

**FIRST AMENDMENT TO  
LEASE AND OPERATING AGREEMENT FOR LEASE SITE L**

This First Amendment to the Lease and Operating Agreement (hereinafter called “First Amendment”) is entered into as of \_\_\_\_\_, 2017 by and between the County of San Luis Obispo, a political subdivision in the State of California (“County”) and ACI AIR, LLC, a California limited liability company, with its offices at 1332 Anacapa Street, Suite 200, Santa Barbara, CA 93101 (hereinafter called “Lessee”).

**WITNESSETH**

**WHEREAS**, County and Aviation Consultants, Inc. (“ACI”) entered into a Lease and Operating Agreement (hereinafter “Lease) on September 22, 2015; and

**WHEREAS**, said Lease leased to ACI premises, referred to as Lease Site L, located at the San Luis Obispo County Regional Airport (hereinafter “Airport”); and

**WHEREAS**, Lessee subleased the entire premises covered by the Lease to ACI pursuant to a Sublease between Lessee and ACI dated as of April 1, 2016; and

**WHEREAS**, ACI and Lessee have completed all of the required Phase I Improvements pursuant to Article 2, Section B of the Lease and have kept and performed all of the other covenants and obligations under the Lease;

**WHEREAS**, the period for completing the Phase II Improvements required by Article 2, Section B of the Lease has been extended to expire March 20, 2018; and

**WHEREAS**, the Lessee and County desire to amend the Lease to harmonize certain rental adjustment terms with the leases for Sites A and M; and

**WHEREAS**, it is in the best interest of the public and for the continued development of the Airport to amend the Lease;

**NOW THEREFORE**, in consideration of the mutual promises, agreements, covenants and conditions set forth herein, the parties mutually covenant and agree as follows:

1. **ARTICLE 3 (RENTAL) Paragraph A(3)(a)(B) (Annual Adjustment of Monthly Base Rent)** are deleted in their entirety and amended to read as follows:

**“(3) Annual Adjustment of Monthly Base Rent.** Except during the years in which a "Market Rate Adjustment Date" as identified in Section B of this Article 3 occurs, Monthly Base Rent shall be adjusted annually effective March 1, 2018, and March 1<sup>st</sup> of each year thereafter (hereinafter referred to as the “Adjustment Date”), in the following manner:

(a) The Monthly Base Rent shall be adjusted to reflect increases in the Consumer Price Index (CPI) described below. The adjustment shall be by a percentage equal to the percentage increase of the CPI between the December published CPI for the prior year and the corresponding CPI for the same period 12 months previous. If there is a decrease or no change in the CPI, then the preceding year’s rent will not be adjusted.

(b) Airports Manager will provide written notice to Lessee of each adjusted rental amount on an annual basis. Failure by County to notice Lessee may delay payment of rent, but shall not preclude retroactive application of adjusted rent due.

(c) The “CPI” refers to the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose Statistical Area for December based on the period of 1982-84 = 100, as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

(d) The index for the adjustment date shall be the one reported in the U.S. Department of Labor's most comprehensive official index then in use and most nearly answering the foregoing description of the index to be used. If it is calculated from a base other than the base period (1982-84=100), the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau.

(e) If the described index is no longer published, another generally recognized as authoritative shall be substituted by agreement of County and Lessee. If County and Lessee are unable to agree within 30 days after demand by either party, on application of either party the substitute index shall be selected by the chief officer of the San Francisco regional office of the Bureau of Labor Statistics or its successor.

(f) However, no adjustment to the Monthly Base Rent on any Adjustment Date shall be less than two percent (2%) or more than five percent (5%) of the Monthly Base Rent in effect immediately prior to the Adjustment Date.”

2. **ARTICLE 3 (RENTAL) Paragraph B (MARKET RATE ADJUSTMENT TO MONTHLY BASE RENT)** is hereby modified by deleting the first sentence and replacing it with the following: “On March 1, 2025, and every fifth year thereafter (each a “Five Year Adjustment Date”), the Monthly Base Rent shall be adjusted to equal the “Fair Market Rent”.”

3. **ARTICLE 3 (RENTAL) Paragraph D (DETERMINATION OF FAIR MARKET RENT)** is hereby modified by deleting the last two (2) sentences of the paragraph and replacing them with the following:

“Notwithstanding anything herein to the contrary, in no event shall the Monthly Base Rent following any adjustment to Fair Market Rent be less than the Monthly Base Rent in effect immediately preceding the particular Five Year Adjustment Date.” Director shall give written notice to Lessee of the adjusted Monthly Base Ground Rent.

4. In consideration of the change to the first date on which the Monthly Base Rent shall be adjusted to equal the Fair Market Rent, on or before 30 days following the full execution of this First Amendment, Lessee shall pay to County the sum of Seven Thousand Dollars (\$7,000.00).

//////////////////////////////////NOTHING FURTHER PAST THIS POINT//////////////////////////////////

IN WITNESS WHEREOF, the parties have duly executed this Amendment.

**LESSOR: COUNTY OF SAN LUIS  
OBISPO**

**LESSEE: ACI AIR, LLC, a California limited  
liability company**

By:

By:

\_\_\_\_\_  
Chairperson of the Board of Supervisors

  
Name: William R. Bergsmiller

Its: President

Date: 1/9/18


Approved by the Board of Supervisors  
this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**APPROVED AS TO FORM AND  
LEGAL EFFECT:**

Rita L. Neal  
County Counsel

By:

  
Deputy County Counsel

Date: 1/8/18