

Agenda Item



AGENDA STAFF REPORT

ASR Control 25-000459

MEETING DATE: 06/24/25
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 5
SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport (Approved)
DEPARTMENT CONTACT PERSON(S): Charlene V. Reynolds (949) 252-5183
 Evanna Barbic (949) 252-5232

SUBJECT: Approve Bond Financing and Related Documents for Clay Lacy Aviation, Inc.

CEO CONCUR Pending Review	COUNTY COUNSEL REVIEW Approved Agreement(s) and Resolution(s)	CLERK OF THE BOARD Public Hearing
3 Votes Board Majority		

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

Staffing Impact: No **# of Positions:** **Sole Source:** No

Current Fiscal Year Revenue: N/A

Funding Source: See Financial Impact Section **County Audit in last 3 years:** No

Levine Act Review Completed: Yes

Prior Board Action: 3/8/2022 #21, 1/12/2021 #S42B, 9/15/2020 #S21A, 8/11/2020 #11

RECOMMENDED ACTION(S):

1. Open the public hearing and receive public comments pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the proposed issuance of California Municipal Finance Authority revenue obligations for the purpose of financing the cost of the acquisition, construction, renovation, equipping and furnishing of certain Fixed Base Operation Aviation Facilities, not to exceed \$120,000,000, for the benefit of Clay Lacy Aviation Inc.
2. Close the public hearing.
3. Adopt a Resolution approving the issuance of California Municipal Finance Authority to issue revenue obligations for the purpose of financing the cost of the acquisition, construction, renovation, equipping and furnishing of certain Fixed Base Operation Aviation Facilities, not to exceed \$120,000,000, for the benefit of Clay Lacy Aviation Inc.
4. Approve and execute Third Amendment to the Northwest Full-Service Fixed Base Operation Lease with Clay Lacy Aviation, Inc. to facilitate the financing of the improvement project effective upon Board of Supervisors approval, through December 31, 2055.
5. Approve and execute the Consent to Assignment of Interest in Lease from Clay Lacy Aviation, Inc. to Clay Lacy Santa Ana, LLC.

6. Approve and execute the Guaranty of Lease Obligations by Clay Lacy Aviation, Inc. in favor of the County of Orange.
7. Approve and execute the Indemnification Agreement by Clay Lacy Aviation, Inc. in favor of the County of Orange.

SUMMARY:

Adoption of the Resolution and approval of the Third Amendment to the Northwest Full-Service Fixed Base Operation Lease will allow Clay Lacy Aviation, Inc. to facilitate the financing of its improvement project. Approval of the Consent to Assignment will authorize the transfer of the Northwest Full-Service Fixed Base Operation Lease from Clay Lacy Aviation, Inc. to Clay Lacy Santa Ana, LLC, ensuring uninterrupted Fixed Base Operations at John Wayne Airport. Additionally, approval of the Guaranty of Lease Obligations will ensure Clay Lacy Aviation, Inc. and Clay Lacy Santa Ana, LLC fulfill all lease obligations to the County of Orange. The Indemnification Agreement will further protect the County of Orange by providing additional assurances from Clay Lacy Aviation, Inc.

BACKGROUND INFORMATION:

On June 25, 2019, the Board of Supervisors (Board) certified Final Program Environmental Impact Report 627 (EIR 627), along with the associated CEQA Findings of Fact, Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations. The Board also approved the Proposed Project, including specific land use requirements.

Subsequently, on September 10, 2019, the Board authorized the issuance of a Request for Proposal (RFP) and model leases for Fixed Base Operators (FBO) for the following parcels: (1) Northeast Full-Service FBO, (2) Northwest Full-Service FBO, and (3) Southwest Limited-Service FBO. A total of nine proposals were received on December 19, 2019.

Selection and Award of Full- and Limited-Service FBOs

On August 11, 2020, the Board reviewed the submitted proposals and selected three FBOs for lease negotiations: 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.

On September 15, 2020, the Board awarded leases to Clay Lacy and ACI Jet for their respective Full-Service FBOs. Both leases commenced on January 1, 2021, with 35-year terms ending on December 31, 2055. On November 3, 2020, the Board awarded the Limited-Service FBO lease to Jay's Aircraft Maintenance, Inc.

First Amendment to Lease

On January 12, 2021, the Board directed the Airport Director to amend and execute revised leases with ACI Jet, Clay Lacy, and Jay's Aircraft Maintenance, Inc., removing the following provision: "*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."

The First Amendment to each FBO lease was subsequently executed.

Second Amendment to Lease

On March 8, 2022, the Board approved the Second Amendment to Clay Lacy's lease, allowing modifications to its site plans and corresponding conceptual plans. The revised site plan included reconfiguring space allocated to the Orange County Sheriff's Department (OCSD), designating it as a shared space within a new community hangar.

Financing of the Improvement Project by the California Municipal Finance Authority

Adoption of the Resolution and approval of the Third Amendment to the Lease (Lease) will allow Clay Lacy to finance its improvement project through the issuance of revenue obligations (Obligations) by the California Municipal Finance Authority (Authority), in an aggregate principal amount not to exceed \$120,000,000. The proceeds of which will be loaned to Clay Lacy and will be utilized for the following purposes:

1. The acquisition, construction, reconstruction, installation, and equipping of certain portions of FBO aviation facilities at John Wayne Airport (JWA), including:
 - A customer terminal building (approximately 6,500 square feet),
 - Four hangars, including associated office space (approximately 123,000 square feet of hangar space and approximately 27,000 square feet of office space), and
 - Additional hangar, office, and ramp space to be located at JWA
2. Payment of capitalized interest on the Obligations;
3. Funding of one or more reserve funds for the Obligations; and
4. Payment of certain issuance costs in connection with the Obligations.

The County of Orange (County) will be the owner of the improvement project, which will be leased and operated by Clay Lacy.

Clay Lacy has requested that the Authority issue one or more series of tax-exempt revenue obligations, and loan the proceeds to support its FBO aviation improvement project. The Authority has extensive experience issuing billions of dollars in bonds on behalf of public, private, and nonprofit entities throughout California.

Since the Clay Lacy improvement project will be located within the geographical jurisdiction of the County, Section 147(f) of the Internal Revenue Code requires the Board to hold a public hearing and approve both the Clay Lacy Project and the issuance of the revenue obligations.

Third Amendment to Lease

The Third Amendment will revise Lease Section 3.01, Leased Premises, by including language stating that upon the full and final completion of the improvement project by Clay Lacy, the County will assume ownership of the improvements constituting the facilities. The facilities will continue to be leased to and operated by Clay Lacy.

Assignment, Guaranty, and Indemnification

Section 8.01 of the Lease requires the County's written consent to a transfer of Clay Lacy's interest in the Lease. Clay Lacy seeks Board approval to assign and transfer to Clay Lacy Santa Ana, LLC (Assignee) all its rights, title and interest in the lease. The assignment does not relieve Clay Lacy of its Lease obligations. The assignment does not relieve Clay Lacy of any interest, responsibility, or liability in or under the terms of the Lease. Both Clay Lacy and Assignee will be fully responsible for complying with all provisions of the Lease and will both be directly liable for all obligations under the Lease.

In addition, Clay Lacy shall execute a Guaranty of Lease Obligations in favor of the County, which shall guaranty the full and faithful performance of all terms and provisions of the Lease.

In addition to the indemnification language in Section 11.02 of the Lease, Clay Lacy will also execute and enter into an Indemnification Agreement, which will provide additional protection in favor of the County.

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, and Addendum No. PP-22-0001 for Amendment No. 1 to EIR No. 627, adopted by the Board on March 8, 2022, which adequately addressed the effects of this action. These documents adequately addressed the effects of the proposed project. No subsequent changes have been made to 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, could not have been known, or have become known when EIR No. 627, Amendment No. 1 to EIR No. 627, and the Mitigation Monitoring and Reporting Program were certified and adopted; therefore, no further environmental review is required.

FINANCIAL IMPACT:

There is no financial impact or liability to the County of Orange. Clay Lacy shall reimburse Fund 280 in an aggregate amount of \$210,000 for all costs incurred in connection with the processing of any associated documents, including but not limited to, all County's staff time and attorney fees incurred in connection with this Lease, and any associated assignments, guaranties, resolutions, and public hearing notices.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Resolution - Approving Revenue Obligations

Attachment B – Internal Revenue Code Section 147

Attachment C – Third Amendment to Northwest Full-Service FBO Lease with Clay Lacy Aviation, Inc.

