



CITY OF HUNTINGTON BEACH

To: Honorable Mayor and City Council
CC: Travis Hopkins, City Manager
From: Mike Vigliotta, City Attorney
Date: September 2, 2025
Subject: **Supplemental Communication for Item Number 15 (Certifying Environmental Impact Report No. 25-003 by adopting Resolution No. 2025-24; Approve Findings of Fact with a Statement of Overriding Consideration (Pacific Airshow Huntington Beach): and Approve and authorize execution of an Airshow Event Agreement between the City of Huntington Beach and Pacific Airshow, LLC**

For your review and consideration, an updated Airshow Agreement Between the City of Huntington Beach and Pacific Airshow, LLC is attached for Item No. 15 on the September 2, 2025 City Council Agenda.

Section 3.4 of the agreement has been updated to remove incorrect language.

**AIRSHOW EVENT AGREEMENT BETWEEN
THE CITY OF HUNTINGTON BEACH
AND PACIFIC AIRSHOW, LLC**

THIS AIRSHOW EVENT AGREEMENT (“**Agreement**”) is made and entered into this day of _____, 2025 (“**Effective Date**”), by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation and Charter City (“**City**”), and PACIFIC AIRSHOW, LLC, a California limited liability company (“**Pacific Airshow**”). City and Pacific Airshow are sometimes hereinafter individually referred to as a “**Party**” and hereinafter collectively referred to as the “**Parties**.”

RECITALS

WHEREAS, since 2016, the Pacific Airshow has become a cornerstone event in Southern California, attracting visitors from the nation and the world to the City of Huntington Beach, and by attendance has become the largest airshow in the United States; and

WHEREAS, the Pacific Airshow historically has consisted of a three-day weekend featuring aerobatic demonstrations and performances, a boat race around Catalina Island, on-sand entertainment, music, and much more; and

WHEREAS, the Pacific Airshow has become one of the City’s biggest events of the year, generating approximately over \$120,000,000 over the three event days in total economic benefit to the City according to a study conducted by Visit Huntington Beach in 2022 (specifically, \$70,000,000, direct spending in City businesses, and an additional \$50,000,000 in indirect and induced spending); and

WHEREAS, the City recognizes the value of hosting the Pacific Airshow for the enjoyment of its residents and the global community, the economic benefits brought to the City, the advancement of education and interest in aviation and aviation careers, and the showcasing of the natural beauty, resources, enterprises, attractions, climate and facilities of the City of Huntington Beach; and

WHEREAS, City and Pacific Airshow desire to continue to bring the Pacific Airshow to the residents of Huntington Beach and the global community on an annual basis consistent with the terms and conditions provided for herein; and

WHEREAS, in very general terms, in October of 2021, a portion of the Huntington Beach Airshow was canceled due to an oil spill. The City of Huntington Beach was then sued by Pacific Airshow, over the cancellation.

WHEREAS, the City and Pacific Airshow negotiated a settlement of the lawsuit. The Settlement Agreement in part, **states that** “. . .the City shall provide” [certain] benefits to Pacific Airshow (inclusive of any embedded multi-day musical festival) in 2024 and thereafter. The Settlement Agreement goes on to say “if PA desires to conduct future Air Show Event(s) (after 2023), that Pacific Airshow and CITY will enter into a separate Air Show Event Agreement, after the aforementioned environmental review pursuant to CEQA is complete. That Air Show Event Agreement for future Air Show Events will be based on, and supported

by, the completed aforementioned CEQA environmental review, and consistent with the terms of this Agreement. The future Air Show Event Agreement will expressly provide the benefits conferred to PA by the CITY under this Agreement, including Sections 2.b.i. through 2.b.viii.”

WHEREAS, as set forth herein, through a negotiation process Pacific Airshow agreed to relinquish some of the benefits guaranteed by Section 2 of the Settlement Agreement.

WHEREAS, in consideration of Pacific Airshow selecting the City of Huntington Beach as the site for the Pacific Airshow, City and Pacific Airshow desire, pursuant to Section 2 of the Settlement Agreement and General Release dated May 9, 2023 (“Settlement Agreement”), which will be amended in part pursuant to this Agreement, to enter into this Airshow Event Agreement.

