL HOLDING WHICH MIGHT PRESENT A POTENTIAL CONFLICT OF INTEREST? □ YES □ NO

HAVE YOU BEEN CONVICTED OF A FELONY OR MISDEMEANOR CRIME SINCE YOUR 18TH BIRTHDAY? YOU ARE NOT REQUIRED TO DISCLOSE ANY OF THE FOLLOWING: ARRESTS OR DETentions THAT DID NOT RESULT IN A CONVICTION; CONVICTIONS THAT HAVE BEEN JUDICiALLY DISMISSED, EXPUNGED OR ORDERED SEALED; INFORMATION CONCERNING REFERRAL TO AND PARTICIPATION IN ANY PRETRIAL OR POSTTRIAL DIVERSION PROGRAM; AND CERTAIN DRUG RELATED CONVICTIONS THAT ARE OLDER THAN TWO YEARS, AS LISTED IN CALIFORNIA LABOR CODE § 432.8 (INCLUDING VIOLATIONS OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 11357(B) AND (C), 11360(C) 11364, 11365 AND 11550 – AS THEY RELATE TO MARIJUANA)? □ YES □ NO

IF YES, PLEASE EXPLAIN AND ATTACH ADDITIONAL SHEETS, IF NECESSARY.

PLEASE BRIEFLY EXPLAIN WHY YOU WISH TO SERVE ON THIS BOARD, COMMITTEE, OR COMMISSION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

I enjoy serving in my community and applying my knowledge and expertise to help others.  

DATE: 9/10/20  
APPLICANTs SIGNATURE: [Signature]

CLERK OF THE BOARD OF SUPERVISORS USE ONLY – DO NOT WRITE BELOW THIS LINE

Date Received:  
Date referred:  
To: □ BOS District 1 □ BOS District 2 □ BOS District 3 □ BOS District 4 □ BOS District 5
□ All BOS □ BCC Contact Person Name  
Revised Date 02/07/19
MIN K. CHAI

EDUCATION
University of San Francisco School of Law, San Francisco, CA
Juris Doctor, May 2002
Asian Pacific Law Student Association, President (2001), Vice President (2000)
Maritime Law Journal, Technical Editor, Fall 2000-2002
Intellectual Property Law Association, Survey Editor, Fall 2000-2002

EXPERIENCE
MKC Law Group, Irvine, California  Jan. 2013-present
Principal
Represent domestic and international corporate clients as their outside corporate counsel in various corporate and cross-border business transactions, including corporate and securities transactions, employment and labor dispute matters, real estate and lease negotiations, corporate mergers and acquisitions, reorganizations, business financing transactions, asset and stock transfer transactions, corporate governance and buy-sell agreements, trademark registration, franchise registration, negotiations and renewals, private offering transactions, and related business transactions.

Junior Partner
Represent corporate and individual clients in various business transactions involving corporate, securities, real estate, franchise, and employment matters. Advise and consult business clients in structuring corporate entities, drafting various business agreements, including leases, licensing agreement, buy/sell agreements, asset purchase agreements, stock transfer and assignment agreements, franchise registration and agreements, employment agreement, non-disclosure and non-circumvention agreements, supply and distributorship agreements, manufacturing and representative agreements, and other relevant filings and agreements.

Senior Associate
Negotiated and drafted various documents and agreements on behalf of multinational clients in various corporate and securities transactions, including corporate formation, licensing and distributorship agreements, joint venture agreements, asset purchase agreements, confidentiality and non-disclosure agreements, franchise agreements, various private offering agreements and memorandums, including share purchase agreements, stock redemption agreement, management dealer agreements, investment banking agreement, and SEC filings, including Form 10-K, Form 10-Q, Form 8-K, Form 3, 4 and 5, Form D, and blue sky filings. Consulted clients on various franchise, employment, commercial/real estate transactions.

Associate/Foreign Consultant
Prepared and negotiated various agreements for turnkey power plant construction projects, including consortium agreements (CA), agreements for engineering, procurement and construction (EPC), operation and maintenance (O&M) agreements as well as other relevant documentation for such projects. Drafted contracts, memoranda and legal opinions on international business transactions concerning general corporate and project finance issues based on the local laws on antitrust, corporate, tax and employment. Represented and counseled clients like Diageo U.K., Harman International, Unison Co., Ltd., Vestas Asia Pacific, Doosan Heavy Industries & Construction Co., Ltd., etc. in various international commercial transactions.