Attachment D – Consent to Assignment of Interest in Lease

Attachment E – Guaranty of Lease Obligations

Attachment F – Indemnification Agreement

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF ORANGE, CALIFORNIA APPROVING THE ISSUANCE OF
REVENUE OBLIGATIONS FOR THE PURPOSE OF FINANCING THE
COST OF THE CONSTRUCTION, RECONSTRUCTION, INSTALLATION,
EQUIPPING AND FURNISHING OF CERTAIN FIXED BASE
OPERATION AVIATION FACILITIES, PROVIDING THE TERMS AND
CONDITIONS FOR SUCH OBLIGATIONS AND OTHER MATTERS
RELATING THERETO FOR THE BENEFIT OF CLAY LACY AVIATION
INC. AND/OR A RELATED OR SUCCESSOR ENTITY**

June 24, 2025

WHEREAS, Clay Lacy Aviation Inc. or its assignee, Clay Lacy Santa Ana, LLC, or a related or affiliated entity (the “Borrower”), has requested that the California Municipal Finance Authority (the “Authority”) facilitate the issuance of revenue obligations in an aggregate principal amount not to exceed \$120,000,000 (the “Obligations”), which will be issued for the benefit of the Borrower, and the proceeds of the Obligations are to be loaned to the Borrower for the purposes of (a) financing the cost of the construction, reconstruction, installation, equipping and furnishing of certain portions of fixed base operation aviation facilities (consisting of (i) a customer terminal building (approximately 6,500 square feet), including office space, (ii) four hangars, including office space (approximately 123,000 square feet of hangar space and approximately 27,000 square feet of office space), and (iii) certain other hangar, office and ramp space) to be located at John Wayne Airport, Orange County (361 Paularino Avenue, Costa Mesa, California 92626) (collectively, the “Facilities”), (b) paying capitalized interest on the Obligations, (c) funding one or more reserve funds for the Obligations, and (d) paying certain costs of issuance in connection with the Obligations; and

WHEREAS, the County of Orange (the “County”) will be the owner of the Facilities, which will be leased to the Borrower, and the Borrower will operate the Facilities; and

WHEREAS, the issuance of the Obligations must be approved by the governmental unit on behalf of which the Obligations are issued and a governmental unit having jurisdiction over the territorial limits in which the Facilities are located pursuant to the public approval requirement of Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code); and

WHEREAS, the Facilities are located within the territorial limits of the County and the Board of Supervisors of the County (the “Board”) is an elected legislative body of the County; and

WHEREAS, the Authority and the Borrower have requested that the Board approve the issuance of the Obligations and the financing of the Facilities with the proceeds of the Obligations for purposes of complying with Section 147(f) of the Code, satisfying California Government Code Section 6586.5, and meeting the requirements of Section 4 of the Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority, dated as of January 1, 2004, among certain local agencies including the County; and

WHEREAS, a public hearing was held by the Board on this 24th day of June, 2025, at the meeting which commenced at the hour of 9:00 a.m., in the Board Hearing Room, First Floor, 400 West Civic Center Drive, Santa Ana, California, following duly published notice thereof in a newspaper of general circulation in the County, and all persons desiring to be heard have been heard; and

WHEREAS, it is intended that this Resolution shall comply with the public approval requirements of Section 147(f) of the Code; *provided, however*, that this Resolution is neither intended to nor shall it constitute an approval by the Board of the Facilities for any other purpose, including, but not limited to, compliance with the California Environmental Quality Act (California Public Resources Code, Section 21100, *et seq.*) (“CEQA”);

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board of Supervisors of the County of Orange, State of California as follows:

Section 1. On information and belief, the foregoing statements are true and correct.

Section 2. The Board hereby approves the issuance of the Obligations by the Authority as part of a plan of finance, which Obligations may be tax-exempt and/or taxable as approved by the Authority in its resolution, in an aggregate principal amount not to exceed \$120,000,000 to finance the cost of the construction, reconstruction, installation, equipping and furnishing of the Facilities, to pay capitalized interest on the Obligations, fund reserve funds for the Obligations and pay the costs of issuance of the Obligations. This resolution is intended to (but not guaranteed to) constitute approval of the issuance of the Obligations within the meaning of Section 147(f) of the Code and for purposes of (i) satisfying California Government Code Section 6586.5, and (ii) meeting the requirements of Section 4 of the Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority, dated as of January 1, 2004, among certain local agencies including the County.

Section 3. The issuance of the Obligations shall be subject to the approval by the Authority of all documents relating thereto to which the Authority is a party. The County shall have no responsibility or liability whatsoever with respect to the Obligations. The County has not reviewed the terms of the Obligations, any of the documents providing for their issuance or security, or any of the information contained in the official statement or other disclosure document to be used in connection with the offering or sale of the Obligations. The County shall have no responsibility or liability whatsoever with by reason of or in any way related to this Resolution, the Facilities or the Obligations.

Section 4. The officers of the County are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the transaction approved.

Section 5. The adoption of this Resolution shall not obligate the County or any department thereof to (i) provide any financing with respect to the Facilities or the Obligations; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary with respect to the Facilities or the Obligations; (iii) make any contribution or advance any funds whatsoever to the Authority or the Borrower; or (iv) take any further action with respect to the Facilities, the Obligations or the Authority or its membership therein.

Section 6. The Clerk of the Board is hereby directed to forward a certified copy of this Resolution to Counsel for the Obligations, addressed as follows:

Michael G. Thomas, Esq.
Kutak Rock LLP
2001 16th Street, Suite 1800
Denver, Colorado 80202

Section 7. This Resolution shall take effect from and after its adoption.

 KeyCite Yellow Flag
Proposed Legislation

United States Code Annotated

Title 26. Internal Revenue Code (Refs & Annos)

Subtitle A. Income Taxes (Refs & Annos)

Chapter 1. Normal Taxes and Surtaxes (Refs & Annos)

Subchapter B. Computation of Taxable Income

Part IV. Tax Exemption Requirements for State and Local Bonds

Subpart A. Private Activity Bonds (Refs & Annos)

26 U.S.C.A. § 147, I.R.C. § 147

§ 147. Other requirements applicable to certain private activity bonds

Currentness

(a) Substantial user requirement.--

(1) In general.--Except as provided in subsection (h), a private activity bond shall not be a qualified bond for any period during which it is held by a person who is a substantial user of the facilities or by a related person of such a substantial user.

(2) Related person.--For purposes of paragraph (1), the following shall be treated as related persons--

(A) 2 or more persons if the relationship between such persons would result in a disallowance of losses under [section 267](#) or [707\(b\)](#),

(B) 2 or more persons which are members of the same controlled group of corporations (as defined in [section 1563\(a\)](#), except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein),

(C) a partnership and each of its partners (and their spouses and minor children), and

(D) an S corporation and each of its shareholders (and their spouses and minor children).

(b) Maturity may not exceed 120 percent of economic life.--

(1) General rule.--Except as provided in subsection (h), a private activity bond shall not be a qualified bond if it is issued as part of an issue and--

(A) the average maturity of the bonds issued as part of such issue, exceeds

(B) 120 percent of the average reasonably expected economic life of the facilities being financed with the net proceeds of such issue.

(2) Determination of averages.--For purposes of paragraph (1)--

(A) the average maturity of any issue shall be determined by taking into account the respective issue prices of the bonds issued as part of such issue, and

(B) the average reasonably expected economic life of the facilities being financed with any issue shall be determined by taking into account the respective cost of such facilities.

(3) Special rules.--

(A) **Determination of economic life.**--For purposes of this subsection, the reasonably expected economic life of any facility shall be determined as of the later of--

(i) the date on which the bonds are issued, or

(ii) the date on which the facility is placed in service (or expected to be placed in service).

(B) Treatment of land.--

(i) **Land not taken into account.**--Except as provided in clause (ii), land shall not be taken into account under paragraph (1)(B).

(ii) **Issues where 25 percent or more of proceeds used to finance land.**--If 25 percent or more of the net proceeds of any issue is to be used to finance land, such land shall be taken into account under paragraph (1)(B) and shall be treated as having an economic life of 30 years.

(4) Special rule for pooled financing of 501(c)(3) organization.--

(A) **In general.**--At the election of the issuer, a qualified 501(c)(3) bond shall be treated as meeting the requirements of paragraph (1) if such bond meets the requirements of subparagraph (B).

(B) **Requirements.**--A qualified 501(c)(3) bond meets the requirements of this subparagraph if--

(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

(ii) each loan described in clause (i) satisfies the requirements of paragraph (1) (determined by treating each loan as a separate issue),

(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued).

(5) Special rule for certain FHA insured loans.--Paragraph (1) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance mortgage loans insured under FHA 242 or under a similar Federal Housing Administration program (as in effect on the date of the enactment of the Tax Reform Act of 1986) where the loan term approved by such Administration plus the maximum maturity of debentures which could be issued by such Administration in satisfaction of its obligations exceeds the term permitted under paragraph (1).

(c) Limitation on use for land acquisition.--

(1) In general.--Except as provided in subsection (h), a private activity bond shall not be a qualified bond if--

(A) it is issued as part of an issue and 25 percent or more of the net proceeds of such issue are to be used (directly or indirectly) for the acquisition of land (or an interest therein), or

(B) any portion of the proceeds of such issue is to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes.

(2) Exception for first-time farmers.--

(A) **In general.**--If the requirements of subparagraph (B) are met with respect to any land, paragraph (1) shall not apply to such land, and subsection (d) shall not apply to property to be used thereon for farming purposes, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of \$450,000.

(B) **Acquisition by first-time farmers.**--The requirements of this subparagraph are met with respect to any land if--

(i) such land is to be used for farming purposes, and

(ii) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

(C) First-time farmer.--For purposes of this paragraph--

(i) **In general.**--The term “first-time farmer” means any individual if such individual--

(I) has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated, and

(II) has not received financing under this paragraph in an amount which, when added to the financing to be provided under this paragraph, exceeds the amount in effect under subparagraph (A).

(ii) **Aggregation rules.**--Any ownership or material participation, or financing received, by an individual's spouse or minor child shall be treated as ownership and material participation, or financing received, by the individual.