WHEREAS, in the event the Settlement Agreement or any portion thereof is determined by a court to be void, unlawful, or unenforceable, (1) the Parties will in good faith renegotiate to amend the terms of this Agreement to be consistent with any court order including correcting any void, unlawful, or unenforceable portion(s); (2) the Parties agree that the dismissal with prejudice entered in favor of the City, per the Settlement Agreement, may be set aside, without objection from the City, upon Pacific Airshow’s request, if so determined by the court ; the City will not object to ; and (3) the Parties agree that from October 21, 2022 until written notice is served on Pacific Airshow of any court order, which voids or renders unlawful or unenforceable any portions of the Settlement Agreement, shall not be counted in determining any applicable statute of limitations, statute of repose, laches, or other time-based defenses for Pacific Airshow to file a claim or complaint against the City; and

WHEREAS, in consideration of City granting Pacific Airshow certain limited and defined use of City property, facilities and resources for the Pacific Airshow, Pacific Airshow desires, subject to the terms of this Agreement, to amend Section 2 of Settlement Agreement and perform certain obligations as defined herein; and

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. RECITALS. The foregoing recitals are true and correct, and the same are incorporated herein by this reference and made a part of this Agreement.

2. DEFINITIONS.

Any terms not specifically defined herein shall have the meaning as set forth in the Huntington Beach Municipal Code (HBMC).

2.1 “Area” means all of the City property (e.g., real property, streets, parking spaces, public facilities) used by Pacific Airshow for the Event pursuant to this Agreement or a Specific Event Permit as referred to by Section 7 below. The Area may include any portions of the following locations in the City: Huntington City Beach, the Huntington Beach Pier, Main

Street, Pier Plaza, 6th Street Parking lot, and City Parking Spaces and the Area may vary from year-to-year, and will be specified in that year's particular Specific Event Permit.

2.2 "Branding" means the promotion of the Event by means of advertising and distinctive design, including but not limited to trademarks and copyrights associated with the Event.

2.3 "Business day" means a day on which City Hall is open for business.

2.4 "City Parking Spaces" refers to those public parking spaces located at the Pier Plaza and amphitheater parking (Sixth St.) lots, City beach parking lots (from Seventh Street to Beach Boulevard), Huntington Beach City Hall parking lots (if available), and Main St. parking garage, which are available for public use and not already encumbered or reserved by a law enforcement agency (to provide law enforcement for an Event), or a business or organization lease as of May 9, 2023 (such as the valet spaces reserved and leased by Duke's Restaurant located at 317 Pacific Coast Hwy, Huntington Beach, CA 92648).

2.5 "Event," or "Pacific Airshow," refers to an annual multiday showcase of military and civilian airshow performances in Huntington Beach occurring in the Fall. Additional activities that may take place as part of the Event include (but are not limited to) a boat-race around Catalina Island, on-sand entertainment, music and other entertainment. The Event may also include, at the option of Pacific Airshow, a multiday music festival. Any multiday music festival shall be during the dates of the Event and shall be subject to the same terms as the overall Event, including section 11 herein. Pacific Airshow will notify the City and obtain any additional permits at least ninety (90) days before the Event. The Event is typically held in the Fall of each year and is anticipated to be held for three days with additional days of practice activities as required by the civilian and military performers (exclusive of the multiday music festival). The Event is promoted, managed, owned and operated by Pacific Airshow, and hosted by City, pursuant to both the terms of this Agreement as well as an applicable Specific Event Permit. Pacific Airshow will apply for a Specific Event Permit each year prior to conducting an Event.

2.6 "Event Participant" means a person, business or organization that performs, provides services for (inclusive of Vendors), or is showcased in the Event, with the approval of the Pacific Airshow, including but not limited to aircraft pilots and their respective teams.

2.7 "Unified Command" may include, but is not necessarily limited to, Huntington Beach Police Department, Huntington Beach Fire Department, Huntington Beach Marine Safety, City Attorney, FBI, FAA, and Coast Guard.

2.8 "Vendor" means any Event participant, performer, service provider, exhibitor or any other persons, businesses and organizations, who are authorized by Pacific Airshow, to offer a product or service, for sale or for giveaway, to Event attendees, and/or engage in some form of promotion to Event attendees, at the Event.

3. PERMIT:

3.1 Grant. As contemplated in Section 2 of the Settlement Agreement, City grants a temporary permit to Pacific Airshow to use the Area, during the term provided for in Section 5, , for the Pacific Airshow to manage and operate the Event(s) pursuant to the terms of this Agreement and the annual Specific Event Permit. Pacific Airshow shall have the right to conduct at least one (1) Event per year, on dates selected by Pacific Airshow consistent with the terms of this Agreement and each year Specific Event Permit. Nothing herein shall be construed to require Pacific Airshow to conduct the Event in any year during the Term. The City will not contract with or permit another person or entity to promote or operate the Event(s), or any events of similar nature that include an airshow or aerial performance in the City.