Associate/Foreign Consultant  Summer Associate  Summer 2000
Drafted various licensing agreements for trademarks, software, patents and other IP/IT-related products on behalf of clients including Walt Disney, Time, Inc., Hugo Boss, SK Telecom, Samsung and Mediatek. Drafted and advised clients on various business transaction agreements such as business transfer agreements, distributorship agreements, reseller agreements, production and development agreements. Prepared monthly newsletters and other literature on emerging IP issues in Korea for publication purposes.
Moskowitz & Nixdorf, LLP, San Francisco, CA  
*Summer Associate*  
*Summer 2001*

Researched and drafted memoranda regarding tax issues and tax legislations. Worked closely with the IRS and FTB to reconcile target clients’ tax histories and records. Prepared clients’ tax returns, audits, tax extensions, tax organizers and transcript analysis. Drafted offers-in-compromise (OIC), installment payment agreements, economic reality statement (ERS) preparations, penalty abatements and closing letters.

**APPOINTMENTS**

Board Member, OC Public Finance Advisory Council  
(appointed by Supervisor Michelle Steel)  
*November 2017-present*

Member, OC Transportation Authority  
(appointed by Supervisor Michelle Steel)  
*January 2016- present*

Board Member, OC Assessment Appeals Board  
(appointed by Supervisor, Michelle Steel)  
*June 2010-present*

Finance Commissioner, City of Irvine  
(appointed by Mayor Sukhee Kang)  
*March 2007-Dec. 2012*

**AFFILIATIONS**

International Assoc. of Korean Lawyers, Regional Governor  
2010-present

OC Korean American Bar Association, Past President/ Director  
2007-present

Orange County Bar Association, Corporate Section, Chair  
2014-present

Asian American Bar Association, Member  
2002-present

California Bar Association, Member  
2002-present

**SPEAKING ENGAGEMENTS**

Kicon Conference, "Securities Considerations for Start Ups"  
Panelist, Corporate Section Panel (Los Angeles)  
*June 2015*

IAKL Conference,  
"Multi-Perspective on Cross-Border M&A Transactions"  
Moderator, Corporate M&A Section Panel (New York)  
*October 2014*

OC Korean American Bar Assoc., Community Law School Event  
"Law School Admissions and Legal Career Seminar"  
Speaker, Chapman Law School  
*March 2014*

OC Korean American Bar Assoc., Community Law School Event  
"Legal Issues of Starting Businesses"  
KIA Corporate Office, Irvine  
2007 and 2010

SCORE, "How to Set Up Business Entities"  
Speaker, National University  
2010-2013
MEMORANDUM

To: Robin Stieler, Clerk of the Board

From: Chairwoman Michelle Steel, Second District
       Donald P. Wagner, Third District Supervisor

Date: September 11, 2020

RE: Supplemental Item for September 15, 2020 Board of Supervisors Meeting;
    Resolution in Opposition of Proposition 15

Please add a supplemental item to the agenda for the September 15, 2020 Board of Supervisors meeting. We will be seeking Board approval of a resolution opposing Proposition 15, the initiative that proposes a split-roll property tax increase and removes taxpayer protections guaranteed from Proposition 13.
Resolution Opposing Proposition 15

A RESOLUTION OF THE COUNTY OF ORANGE, OPPOSING PROPOSITION 15, KNOWN AS THE TAX ON COMMERCIAL AND INDUSTRIAL PROPERTIES FOR EDUCATION AND LOCAL GOVERNMENT FUNDING INITIATIVE, FOR CONSIDERATION ON THE NOVEMBER 3, 2020 BALLOT

WHEREAS, On June 6, 1978, Proposition 13, officially titled the “People’s Initiative to Limit Property Taxation,” was approved by California’s voters, fixing property tax rates on homes, businesses and farms at 1% of their assessed value, which value can only be increased by a maximum of 2% per year absent a reassessment event occurring; and

WHEREAS, On the same ballot, voters rejected Proposition 8, which proposed a “split-roll” property tax that would have allowed the Assessor’s Office to assess property taxes based on the type of property owned; and

WHEREAS, Prior to Proposition 13, rising inflation and subjective property assessments led to an inequitable property tax system; and

WHEREAS, Proposition 13 provides certainty for taxpayers with respect to their property tax liability, eliminating the unpredictable year-to-year changes that occurred under the system it replaced; and