(iii) **Insolvent farmer.**--For purposes of clause (i), farmland which was previously owned by the individual and was disposed of while such individual was insolvent shall be disregarded if [section 108](#) applied to indebtedness with respect to such farmland.

(D) Farm.--For purposes of this paragraph, the term “farm” has the meaning given such term by [section 6420\(c\)\(2\)](#).

(E) Substantial farmland.--For purposes of this paragraph, the term “substantial farmland” means any parcel of land unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.

(F) Used equipment limitation.--For purposes of this paragraph, in no event may the amount of financing provided by reason of this paragraph to a first-time farmer for personal property--

(i) of a character subject to the allowance for depreciation,

(ii) the original use of which does not begin with such farmer, and

(iii) which is to be used for farming purposes,

exceed \$62,500. A rule similar to the rule of subparagraph (C)(ii) shall apply for purposes of the preceding sentence.

(G) Acquisition from related person.--For purposes of this paragraph and [section 144\(a\)](#), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of [section 144\(a\)\(3\)](#)) shall not be treated as an acquisition from a related person, if--

(i) the acquisition price is for the fair market value of such land or property, and

(ii) subsequent to such acquisition, the related person does not have a financial interest in the farming operation with respect to which the bond proceeds are to be used.

(H) Adjustments for inflation.--In the case of any calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to--

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under [section 1\(f\)\(3\)](#) for the calendar year, determined by substituting “calendar year 2007” for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any amount as increased under the preceding sentence is not a multiple of \$100, such amount shall be rounded to the nearest multiple of \$100.

(3) Exception for certain land acquired for environmental purposes, etc.--Any land acquired by a governmental unit (or issuing authority) in connection with an airport, mass commuting facility, high-speed intercity rail facility, dock, or wharf shall not be taken into account under paragraph (1) if--

(A) such land is acquired for noise abatement or wetland preservation, or for future use as an airport, mass commuting facility, high-speed intercity rail facility, dock, or wharf, and

(B) there is not other significant use of such land.

(d) Acquisition of existing property not permitted.--

(1) In general.--Except as provided in subsection (h), a private activity bond shall not be a qualified bond if issued as part of an issue and any portion of the net proceeds of such issue is to be used for the acquisition of any property (or an interest therein) unless the 1st use of such property is pursuant to such acquisition.

(2) Exception for certain rehabilitations.--Paragraph (1) shall not apply with respect to any building (and the equipment therefor) if--

(A) the rehabilitation expenditures with respect to such building, equal or exceed

(B) 15 percent of the portion of the cost of acquiring such building (and equipment) financed with the net proceeds of the issue.

A rule similar to the rule of the preceding sentence shall apply in the case of structures other than a building except that subparagraph (B) shall be applied by substituting “100 percent” for “15 percent”.

(3) Rehabilitation expenditures.--For purposes of this subsection--

(A) In general.--Except as provided in this paragraph, the term “rehabilitation expenditures” means any amount properly chargeable to capital account which is incurred by the person acquiring the building for property (or additions or improvements to property) in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with equipment having substantially the same function. For purposes of this subparagraph, any amount incurred by a successor to the person acquiring the building or by the seller under a sales contract with such person shall be treated as incurred by such person.

(B) Certain expenditures not included.--The term “rehabilitation expenditures” does not include any expenditure described in [section 47\(c\)\(2\)\(B\)](#).

(C) Period during which expenditures must be incurred.--The term “rehabilitation expenditures” shall not include any amount which is incurred after the date 2 years after the later of--

(i) the date on which the building was acquired, or

(ii) the date on which the bond was issued.

(4) Special rule for certain projects.--In the case of a project involving 2 or more buildings, this subsection shall be applied on a project basis.

(e) No portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.--A private activity bond shall not be a qualified bond if issued as part of an issue and any portion of the proceeds of such issue is to be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises. The preceding sentence shall not apply to any fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services (within the meaning of [section 4261\(g\)\(2\)](#)).

(f) Public approval required for private activity bonds.--

(1) In general.--A private activity bond shall not be a qualified bond unless such bond satisfies the requirements of paragraph (2).

(2) Public approval requirement.--

(A) In general.--A bond shall satisfy the requirements of this paragraph if such bond is issued as a part of an issue which has been approved by--

(i) the governmental unit--

(I) which issued such bond, or

(II) on behalf of which such bond was issued, and

(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the net proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

(B) Approval by a governmental unit.--For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved--

(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

(ii) by voter referendum of such governmental unit.

(C) Special rules for approval of facility.--If there has been public approval under subparagraph (A) of the plan for financing a facility, such approval shall constitute approval under subparagraph (A) for any issue--

(i) which is issued pursuant to such plan within 3 years after the date of the 1st issue pursuant to the approval, and

(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

(D) Refunding bonds.--No approval under subparagraph (A) shall be necessary with respect to any bond which is issued to refund (other than to advance refund) a bond approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the average maturity date of the issue of which the refunding bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A).

(E) Applicable elected representative.--For purposes of this paragraph--

(i) **In general.**--The term “applicable elected representative” means with respect to any governmental unit--

(I) an elected legislative body of such unit, or

(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term.

(ii) **No applicable elected representative.**--If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit--

(I) which is the next higher governmental unit with such a representative, and

(II) from which the authority of the governmental unit with no such representative is derived.

(3) Special rule for approval of airports or high-speed intercity rail facilities.--If--

(A) the proceeds of an issue are to be used to finance a facility or facilities located at an airport or high-speed intercity rail facilities, and

(B) the governmental unit issuing such bonds is the owner or operator of such airport or high-speed intercity rail facilities, such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport or high-speed intercity rail facilities for purposes of this subsection.

(4) Special rules for scholarship funding bond issues and volunteer fire department bond issues.--

(A) **Scholarship funding bonds.**--In the case of a qualified scholarship funding bond, any governmental unit which made a request described in [section 150\(d\)\(2\)\(B\)](#) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in [section 150\(d\)\(2\)\(B\)](#), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

(B) **Volunteer fire department bonds.**--In the case of a bond of a volunteer fire department which meets the requirements of [section 150\(e\)](#), the political subdivision described in [section 150\(e\)\(2\)\(B\)](#) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

(g) Restriction on issuance costs financed by issue.--

(1) In general.--A private activity bond shall not be a qualified bond if the issuance costs financed by the issue (of which such bond is a part) exceed 2 percent of the proceeds of the issue.

(2) Special rule for small mortgage revenue bond issues.--In the case of an issue of qualified mortgage bonds or qualified veterans' mortgage bonds, paragraph (1) shall be applied by substituting “3.5 percent” for “2 percent” if the proceeds of the issue do not exceed \$20,000,000.

(h) Certain rules not to apply to certain bonds.--

(1) Mortgage revenue bonds and qualified student loan bonds.--Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond.

(2) Qualified 501(c)(3) bonds.--Subsections (a), (c), and (d) shall not apply to any qualified 501(c)(3) bond and subsection (e) shall be applied as if it did not contain “health club facility” with respect to such a bond.

(3) Exempt facility bonds for qualified public-private schools.--Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in [section 142\(a\)\(13\)](#) (relating to qualified public educational facilities).

CREDIT(S)

(Added [Pub.L. 99-514, Title XIII, § 1301\(b\)](#), Oct. 22, 1986, 100 Stat. 2635; amended [Pub.L. 100-647, Title I, § 1013\(a\)\(11\)](#) to (13)(B), (29), (36), Title VI, § 6180(b)(4), (5), Nov. 10, 1988, 102 Stat. 3539, 3543, 3544, 3728; [Pub.L. 101-239, Title VII, § 7816\(s\)\(3\)](#), Dec. 19, 1989, 103 Stat. 2423; [Pub.L. 101-508, Title XI, § 11813\(b\)\(8\)](#), Nov. 5, 1990, 104 Stat. 1388-552; [Pub.L. 104-188, Title I, § 1117\(a\), \(b\)](#), Aug. 20, 1996, 110 Stat. 1764; [Pub.L. 107-16, Title IV, § 422\(d\), \(e\)](#), June 7, 2001, 115 Stat. 66; [Pub.L. 110-234, Title XV, § 15341\(a\)](#) to (d), May 22, 2008, 122 Stat. 1517; [Pub.L. 110-246, § 4\(a\)](#), Title XV, § 15341(a) to (d), June 18, 2008, 122 Stat. 1664, 2279; [Pub.L. 112-95, Title XI, § 1105\(a\)](#), Feb. 14, 2012, 126 Stat. 152; [Pub.L. 115-97, Title I, § 11002\(d\)\(1\)\(P\)](#), Dec. 22, 2017, 131 Stat. 2060.)

ADJUSTMENT OF AMOUNTS UNDER SUBSEC. (C)(2)(A)

<For loan limit amount on agricultural bonds under subsec. (c)(2)(A) of this section for first-time farmers for calendar year 2025, see section 2.21 of Revenue Procedure 2024-40, set out as a note under [26 U.S.C.A. § 1](#).>

Notes of Decisions (1)

26 U.S.C.A. § 147, 26 USCA § 147

Current through P.L. 119-5. Some statute sections may be more current, see credits for details.