3.2 Disclaimer of Tenancy. Pacific Airshow is not a tenant or lessee or licensee of City and holds no rights of tenancy or leasehold in relation to the Area. Pacific Airshow shall not be considered to have any possessory interest in the Area, in that the City will maintain control and management of the Area at all times pursuant to the Specific Events Permit, and Pacific Airshow's use of the Area will not exclude the general public. In consideration of City's grant of this use of the Area, Pacific Airshow specifically and expressly waives, releases, and relinquishes any and all rights to assert any claim of right, privilege or interest in the Area other than the rights expressly granted by both this Agreement as well as an applicable Specific Events Permit.

3.3 Disclaimer of Liability. Pacific Airshow covenants, agrees and warrants that City is not liable for any loss, damages or injury to the person, or property of any person, whatsoever at any time, occasioned by or arising out of any act or omission of Pacific Airshow, or of anyone acting as the agent, employee, or representative of Pacific Airshow, pursuant to the uses, activities or occupancy provided for by both this Agreement as well as any related Specific Event Permit, except for any loss, damages, or injuries related to or arising out of the City's misconduct or gross negligence.

3.4 Disorderly Persons. City shall have the right to refuse entrance to an Event, or remove and eject from an Event, any person associated with an Event or present at an Event, whose conduct, in the reasonable judgment of the City, is disorderly, disruptive or in violation of any law. The indemnification provisions of this Agreement shall apply to any claim or cause of action arising from such refusal or ejection.

4. TERM AND TERMINATION. As required by the Settlement Agreement, and as specifically modified in this paragraph, this Agreement shall continue in full force and effect for an initial 10-year term starting September 2025 until December 31, 2035, and Pacific Airshow shall have 3 options to renew for additional 5-year terms ("**Term**"). Exercise of the option to renew shall be provided to the City in writing. This option to renew may be exercised by Pacific Airshow, at Pacific Airshow's sole discretion, as early as anytime during the term.

5. Either party may terminate this Agreement if the other party breaches any material term of this Agreement and fails to cure such breach within thirty (30) days following written notice thereof, from the non-breaching party to each party and their counsel. Notwithstanding the foregoing, certain provisions of this Agreement will survive termination

or expiration of this Agreement where the context or express language of the provision so indicates.

6. AERIAL SAFETY. Safety shall be of primary importance for all Events. Anyone who flies in a manner and style not considered to demonstrate good airmanship and safety shall be barred from any further Event activities. Pacific Airshow warrants that Pacific Airshow has the duty to ensure that the safety and good airmanship of all Event performers will be observed at all times, and Pacific Airshow shall take any and all steps necessary, including prohibition of flying, in the event Pacific Airshow determines that good airmanship and safety are being threatened or compromised. In the absence of a Federal Aviation Administration monitor or Pacific Airshow supervision, and when City's Unified Command is of the opinion that the Pacific Airshow is unable to fulfill said requirements of good airmanship and safety, the City shall have the full authority, at no cost or expense to City, as well as at no liability of City to Pacific Airshow, to stop all Event connected activity until the unsafe or unsatisfactory condition is corrected. The City's Unified Command's decisions shall be in writing and must be unanimous. Prior to the Unified Command's issuance of a decision pursuant to this section, Pacific Airshow shall be notified and have the opportunity to participate in the determination by the Unified Command. Any stoppage or modification to any Event connected activity shall be coordinated with Pacific Airshow. Subject to this section 6, 7.4, and 9, no Event or Special Event Permit shall be revoked, modified, or cancelled by the City for any reason.

7. SPECIFIC EVENT PERMIT.

7.1 Requirement. A Specific Event Permit is required for each Event pursuant to Chapter 13.54 of the Huntington Beach Municipal Code. Pacific Airshow shall secure a new Specific Event Permit from the City as a requirement for conducting any Event Subject to section 7.3, there shall be no liability or damages that may be claimed by Pacific Airshow against the City for Pacific Airshow's failure to secure a Specific Event Permit.

7.2 Application. Pacific Airshow shall submit to City for review and approval an application for a Specific Event Permit for each Event desired to be held by Pacific Airshow no less than 90 days and no more than two years before the date proposed for holding a specific Event, notwithstanding any contrary deadlines provided for by the HBMC.

7.3 Processing. The City will not unreasonably deny an application from Pacific Airshow for a Specific Event Permit for a particular Event consistent with the requirements and procedures provided for in Chapter 13.54. The City shall not deny an application from Pacific Airshow for a Specific Event Permit to circumvent this Agreement.