WHEREAS, Proposition 13 provides a stable revenue source for the government, in contrast to other tax revenues, which California heavily relies upon for revenue; and

WHEREAS, Proposition 13 provides businesses a more stable business climate in the state; and

WHEREAS, Property tax revenue in the state of California grew following the passage of Proposition 13, with the 2019-20 assessors’ rolls reporting taxable property value of $6.6 trillion in the state, suggesting property tax revenue of at least $72.5 billion; and

WHEREAS, Assessed values increased under Proposition 13 due to changes in ownership, new construction, and an annual adjustment for inflation that is limited to 2% per year to protect property owners while still providing additional revenue for local governments; and

WHEREAS, Homeowners have been the biggest beneficiaries of Proposition 13, as their cumulative share of the total property tax burden decreased more than 5% since its passage, from 41.84% in 1979-80 down to 36.65% in 2016-17; and

WHEREAS, Proposed alternatives to Proposition 13 that would increase property taxes on California businesses could harm the ability of employers to hire or retain California employees and lead to more businesses and jobs leaving the state; and

WHEREAS, Proposed alternatives to Proposition 13 could negatively affect commercial and industrial renters, who would see their rents increase as commercial and industrial landlords experience higher operating costs and pass these costs down to their tenants; and
WHEREAS, Proponents of the “Tax on Commercial and Industrial Properties for Education and Local Government Funding Initiative,” which qualified for the November 2020 ballot, seek to remove taxpayer protections provided by Proposition 13 by requiring specific types of property owners to pay higher property taxes than all other property owners and introducing a “split roll”; and

WHEREAS, The County Assessors’ Association found that the “split roll” initiative could result in a net loss of revenue for some counties due to the cost of newly created exemptions for select property owners; and

WHEREAS, Assessors report that the “split-roll” initiative would be difficult to implement given unavailability of data needed to administer the proposed exemptions, unavailability of qualified candidates to fill the approximately 900 new government positions that would be needed, and the limited timeframe set by the initiative; and

WHEREAS, Since the passage of Proposition 13, voters have rejected changes that would cause businesses to pay property taxes at a higher rate than those imposed upon residential owners, as evidenced by the defeat of Proposition 167 in 1992; and

WHEREAS, the County’s adopted 2020 Legislative Platform Policy Statement includes the following: “Oppose split-roll and other efforts to harm Proposition 13.”

NOW, THEREFORE, THE COUNTY OF ORANGE, CALIFORNIA DOES HEREBY RESOLVE, AS FollowS: the County of Orange, California opposes Proposition 15, proposing a split-roll property tax increase, on the November 3, 2020 ballot, and reaffirms its support for Proposition 13 for all property owners.
MEMORANDUM

September 8, 2020

TO: Robin Stieler, Clerk of the Board of Supervisors

FROM: Leon J. Page, County Counsel

SUBJECT: Request for Supplemental Closed Session

I am requesting a supplemental closed session on Tuesday, September 15, 2020, to discuss with the Board the status of existing litigation, pursuant to Government Code section 54956.9(d)(1).

Accordingly, please prepare the Agenda Item to read:

"CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1).
Name of Case: Mihaela Iliescu v. County of Orange, Orange County Superior Court Case Number 30-2016-00833628.

RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

LJP: nr

cc: Members of the Board of Supervisors
Frank Kim, CEO
MEMORANDUM

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FROM: Leon J. Page, County Counsel

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Accordingly, please prepare the Agenda Item to read:

“CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1). Name of Case: Monica Garcia, et al. v. County of Orange, United States District Court Case No. CV 17-7892 JVS (JDEx).

RECOMMENDED ACTION: Conduct Closed Session.”

Thank you.

LJP: nr

cc: Members of the Board of Supervisors
Frank Kim, CEO
MEMORANDUM

September 8, 2020

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FROM: Leon J. Page, County Counsel

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Accordingly, please prepare the Agenda Item to read:

"CONFERENCE WITH LEGAL COUNSEL -- EXISTING LITIGATION Pursuant to Government Code Section 54956.9(d)(1).
Name of Case: Sandra Hawkins v. County of Orange, Orange County Superior Court Case Number 30-2019-01057010.

RECOMMENDED ACTION: Conduct Closed Session."

Thank you.

[Signature]

LJP: nr

cc: Members of the Board of Supervisors
Frank Kim, CEO