**THIRD AMENDMENT TO
FBO LEASE**

THIS THIRD AMENDMENT TO THE NORTHWEST FULL-SERVICE FIXED BASE OPERATION LEASE (“Third Amendment”) is made and entered into on August ___, 2025, by and between the COUNTY OF ORANGE, a political subdivision of the State of California (“COUNTY”), and CLAY LACY AVIATION, INC., (“LESSEE”). The COUNTY and LESSEE may individually be referred to herein as a “Party,” or collectively as the “Parties.”

RECITALS

WHEREAS, COUNTY and LESSEE entered into the Northwest Full-Service Fixed Base Operation Lease for fixed based operator services, effective January 1, 2021 through December 31, 2055 (“Lease”); and

WHEREAS, COUNTY and LESSEE entered into the First Amendment, dated January 14, 2021, amending Section 5.01 of the Lease (“First Amendment”); and

WHEREAS, COUNTY and LESSEE entered into the Second Amendment, dated March 8, 2022, to amend the Lease to modify LESSEE’s site plan and corresponding conceptual plans (“Second Amendment”); and

WHEREAS, LESSEE, as required under the Lease, intends to undertake the construction, equipping, improving, operation, and maintenance of facilities and improvements outlined in Section 7.01 and Exhibit F to the Lease, which facilities will be owned by the COUNTY and leased to and operated by the LESSEE as more particularly described herein and, in the Lease, (the “Improvement Project”); and

WHEREAS, to facilitate the financing of the Improvement Project, LESSEE has requested, and COUNTY has agreed to certain amendments to the Lease, as more fully set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, COUNTY and LESSEE hereby agree as follows:

AGREEMENTS

A. Leased Premises.

SECTION 3.01 (LEASED PREMISES) of the Lease is hereby deleted and replaced with the following:

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.** Upon full and final completion of the Improvement Project by LESSEE pursuant to Section 7.01 and Exhibit F, and full acceptance of such Improvement Project by the COUNTY, the improvements constituting the Improvement Project shall be owned by the COUNTY and shall thereafter be included in the Leased Premises without further action of the Parties.

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 and construction of the Improvement Project 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 "**as-is**" and "**where-is**" condition 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. These provisions shall also apply to the improvements to be constructed by LESSEE as part of the Improvement Project once they are completed and become a part of the Leased Premises.

B. **Rent, Fees, and Charges.**

SECTION 4.01 (RENT, FEES, and CHARGES), subsection B(6) of the Lease is hereby deleted and replaced with the following:

In recognition that LESSEE will be constructing or causing the Improvement Project to be constructed without cost to COUNTY and that LESSEE will be obligated to pay the property taxes, possessory interest, insurance, and other costs that become payable with respect to the Leased Premises including and payments related to the bond issuance and debt service, as applicable, subject to the provisions of Section 7.01(J), no Building Rent will be due or payable by LESSEE for such new improvements that constitute the Improvement Project as outlined in Section 7.01 and in Exhibit F, attached hereto.

The LESSEE acknowledges that for purposes of satisfying Section 142(b) of the Internal Revenue Code of 1986, as amended, the LESSEE has relinquished its federal tax rights to depreciate the Improvement Project, and that the COUNTY is the federal tax owner of the Improvement Project. As such, the LESSEE, in applying the proceeds of tax-exempt bonds to finance the costs of its obligation to construct the Improvement Project and, for federal income tax purposes, is taking such actions for the benefit of the Airport. Furthermore, in respect to the Improvement Project improvements, pursuant to Sections 3.02 and this 4.01(B)(6) (and notwithstanding Section 7.01(J)), the Improvement Project improvements will be owned by COUNTY upon full and final completion of the Improvement Project and acceptance of such by the COUNTY pursuant to Section 7.01 and this Lease, subject to LESSEE's rights under this Lease, and pursuant to Section 4.01(A)(2), COUNTY is entitled to rent on the Leased Premises, which includes such Improvement Project, except as provided in Section 4.01(B)(6) (or any other provision hereunder) that no Building Rent is so payable. Therefore, the COUNTY and the LESSEE acknowledge and agree that LESSEE's payment of costs of completion of the Improvement Project is sufficient consideration to COUNTY and a substitution of Building Rent otherwise owed and payable to COUNTY for LESSEE's rights to the Leased Premises hereunder during the term of the Lease. The LESSEE hereby represents and the COUNTY hereby acknowledges that the issuance of the bonds and the availability of the proceeds thereof to pay costs of the Improvement Project is a material contributing factor to the LESSEE's ability to complete the Improvement Project and obtain such substitution of Building Rent.

C. **Storm Water Control and Contamination.**

SECTION 6.03 (STORM WATER CONTROL AND CONTAMINATION), the following subsection D is hereby added to the Lease:

The Airport Director shall have the sole discretion to, upon notice, require LESSEE to obtain its own separate coverage under the IGP for industrial activities conducted from the Leased Premises and meet all associated IGP regulatory requirements. LESSEE shall obtain permit coverage within 120 days of receiving notice. To the extent the Airport is successful in securing an IGP Time Schedule Order ("TSO"), such notice shall not be given sooner than six (6) months prior to the 2030 expiration of the TSO. The Airport Director intends to negotiate with all GAIP FBOs located at the Airport to obtain their own permit coverage on or before such time as LESSEE must obtain coverage pursuant to this subsection.

D. **Ownership of Improvements.**

SECTION 7.01 (IMPROVEMENTS BY LESSEE), subsection J of the Lease is hereby deleted and replaced with the following:

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, subject to the last sentence of this paragraph with respect to the Improvement Project, 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. The improvements constituting the Improvement Project outlined in this Section 7.01 and in Exhibit F, attached hereto, shall become property of COUNTY upon full completion of construction and acceptance of the Improvement Project by the COUNTY.

E. **Assignment.**

SECTION 8.01 (ASSIGNING, SUBLETTING, AND TRANSFERRING), subsection A of the Lease is hereby amended to add the following:

In connection with the financing and development of the Improvement Project, LESSEE will assign its interest in the Lease to Clay Lacy Santa Ana, LLC, which will be a wholly owned subsidiary of LESSEE. This assignment is required to comply in all respects with the provisions of this Section, and to be approved by the COUNTY pursuant to a separate agreement. In connection with this assignment, LESSEE will execute or deliver such agreements and instruments to evidence, to the COUNTY's reasonable satisfaction, a guaranty of the performance

by Clay Lacy Santa Ana, LLC of all the terms and provisions of this Lease, including, without limitation, the indemnification provisions of Section 11.02. The assignment contemplated herein shall only be effective after approval by the COUNTY through execution of the consent to assignment and guaranty. Clay Lacy Santa Ana, LLC may assign its interest in the Lease to the Trustee for bonds issued to finance the Improvement Project; provided that the Trustee may not assign or transfer any interest in or rights under the Lease to any person for any purpose without the consent of the Board of Supervisors of the County in accordance with this Section 8.01.

F. **Leasehold Mortgages.**

Section 8.02 (LEASEHOLD MORTGAGES), subsection A of the Lease is hereby deleted and replaced with the following:

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 interest 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) The principal amount of debt secured by such Leasehold Mortgage(s) (as of the date recorded, net of any associated debt service reserve funds) shall not exceed 80% of the sum of the following: (a) direct construction costs (including hard costs, soft costs, costs paid to contractors, architects, engineers, laborers and suppliers, premiums for bonds, and permits and developer fees required by governmental agencies) in respect of the improvements and facilities to be constructed by LESSEE and (b) any capitalized interest with respect to such debt to be incurred;

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 Leasehold Mortgage, the provisions of this Lease shall control.

Subject to the foregoing, LESSEE shall have the right to incur additional debt secured by such Leasehold Mortgage for the purpose of refinancing, repurchasing or otherwise refunding outstanding debt secured by such Leasehold Mortgage; provided that LESSEE shall obtain the consent of COUNTY in connection with such refinancing debt to the extent that (i) such refinancing debt would result in an extension of the weighted average life of the outstanding debt to be refinanced, or (ii) such refinancing debt would result in an extension of the final maturity of the outstanding debt to be refinanced.

G. **Indemnification.**

SECTION 11.03 (INDEMNITY) is hereby added to this Lease:

To the fullest extent authorized by law, the LESSEE shall indemnify, defend with counsel approved in writing by the COUNTY, and hold the COUNTY, its officers, directors, employees, agents, counsel and consultants and those special districts and agencies for which the COUNTY'S Board of Supervisors acts as the governing body harmless from any and all claims, demands or liability of any kind or nature, directly or indirectly, arising out of in any way related to the Lease, this Third Amendment, the Bonds or the Improvement Project or any of the documents or agreements related thereto, including without limitation any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering or disclosure document or disclosure or continuing disclosure document relating to the bonds or other obligations issued to finance the development of the Improvement Project or any of the documents relating to the bonds or other obligations issued to finance the development of the Improvement Project, or any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document relating to the bonds or other obligations issued to finance the development of the Improvement Project of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of this Lease.