7.4 Suspension or Revocation. As required by the Settlement Agreement, a Specific Event Permit issued by City to Pacific Airshow for an Event may be suspended or revoked upon the written determination by the City's Unified Command of a justifiable health and/or safety issue, provided that Pacific Airshow is notified and consulted prior to any such determination, Pacific Airshow participates in the determination by the City's Unified Command, and any suspension or modification is coordinated with Pacific Airshow.

7.5 In the event of any inconsistency between this Agreement and an applicable Specific Events Permit, this Agreement shall govern; except by mutual agreement of the Parties.

8. EVENT IMPACT.

8.1 Area Restoration. Pacific Airshow, at its sole cost and expense, upon conclusion of an Event shall promptly and timely restore the Area to its condition as existed before the commencement of the Event and any Event activities. Such Area restoration duties of Pacific Airshow include but are not limited to immediate cleaning by the Pacific Airshow of the entire Area as well as immediate removal by Pacific Airshow of all trash and debris generated or caused by the Event and any Event activities.

8.2 Event Damages. Pacific Airshow is responsible for all costs and expenses to repair and/or replace any equipment, facilities or property damaged, including area restoration as provided for in Section 8.1 above, as a result of Pacific Airshow's use and occupation of the Area during the term of an Event. Pacific Airshow shall not be responsible for any expenses, damages, or repairs caused by any third party unless hired by Pacific Airshow.

8.3 Hazardous Substances. Pacific Airshow shall comply with all federal, state, and local laws and regulations relating to hazardous materials and waste, and shall timely comply with the orders of any governmental agencies relating thereto. Pacific Airshow shall at its own cost and expense remove all flammable and hazardous materials and waste as defined by state, federal, or local law immediately at the conclusion of an Event. Pacific Airshow shall make available for inspection to the City available records relating to the maintenance, release, mitigation, and cleanup of any hazardous substances on the premises of the Area arising from or caused by the uses provided for in this Agreement.

9. LICENSES AND OTHER PERMITS. Pacific Airshow shall obtain at its own expense and maintain for any Event throughout the term of the Agreement, in its name, all licenses, permits, approvals, releases and other consents, authorizations and filings ("Licenses") required by any federal, state, local or applicable governmental or regulatory body (i.e. the California Coastal Commission, the California State Lands Commission, the California Department of Transportation and the Federal Aviation Administration) required for conducting each Event, and shall timely provide copies of all such valid Licenses to the City prior to the commencement of any Event. If Pacific Airshow is unable to obtain any one or more Licenses necessary to conduct the Event, and the Event must be cancelled or postponed, the City shall not be liable for any damages, however so incurred, by Pacific Airshow by reason of failure to obtain License(s).

9.1 Other Agency Permits and Licenses. City may only issue a Specific Event Permit for areas within City jurisdiction; any permit, license or permission for use of land area or air space outside of City jurisdiction must be requested by Pacific Airshow with the relevant outside agency. Approved site maps pursuant to a Specific Event Permit will only constitute approval of the City's portion of the submitted plans. It is the responsibility of Pacific Airshow to timely acquire any permits, licenses or permissions from any other local, state, or federal agency with jurisdiction over any portion of an Event location. Pacific Airshow expressly agrees

that City bears no responsibility or liability for cancelation, event stoppages, closures, delays, changes, or any other condition caused by any other agency with jurisdiction over the Event or any portion of an Event location.

9.2 FAA Waiver or Authorization. Pacific Airshow shall provide written verification to City that a valid Certificate of Waiver or Authorization for all phases of the Event has been timely obtained and approved by the Federal Aviation Administration prior to any Event held in the City pursuant to the terms of this Agreement and an applicable Specific Events Permit.

9.3 Alcohol. Pacific Airshow shall timely provide copies to City of valid licenses from the Department of Alcoholic Beverage Control as mandated by law as a requirement for any use, that is regulated or controlled by such department, pursuant to this Agreement or an applicable Specific Event Permit.

9.4 Vendors. Pacific Airshow shall timely provide copies to City of valid business licenses for all Vendors participating in each Event as a requirement for participating in such Event. Pacific Airshow shall also timely provide copies of valid Orange County Environmental Health permits from the Orange County Health Care Agency for all Food Vendors as a requirement for such Food Vendors to participate in an Event.

10. CERTAIN PACIFIC AIRSHOW OBLIGATIONS.

10.1 Pacific Airshow shall comply throughout the term of the Agreement with all applicable federal, state and local laws and regulations, as well as all applicable rules and regulations established by the City or prior agreements between the City and third parties, both in effect as of the Effective Date and as both enacted and amended from time-to-time.