H. **Provision of Financing Documents relating to Improvement Project.**

SECTION 13.21 (FINANCING DOCUMENTS) is hereby added to this Lease:

The LESSEE shall provide the COUNTY with copies of substantially final drafts of all financing documents to be executed and delivered, including those to be executed and delivered by its assignee, in connection with the Improvement Project at least thirty (30) days in advance of execution. To the extent that such financing documents are subsequently amended, supplemented, modified, assigned or terminated in accordance with their terms, the LESSEE shall provide the COUNTY with substantially final drafts of such financing documents for review at least thirty (30) days in advance of execution. If any such amendment, supplement, modification, assignment or termination might reasonably be expected to have an adverse impact on the rights of the COUNTY, or change the definition of the Improvement Project, the LESSEE shall obtain the written consent of the COUNTY, prior to executing or consenting to such amendment, supplement, modification, assignment or termination or change in definition. For avoidance of doubt, the COUNTY'S review of any financing documents in connection with the Improvement Project does not constitute an approval, consent, authorization, or agreement of the COUNTY unless explicitly requested and provided in writing.

I. **Notices.**

SECTION 13.20 (NOTICES) of the Lease is hereby to add the following recipient:

TO: LESSEE

The Bank of New York Mellon Trust Company, N.A
2 N. LaSalle Street, Suite 700
Chicago, IL 60602
Attn: - Kathy Cokic - Transaction Management Group

J. **Cost Reimbursement to County.**

Lessee shall reimburse County in an amount of \$210,000.00 for all costs, expenses, losses, damages, claims or actions incurred under or in connection with or in any way related to the Lease, this Third Amendment, the Bonds, the Improvement Project, the Indemnification Agreement, including but not limited to, all County's staff time and attorney and consultant fees incurred in connection with this Third Amendment, and any associated documents, assignments, guaranties, resolutions, and public hearing notices or monitoring the construction and operation of the Improvement Project.

K. **No Other Amendments; This Third Amendment Governs and Controls.**

Except as expressly modified by this Third Amendment, the Lease, as amended by the First Amendment and Second Amendment, shall remain unmodified and in full force and effect and is hereby reinstated, ratified, and affirmed. To the extent any of the provisions of this Third Amendment are inconsistent with any of the provisions set forth in the Lease, First Amendment, and Second Amendment, the provisions of this Third Amendment shall govern and control. Any

reference to the “Agreement,” “hereunder,” “hereof,” “herein,” or words of like import in the Lease, First Amendment, Second Amendment, and this Third Amendment shall mean and be a reference to the Lease as hereby amended, and the Lease, First Amendment, Second Amendment, and the provisions of this Third Amendment shall be read and interpreted as if it was one agreement.

L. **Authority.**

Each Party represents to the other Party or Parties that the individual executing this Third Amendment on behalf of such Party has the capacity and authority to execute and deliver this Third Amendment on behalf of such Party and that this Second Amendment, once executed and delivered, is the legal, valid and binding obligation of such Party.

M. **Limitations on County Responsibility.**

For avoidance of doubt, the County (as Lessor under the Lease or as a member of California Municipal Finance Authority or otherwise) shall have no responsibility or obligation of any kind to pay any debt service on the Bonds, to pay any costs or expenses in any way related thereto or to the Improvement Project, or to provide any information or to review or approve any information provided by others about the County or John Wayne Airport in connection with the offering or sale of the Bonds or to provide, review or approve any continuing disclosure after issuance of the Bonds or to participate in any rating agency or investor presentation, due diligence or any other aspect of the offering, sale or maintenance of the Bonds.

N. **Governing Law.**

This Third Amendment and the Existing Lease shall be governed by and construed in accordance with the laws of the State of California.

O. **Counterparts and Execution.**

This Third Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document. The delivery of an executed counterpart of this Third Amendment by facsimile or as a Portable Document Format (“PDF”) or similar attachment to an e-mail shall constitute effective delivery of such counterpart for all purposes with the same force and effect as the delivery of an original, executed counterpart.

P. **Severability.**

If any provision of this Third Amendment is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Third Amendment shall nonetheless remain in full force and effect.

In witness whereof, the Parties have executed this Third Amendment the day and year first written above.

LESSEE: Clay Lacy Aviation, Inc

DocuSigned by:
By: Bradford W. Wright
Its: Chief Financial Officer
Name: Bradford W. Wright

APPROVED AS TO FORM:

County Counsel
DocuSigned by:
By: Mark Sanchez
5EE66EC8DA7B48F...

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor-Controller
Signed by:
By: Vivian Luz C. Grzeszczak
98187C051B2C443...

RECOMMENDED FOR APPROVAL:

John Wayne Airport
Signed by:
By: Charlene Reynolds
A1A526A921AF49F...
Charlene Reynolds
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

By: _____
Chairman, Board of Supervisors

**CONSENT TO ASSIGNMENT
OF INTEREST IN LEASE**

R E C I T A L S

1. On September 15, 2020, the **County of Orange**, a political subdivision of the State of California ("COUNTY") entered into a lease ("Lease") with **Clay Lacy Aviation, Inc.** (hereinafter referred to as "ASSIGNOR") for the operation of a Full-Service Fixed Base Operation located at John Wayne Airport.
2. The initial Lease term expires on December 31, 2055.
3. ASSIGNOR has requested that COUNTY approve the assignment of ASSIGNOR's leasehold interest in the Lease to Clay Lacy Santa Ana, LLC, hereinafter referred to as "ASSIGNEE."
4. In accordance with the terms of that certain "Assignment and Assumption Agreement," (the "Transfer Document"), a copy of which is attached hereto as EXHIBIT A and by reference made a part hereof, ASSIGNOR proposes to assign all right, title and interest in the Lease to ASSIGNEE and ASSIGNEE desires to accept from ASSIGNOR all right, title and interest subject to the terms and conditions set forth in this Consent To Assignment of Interest In Lease.
5. Contemporaneously with the execution of the Transfer Document, and consistent with the terms of the Lease, ASSIGNOR will have delivered to COUNTY an unconditional guaranty of the obligations of ASSIGNEE arising under the Lease (the "Guaranty").

NOW THEREFORE, in consideration of the above, on this ____ day of August 2025, COUNTY consents to assignment of leasehold interest in the Lease from ASSIGNOR to ASSIGNEE subject to the following terms and conditions:

- A. ASSIGNOR assigns and transfers to ASSIGNEE all its right, title and interest in the Lease. However, pursuant to the Lease, no assignment, even with COUNTY approval, shall relieve ASSIGNOR of its obligations to pay the rent and to perform all of the other obligations to be performed by ASSIGNEE. This CONSENT TO ASSIGNMENT OF INTEREST IN LEASE does not relieve ASSIGNOR of any interest, responsibility, or liability in or under the terms of the Lease arising prior to the date hereof or the Guaranty arising on and after the date hereof. Both ASSIGNOR and ASSIGNEE will be fully responsible for complying with all such provisions of the Guaranty and the Lease, respectively, and will both be directly liable for all such respective obligations. ASSIGNEE accepts the assignment and assumes and agrees to perform from the date the assignment becomes effective, as a direct obligation to COUNTY, all the provisions of the Lease.
- B. In the event of any conflict between the provisions of the Lease, or as said Lease may from time to time be amended in the future, and the provisions of the Transfer Document, the provisions of the Lease shall control.

- C. In the event of any conflict between the provisions of this Consent to Assignment of Interest in Lease and the provisions of the Transfer Document, the provisions of this Consent to Assignment of Interest in Lease shall prevail.
- D. It is understood that the consent hereby given to the execution, delivery and recordation of the Transfer Document referred to herein is a mere accommodation and that COUNTY is in no way obligated by, or under any duty whatsoever with regard to the terms and conditions of said Transfer Documents.
- E. Any amendment, supplement, modification, assignment or termination of said Transfer Document shall first be approved in writing by COUNTY's Airport Director, John Wayne Airport ("Director"). ASSIGNOR and ASSIGNEE warrant that all documents and agreements pertaining to the assignment of the Lease have been provided to the COUNTY.
- F. ASSIGNEE's use of the leasehold premises is limited to a Full-Service Fixed Base Operation, as set forth in the Lease. All other activities shall be subject to the prior written approval of the Director.
- G. This assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.
- H. The Recitals paragraphs above are hereby incorporated by this reference.
- I. This consent to assignment shall be governed by and construed in accordance with California law.
- J. As it relates to the profit, if any, received by ASSIGNOR from ASSIGNEE pertaining to the value of ASSIGNOR'S leasehold interest, for which the COUNTY is entitled, at COUNTY request, a copy of the ASSIGNOR'S tax return shall be provided to COUNTY to verify the value reported.

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IN WITNESS WHEREOF, the parties hereto have executed this CONSENT TO ASSIGNMENT OF INTEREST IN LEASE the day and year first above written.

ASSIGNOR

DocuSigned by:
By: Bradford W. Wright
Name: Bradford W. Wright
Title: Chief Financial Officer

ASSIGNEE

DocuSigned by:
By: Bradford W. Wright
Name: Bradford W. Wright
Title: Chief Executive Officer

APPROVED AS TO FORM:

County Counsel
DocuSigned by:
By: Mark Sanchez

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor Controller
Signed by:
By: Vivian Luz C. Grzeszczak

RECOMMENDED FOR APPROVAL:

John Wayne Airport
Signed by:
By: Charlene Reynolds
Charlene Reynolds
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

By: _____
Chairman, Board of Supervisors

EXHIBIT A

Assignment and Assumption Agreement

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this “Assignment”) is made as of the ____ day of August, 2025, by and between Clay Lacy Aviation, Inc. (the “Assignor”) and Clay Lacy Santa Ana, LLC (the “Assignee” and together with the Assignor, the “Parties”).

RECITALS

WHEREAS, the Assignor and the County of Orange (the “County”) have entered into the Northwest Full-Service Fixed Base Operation Lease, dated September 15, 2020 (the “Original Lease”), as amended by the First Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated January 14, 2021 (the “First Amendment”), and as further amended by the Second Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated March 8, 2022 (the “Second Amendment”);

WHEREAS, the County and the Assignor are entering into the Third Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated the date hereof (the “Third Amendment” and together with the Original Lease, the First Amendment, and the Second Amendment, the “Lease”), to facilitate financing the Improvement Project (as defined in the Lease); and

WHEREAS, in connection with the financing of the Improvement Project, the Assignor has agreed to assign, transfer, and convey to the Assignee, and the Assignee has agreed to take assignment of, all of the Assignor’s right, title, and interest in and to the Lease; and

WHEREAS, in connection with this Assignment, and consistent with the terms of the Lease, the Assignor has agreed to deliver to the County an unconditional guaranty of the obligations of the Assignee arising under the Lease (the “Guaranty”).

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Assignor and the Assignee hereby agree as follows:

1. Incorporation of Recitals. The recitals set forth hereinabove shall be and are hereby incorporated in this Paragraph 1 as if said recitals were fully set forth herein.

2. Assignment of Lease. For value received, subject to the terms and conditions of the Lease, the Assignor does hereby assign and transfer to the Assignee, and the Assignee does hereby take assignment of, the Assignor’s right, title and interest in and to the Lease.

3. Assumption of Lease. Subject to the terms and conditions of the Lease, the Assignee does hereby assume and does hereby agree to pay, perform and discharge when due, all of the debts, liabilities and obligations relating to the Lease arising on or after the date hereof.

4. No Representations. The Assignee does not make any representations or warranties with respect to the Lease being assigned and transferred hereunder or the obligations being assumed hereunder.

5. Effect of Agreement. Nothing in this Assignment shall, or shall be deemed to, defeat, limit, alter, impair, enhance or enlarge any right, obligation, claim or remedy created by the Lease. For the avoidance of doubt, nothing in this Assignment shall, or shall be deemed to, modify, amend or extend the terms of any of the agreements assumed hereunder or to release, limit, reduce or alter the duties and obligations of the Assignor under the Lease arising prior to the date hereof or under the Guaranty arising on and after the date hereof. Both the Assignor and Assignee will be fully responsible for complying with all such provisions of the Guaranty and the Lease, respectively, and both will be directly liable for all such respective obligations. The County or the Trustee may proceed directly against the Assignee or the Assignor or both to enforce the terms of the Lease or the Guaranty, as applicable. In the event of any conflict between this Assignment and the Lease, then the Lease shall control.

6. Inurement and Binding Effect. This Assignment shall inure to the benefit of the Parties and their respective permitted successors and assigns and be binding upon the Parties and their respective successors and assigns.

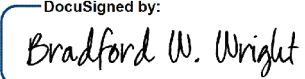
7. Governing Law. This Assignment shall be deemed to have been made in, and shall be construed in accordance with, the Laws of the State of California without regard to conflict of laws principles.

8. Counterparts; Facsimile Execution. This Assignment may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Assignment shall be effective when it has been executed by each Party and delivered to all Parties. To evidence the fact that it has executed this Assignment, a Party may send a copy of its executed counterpart to the other Party by facsimile or electronic mail transmission. Such Party shall be deemed to have executed and delivered this Assignment on the date it sent such facsimile or electronic mail transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Assignment executed by such Party.

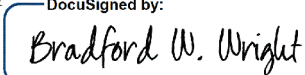
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this Assignment to be duly executed pursuant to due authorization, as of the day and year first written above.

CLAY LACY AVIATION, INC.

By:  _____
Name: DocuSigned by:
216EB6ECB1EE41F... Bradford W. Wright _____
Title: Chief Financial officer _____

CLAY LACY SANTA ANA LLC

By:  _____
Name: DocuSigned by:
216EB6ECB1EE41F... Bradford W. Wright _____
Title: Chief Executive Officer _____

GUARANTY OF LEASE OBLIGATIONS

THIS GUARANTY OF LEASE OBLIGATIONS (this “Guaranty”) is made this August ___, 2025, by Clay Lacy Aviation, Inc. (“CLA”), in favor of the County of Orange, a political subdivision of the State of California (the “County”) with reference to the following:

RECITALS

A. The County and CLA entered into the Northwest Full-Service Fixed Base Operation Lease, dated September 15, 2020 (the “Original Lease”), as amended by the First Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated January 14, 2021 (the “First Amendment”), and as further amended by the Second Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated March 8, 2022 (the “Second Amendment”).

B. The County and CLA are entering into the Third Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated the date hereof (the “Third Amendment”) and together with the Original Lease, the First Amendment, and the Second Amendment, the “Ground Lease”), to facilitate financing the Improvement Project.

C. CLA has requested that the County approve the assignment of CLA’s leasehold interest in the Ground Lease to Clay Lacy Santa Ana, LLC (the “Assignee”).

D. CLA and the Assignee have executed and delivered that certain Operations, Management and Administrative Services Agreement, dated as of August ___, 2025 (the “Management Services Agreement”) pursuant to which CLA will be providing certain day-to-day management and operations on behalf of the Assignee with respect to the Assignee’s responsibilities under the Ground Lease.

E. As a condition to consenting to an assignment of the Ground Lease to the Assignee, the County has required that CLA concurrently execute and deliver to the County this Guaranty. CLA is willing to provide such guarantees and assurances to the County as are more particularly set forth hereinbelow.

NOW, THEREFORE, in consideration of the County consenting to an assignment of the Ground Lease to the Assignee, CLA hereby covenants and agrees as follows:

1. **Recitals.** The Recitals set forth above are incorporated herein by this reference.

2. **Guaranty.** In consideration of the County consenting to an assignment of the Ground Lease to the Assignee, CLA absolutely, unconditionally, and irrevocably guarantees to the County the full, faithful and timely performance by the Assignee of all of the Assignee’s obligations under the Ground Lease, including, but not limited to, the obligation of the Assignee to make timely payments of rent or other monies

that the Assignee may at any time owe under the Ground Lease or any extensions, renewals, or modifications of the Ground Lease and any maintenance and repair obligations under the Ground Lease. If the Assignee shall default at any time in the payment of any rent (or any other monetary covenant) or in the performance of any non-monetary covenant or obligation under the Ground Lease, then CLA, at CLA's expense, shall on demand by the County fully and promptly pay all rent, sums, costs and charges to be paid by the Assignee under or arising out of the Ground Lease and shall perform all other covenants and obligations of the Assignee pursuant to the Ground Lease (including such defaulted covenant or obligation). In addition, CLA shall on demand by the County pay to the County all sums due to the County, including, without limitation, all interest on past due obligations of the Assignee, costs advanced by the County, damages, and all expenses (including, but not limited to, court costs and attorneys' fees) that may arise in consequence of the Assignee's said default. The liability of CLA under this Guaranty is a guaranty of payment and performance and not of collectability only. CLA agrees that CLA's liability under this Guaranty is primary and direct, and that the County will not be required to pursue any right or remedy it may have against the Assignee under the Ground Lease or otherwise (and will not be required to first commence any action or obtain any judgment against the Assignee or against property of the Assignee) before enforcing this Guaranty against CLA.

The obligations guaranteed in this Section 2 are collectively referred to hereinafter as the "Guaranteed Obligations". No notice of the Guaranteed Obligations to which this Guaranty may apply, or of any renewal, modification, consolidation, replacement, extension or amendment thereof, need be given to CLA and none of the foregoing acts will release CLA from liability hereunder.

Notwithstanding the foregoing limitations on the guaranty of CLA, the County shall not be deemed to have waived any right which the County may have under Section 506(a), 506(b), 1111(b) or any other provisions of the U.S. Bankruptcy Code to file a claim for the full amount of all sums due and owing under the Ground Lease (or which may become due and owing thereunder) (including interest accruing after the commencement of any bankruptcy or insolvency proceeding by or against the Assignee or CLA, whether or not allowed in such proceeding), fees, costs, expenses, indemnification indebtedness, attorneys' fees, and other sums of money now or hereafter due and owing pursuant to (x) the terms of the Ground Lease and any indemnifications contained in the Ground Lease, now or hereafter existing, and (y) all renewals, extensions, modifications, supplements or amendments of the Guaranteed Obligations or to require that any collateral given to secure the Assignee's obligations under the Ground Lease or CLA's obligations under this Guaranty shall continue to secure all of such amounts owing to the County.

3. **Guaranty Absolute.** The liability of CLA under this Guaranty shall be absolute, unconditional, and irrevocable, irrespective of:

(a) any express or implied amendment, modification, renewal, addition, supplement or extension (including, without limitation, extensions beyond the original term) of the Ground Lease;

(b) any exercise or nonexercise by the County of any right or privilege under this Guaranty or the Ground Lease;

(c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, litigation or other like proceeding relating to CLA or the Assignee or to any other guarantor (which term shall include any other party at any time directly or contingently liable for any of Guaranteed Obligations), or any action taken with respect to this Guaranty by any trustee, receiver or court in any such proceeding, whether or not CLA shall have had notice or knowledge of any of the foregoing;

(d) any release or discharge of the Assignee from its liability under the Ground Lease or any release or discharge of any endorser, guarantor or other party at any time directly or contingently liable for the Guaranteed Obligations (other than as a result of payment or performance of the Guaranteed Obligations);

(e) any subordination, compromise, release (by operation of law or otherwise), discharge, compound, collection or liquidation of any or all of the Assignee's obligations under the Ground Lease;

(f) any assignment or other transfer of this Guaranty in whole or in part of the Ground Lease;

(g) any acceptance of partial performance of the Guaranteed Obligations; and

(h) any consent to the transfer of the Ground Lease or any portion thereof.

4. **Waiver.** CLA unconditionally waives, to the extent permitted by law, any defense to the enforcement of this Guaranty, including, without limitation:

(a) any presentment, demand for performance, notice of nonperformance, protest, notice of protest, notice of dishonor and notice of acceptance of this Guaranty;

(b) any right to require the County to proceed against the Assignee, CLA or any other guarantor at any time, or to exhaust any security held by the County at any time or to pursue any other remedy whatsoever at any time;

(c) any defense of any statute of limitations affecting the liability of the Assignee, CLA or any other guarantor, or the enforcement hereof or thereof, to the extent permitted by law;

(d) any defense arising by reason of any invalidity or unenforceability of the Ground Lease or any disability of the Assignee, CLA or any other guarantor or of any manner in which the County has exercised its rights and remedies under the Ground

Lease or by any cessation from any cause whatsoever of the liability of the Assignee, CLA or any other guarantor;

(e) any defense based upon an election of remedies by the County, including but not limited to any election of remedies relating to real property or personal property security, that destroys or otherwise impairs the subrogation rights of CLA to proceed against the Assignee or any other guarantor for reimbursement, or both;

(f) any duty of the County to advise CLA of any information known to the County regarding the financial condition of the Assignee or any other circumstances affecting the Assignee's ability to perform the Guaranteed Obligations, it being agreed that CLA assumes the responsibility for being and keeping informed regarding such condition or any such circumstances;

(g) any right of subrogation, contribution, indemnity or otherwise against the Assignee which may arise out of or in connection with this Guaranty, any right to enforce any remedy that the County now has or may hereafter have against the Assignee and any benefit of, and any right to participate in, any security now or hereafter held by the County, until this Guaranty ceases to be in full force and effect; and

(h) without limiting the generality of the foregoing or any other provision hereof, any rights and benefits that might otherwise be available to CLA under California Civil Code Sections 2809, 2810, 2819, 2839, 2845, 2848, 2849, 2850, 2899 or 3433.

5. **Subrogation.** CLA shall not exercise any rights that it may acquire by way of subrogation, contribution, indemnity or otherwise arising out of or in connection with this Guaranty, by any payment made by CLA hereunder or otherwise, until such time as the obligations of the Assignee guaranteed hereby have been indefeasibly paid in full and satisfied and this Guaranty released by the County. If any amount shall be paid to CLA on account of such subrogation or other rights at any time before the obligations of the Assignee guaranteed hereby have been indefeasibly paid in full and satisfied and this Guaranty released by the County, such amount shall be held in trust for the benefit of the County and shall forthwith be paid to the County to be credited and applied against the Guaranteed Obligations, when and as due, in accordance with the terms of the Ground Lease. Upon this Guaranty being fully and indefeasibly paid or performed and released as hereinbefore provided, the County will, at CLA's request execute and deliver to CLA appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to CLA of any interest in the Guaranteed Obligations resulting from such payment by CLA.

6. **Representation and Warranty.** CLA represents and warrants as a continuing representation and warranty until this Guaranty expires in accordance with the provisions contained herein that the Guaranty constitutes the legal, valid and binding obligation of CLA enforceable against CLA in accordance with its terms.

7. **Surety.** CLA shall secure, maintain and furnish to the County, suitable surety to satisfy the Assignee's obligations under Section 4.08 of the Ground Lease to provide a security deposit equal to six months of monthly building and ground rent determined, from time to time, in accordance with the terms of the Ground Lease. In all manners, such surety shall be in a form and from a provider as required by the Ground Lease. Such surety shall be in place at least sixty (60) days prior to the expiration of the preceding surety in order to provide continuity so that the surety shall always be in force during the effectiveness of this Guaranty. Each of CLA and the Assignee hereby waives any rights to any interest on such surety that CLA or the Assignee might otherwise be entitled to by law.

8. **Address for Notices.** All notices pursuant to this Guaranty 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, the County may also provide notices to CLA or the Assignee 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
Attn: Director

To: CLA

Bradford W. Wright
Chief Financial Officer
Clay Lacy Aviation, Inc.
7435 Valjean Avenue
Van Nuys, CA 91406

To: ASSIGNEE

Bradford W. Wright
Chief Financial Officer
Clay Lacy Aviation, Inc.
7435 Valjean Avenue
Van Nuys, CA 91406

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

9. **No Waiver; Remedies.** No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

10. **Continuing Guaranty.** This Guaranty is a continuing guaranty and shall remain in full force and effect until the performance in full of the Guaranteed Obligations.

11. **Independent and Separate Obligations.** The obligation of CLA hereunder is independent of and may exceed, the obligation of the Assignee and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against CLA whether or not CLA is the alter ego of the Assignee and whether or not the Assignee is joined therein, or a separate action or actions are brought against the County. The County's rights hereunder shall not be exhausted until all of the Guaranteed Obligations have been fully paid and performed.

12. **Bankruptcy No Discharge; Repayments.** So long as any of the Guaranteed Obligations shall be outstanding, CLA shall not, without the prior written consent of the County, commence or join with any other party in commencing any bankruptcy, reorganization, or insolvency proceedings of or against the Assignee. CLA understands and acknowledges that by virtue of this Guaranty, CLA has specifically assumed any and all risks of a bankruptcy or reorganization case or proceeding with respect to the Assignee. As an example and not in any way by limitation, a subsequent modification of the Guaranteed Obligations in any reorganization case concerning the Assignee shall not affect the obligation of CLA to pay and perform the Guaranteed Obligations in accordance with its original terms. If claim is ever made upon the County for repayment of the Guaranteed Obligations and the County repays all or any part of said amount pursuant to an order of a court with jurisdiction over the matter, then, notwithstanding any revocation or termination of this Guaranty or the cancellation or termination of the Ground Lease, CLA shall be and remain liable to the County for the amount so repaid to the same extent as if such amount had never originally been received by the County.

If any payment received by the County from the Assignee or any other obligor and applied to the Guaranteed Obligations is subsequently set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of the Assignee or any other obligor), the Guaranteed Obligations to which such payment was applied will for the purposes of this Guaranty be deemed to have continued in existence, notwithstanding such application, and this Guaranty will be enforceable against CLA as to such Guaranteed Obligations as fully as if such application had never been made.

13. **Expenses.** CLA agrees to pay all costs and expenses, including reasonable attorneys' fees, which may be incurred by the County in any effort to collect or enforce

any of the obligations of CLA hereunder, whether or not any lawsuit is filed, including, without limitation, all costs and attorneys' fees incurred by the County in any bankruptcy proceeding (including, without limitation, any action or relief from the automatic stay of any bankruptcy proceeding) and in any judicial or nonjudicial foreclosure action.

14. **Amendments; Successors; Etc.** Neither this instrument nor any term hereof may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. All of the terms of this instrument shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. If any one or more of the provisions of this Guaranty should be determined to be illegal or unenforceable, all other provisions shall remain effective. CLA shall not have the right to assign any of CLA's rights or obligations under this Guaranty.

15. **Assignability by the County.** The County may, at any time and from time to time, assign, conditionally or otherwise, all of the rights of the County under this Guaranty, whereupon such assignee shall succeed to all rights of the County hereunder to the extent that such rights may be assigned to it. The County may give written notice to the CLA of any such assignment, but any failure to give, or delay in giving, such notice shall not affect the validity or enforceability of any such assignment.

16. **Governing Law.** This Guaranty shall be governed by, and construed in accordance with, the laws of the State of California without regard to conflict of laws principles.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of CLA, the Assignee and the County has executed and delivered this Guaranty, or caused this Guaranty to be duly executed and delivered by its duly authorized representative, as of the date first above written.

CLAY LACV AVIATION INC.

DocuSigned by:
By: Bradford W. Wright
216EB6ECB1EE41F...

Clay Lacy SANTA ANA LLC

DocuSigned by:
By: Bradford W. Wright
216EB6ECB1EE41F...

Name: Bradford W. Wright
Title: Chief Financial Officer

Name: Bradford W. Wright
Title: Chief Executive Officer

APPROVED AS TO FORM:

County Counsel

DocuSigned by:
By: Mark Sanchez
5EE66EC8DA7B48F...

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor-Controller

Signed by:
By: Vivian Luz C. Grzeszczak
98187C051B2C443...

RECOMMENDED FOR APPROVAL:

John Wayne Airport

Signed by:
By: Charlene Reynolds
A1A526A921AF49F...
Charlene Reynolds
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:

Robin Stieler
Clerk of the Board of Supervisors

COUNTY
COUNTY OF ORANGE

By: _____
Chairman, Board of Supervisors

**JOHN WAYNE AIRPORT
ORANGE COUNTY**



INDEMNIFICATION AGREEMENT

Dated August __, 2025

by and between

CLAY LACY AVIATION, INC.

and

COUNTY OF ORANGE

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (this “Indemnification Agreement”), dated August ___, 2025, is made by Clay Lacy Aviation, Inc. (the “Indemnitor”) in favor of the County of Orange, a political subdivision of the State of California (the “County”).

RECITALS

WHEREAS, the County and the Indemnitor entered into the Northwest Full-Service Fixed Base Operation Lease, dated September 15, 2020 (the “Original Lease”), as amended by the First Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated January 14, 2021 (the “First Amendment”), and as further amended by the Second Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated March 8, 2022 (the “Second Amendment”);

WHEREAS, the County and the Indemnitor are entering into the Third Amendment to the Northwest Full-Service Fixed Base Operation Lease, dated the date hereof (the “Third Amendment” and together with the Original Lease, the First Amendment, and the Second Amendment, the “Lease”), to facilitate financing the Improvement Project;

WHEREAS, the County has consented to the Indemnitor’s assignment of the Lease to Clay Lacy Santa Ana, LLC (the “Assignee”) pursuant to an Assignment and Assumption Agreement, dated the date hereof; and

WHEREAS, in order to set forth the Indemnitor’s ongoing obligation to indemnify the County, the Indemnitor and the County are entering into this Indemnification Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Definitions. Unless the context otherwise requires, capitalized undefined terms used herein shall have the meanings ascribed thereto in the Lease.

Section 2. Indemnification.

(a) *General.* To the fullest extent authorized by law, the Indemnitor shall indemnify, defend with counsel approved in writing by the County, and hold the County, its officers, directors, employees, agents and those special districts and agencies for which the County’s Board of Supervisors acts as the governing body harmless from any and all costs, expenses, claims, demands, or liability of any kind or nature arising out of or related to the Indemnitor’s or the Assignee’s operations at the Airport, including the cost of defense arising therefrom. Indemnitor’s indemnity obligations stated herein also apply to those actions arising out of or related to the Indemnitor’s or the Assignee’s officers, agents, successors, assigns, sublessees, subcontractors, and employees. The Indemnitor’s indemnity obligations stated herein shall not apply in the event of any loss, damage, or expense arising from the 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 the Lease.

(b) *Environmental.* To the fullest extent authorized by law, the Indemnitor shall indemnify, defend, and hold the County, its officers, directors, agents, and employees and those special districts and agencies for which the 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 the Indemnitor or the Assignee, the Indemnitor's or the Assignee's operations at the Airport or any action arising from and which involve the Indemnitor's or the Assignee'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:

(i) The historical environmental conditions at, on, under, and/or emanating from the Leased Premises that the Indemnitor or the Assignee may be required to pay.

(ii) The Indemnitor's or the Assignee'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 the Indemnitor's or the Assignee's release or threatened release of Hazardous Materials on, at, and/or under the Airport.

(iii) The Indemnitor's or the Assignee's release or threatened release of Hazardous Materials at, on, under, and/or emanating from the Airport.

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

(v) The Indemnitor's or the Assignee'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 the 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, Indemnitor's indemnity obligation shall not apply in the event of any claims for any loss, damage,

or expense arising from the willful misconduct of the 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 Indemnitor shall, at the request of the County, defend the indemnitees with qualified counsel approved in writing by the County, unless the County, in its sole and absolute discretion, undertakes legal representation, in which event the Indemnitor 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 Indemnitor or the Assignee because of the concurrent negligence of the County and the Indemnitor or the Assignee 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 Indemnitor agree that neither party shall request a jury apportionment.

(c) *Securities Law.* To the fullest extent authorized by law, the Indemnitor shall indemnify, defend with counsel approved in writing by the County, and hold the County, its officers, directors, employees, agents and those special districts and agencies for which the County's Board of Supervisors acts as the governing body harmless from any and all costs, expenses, claims, demands or liability of any kind or nature arising out of or related to any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering or disclosure document or disclosure or continuing disclosure document relating to the bonds or other obligations issued to finance the development of the Improvement Project or any of the documents relating to the bonds or other obligations issued to finance the development of the Improvement Project, or any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document relating to the bonds or other obligations issued to finance the development of the Improvement Project of any material fact necessary to be stated therein in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The rights and obligations set forth in this indemnification shall survive the termination and/or expiration of the Lease.

(d) *Construction or Alteration.* The Indemnitor shall indemnify the County and hold the 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 the Indemnitor or the Assignee.

(e) *Mechanics Liens or Stop Notices.* The Indemnitor shall at all times indemnify and hold the 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 the Indemnitor or the Assignee, 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, the Indemnitor or the Assignee shall either:

- (i) Record a valid Release of Lien, or
- (ii) 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 the Indemnitor or the Assignee 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. The Indemnitor shall indemnify, defend, and hold the 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 the Indemnitor or the Assignee, or its agents, employees, contractors, sublessees, successors, and/or assigns, and any and all monetary amounts incurred by the County to obtain a lien release shall be due and payable as Additional Rent. This indemnity shall survive the expiration or earlier termination of the Lease.

(f) *Americans with Disabilities Act.* The Indemnitor agrees to indemnify, defend, and hold the County harmless from and against any and all costs incurred by the County with respect to the Indemnitor's or the Assignee's failure to comply with the ADA.

(g) *Insurance.* In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from the Indemnitor or the Assignee, its agents, employee's or subcontractor's performance of the Lease, the Indemnitor shall defend the County at its sole cost and expense with counsel approved by the Board of Supervisors against same. The Indemnitor's duty to defend shall be absolute and irrespective of any duty to indemnify or hold harmless. 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 Indemnitor's SIR provision shall be interpreted as though the Indemnitor was an insurer and the County was the insured.

(h) *Existing Conditions.* The Indemnitor acknowledges that it has accepted the Leased Premises in "as is" condition when it entered into the Lease, and the Indemnitor accepts liability and agrees to indemnify the County pursuant to this Section for all existing conditions whether known or unknown on the Commencement Date.

For clarity, the Indemnitor shall indemnify and hold the County, its officers, directors, employees, agents, and those special districts and agencies for which the County's Board of Supervisors acts as the governing body, harmless from any and all costs, expenses, claims, demands or liability of any kind or nature (including attorneys' fees) arising out of or in any way related to the Lease, the Third Amendment, this Indemnification Agreement, the Bonds, the Improvement Project or any related documents or agreements and will promptly reimburse the County for any costs it incurs or expenses it pay in connection therewith, including any costs of monitoring or enforcing its rights thereunder.

Section 3. Amendments. This Indemnification Agreement may not be effectively amended, supplemented or otherwise modified except by an instrument or instruments signed by all of the parties hereto.

Section 4. Assignment. This Indemnification Agreement is made solely for the benefit of the parties hereto and no other person shall acquire or have any rights under this Indemnification Agreement. This Indemnification Agreement is not assignable or transferrable, in whole or in part, by such parties, unless otherwise agreed to in writing by such parties.

Section 5. Notices. All notices pursuant to this Indemnification Agreement 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, the County may also provide notices to the Indemnitor 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
Attn: Director

To: INDEMNITOR

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.

Section 6. Successors and Assigns. This Indemnification Agreement shall be binding upon the parties hereto and their respective successors, transferees and assigns.

Section 7. Severability. If any term or provision of this Indemnification Agreement, or the application of the term or provision to any person or circumstance is, to any extent, invalid or unenforceable in any jurisdiction, but the extent of such invalidity or unenforceability does not destroy the basis of the bargain between the parties as contained herein, the remainder of this Indemnification Agreement, or the application of the term or provision to persons or circumstances other than those as to which the term or provision is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability, and each remaining term or provision of this Indemnification Agreement will be valid and shall be enforced to the fullest extent permitted by law

Section 8. Governing Law. This Indemnification Agreement and all disputes, claims, defenses, controversies or causes of action, whether in contract or tort, that may be based upon, arise out of or relate hereto, shall be governed by and construed in accordance with the laws of the State of California.

Section 9. Electronic Signatures. Each of the parties hereto agrees that the electronic signature of a party to this Indemnification Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Indemnification Agreement. For purposes hereof (a) “electronic signature” means a manually signed original signature that is then transmitted by electronic means, and (b) “transmitted by electronic means” means sent in the form of a facsimile or sent via the internet as a portable document format (“pdf”) or other replicating image attached to an electronic mail or internet message.

Section 10. Execution in Counterparts. This Indemnification Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Indemnification Agreement as of the date first above written.

INDEMNITOR

CLAY LACY AVIATION, INC.

By: Bradford W. Wright
 Its: 216EB6ECB1EE41F...
 Name: Bradford W. Wright

APPROVED AS TO FORM:

County Counsel
 DocuSigned by:

By: Mark Sanchez
 5EE66EC8DA7B48F...

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor-Controller
 Signed by:

By: Vivian Luz C. Grzeszyzak
 98187C051B2C443...

RECOMMENDED FOR APPROVAL:

JOHN WAYNE AIRPORT
 Signed by:

By: Charlene Reynolds
 A1A526A921AF49F...
 Charlene Reynolds
 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

By: _____
 Chairman, Board of Supervisors

[Signature Page to Indemnification Agreement]