10.2 Event Participant Liability Waivers. Pacific Airshow shall ensure that each Event Participant executes a hold harmless liability waiver prior to the start of the Event, in a form to be drafted by the City, pursuant to which Event Participant assumes the risk of injury, damages, or death, and releases the City from all liability in connection with the Event.

10.3 Public Trust. Pacific Airshow expressly acknowledges that part of the Area for an Event premises may be subject to the Public Trust and must be made available to members of the public for recreation, waterborne commerce, navigation, fisheries, open space, and any other recognized Public Trust uses. Further, in no event shall public access be in any way prohibited or restricted beyond the City's jurisdiction including seaward of the mean high tide mark without permission and any required permits of other local, state or federal agencies with jurisdiction. Access to the Pier may not be otherwise impeded without proper approval. Use of the Pier may not be restricted except as set forth herein, within an applicable Specific Use Permit, and pursuant to applicable law.

10.4 Fire Protection and Aircraft Rescue Equipment. In the event aircraft rescue becomes necessary, the City shall continue to provide its public safety services, while Pacific Airshow shall be responsible for any aircraft salvage as are deemed necessary.

10.5 Evacuation and Safety Plan. Pacific Airshow shall in consultation with the Unified Command develop an Evacuation and Safety plan for the Event that addresses and mitigates any potential threats to public safety that may reasonably arise from the conduct of an Event, that shall be approved by the Unified Command no later than 10 days prior to the commencement of any Event.

10.6 Limited License to Use Event Branding. Pacific Airshow hereby grants to City the limited, revocable, non-assignable, non-sublicensable, non-exclusive license to use and deploy, during the term, Branding for each Event, in all reasonable forms for advertising and marketing, but only to the extent related to promotion of an Event, and subject in each instance to Pacific Airshow's prior written approval, which will not be unreasonably withheld by Pacific Airshow.

10.7 Operations, Equipment and Personnel. Except as otherwise provided for by this Agreement or an applicable Specific Events Permits, Pacific Airshow shall provide for (or cause to be provided) all Event-related equipment, supplies, personnel (including volunteers), training of personnel (including volunteers), Event manuals/programs, Event set-up and tear down, and all other technical and operational aspects of the Event. City shall provide, at the City's costs, all waste, sanitary, and first aid facilities as are deemed necessary by the Orange County Health Care Agency.

10.8 Event Costs. Except as otherwise provided for by this Agreement or an applicable Specific Events Permits, Pacific Airshow shall be solely responsible for all expenses and costs necessary for the promotion, management and operation of an Event.

10.9 Local Suppliers. Pacific Airshow shall, to a reasonable extent possible and in compliance with applicable laws, use local suppliers for the promotion, management and operation of an Event.

10.10 Pacific Airshow shall provide City with the following:

10.10.1 space for City usage from which City may promote City, such as a booth at an Event location to be determined by Pacific Airshow at Pacific Airshow's sole discretion; and

10.10.2 signage (advertising only the City and paid for by the City) at certain locations throughout the Area to be determined at Pacific Airshow's sole discretion; and,

10.10.3 placement of City's logo on any Event-related material produced by Pacific Airshow at the sole discretion of the Pacific Airshow; and,

10.10.4 placement of City's logo and City's banner advertisements on all Event websites managed or controlled by Pacific Airshow at Pacific Airshow's sole discretion. City's brand guidelines shall be provided by City to Pacific Airshow.

11. CERTAIN CITY OBLIGATIONS As required by the Settlement Agreement:

11.1 Annual Event. As set forth herein, Pacific Airshow shall have the right to conduct at least one Event per year on dates selected by Pacific Airshow pursuant to the terms and conditions contained in this Agreement. City will work with Pacific Airshow to accommodate the requested dates. To mitigate any potential concerns with the Bolsa Chica Ecological Reserve, including any nesting seasons, the Event will not be conducted between March 15th and September 15th of each year.

11.2 Environmental Review. City at its sole cost and expense, has completed the environmental review process in compliance with the California Environmental Quality Act (CEQA) for the Event and all future events covered within the scope of the Environmental Impact Report (EIR). City will make available to Pacific Airshow the technical studies, reports and work product generated as part of the CEQA process. Once the EIR is certified and the challenge period is over, any future CEQA requirements necessitated by a substantive change in scope made by Pacific Airshow shall be at the sole cost and expense of Pacific Airshow.

11.3 Future Environmental Review and Compliance. The existing Environmental Impact Report analyzed the impacts of the Event for 10 years. Any additional environmental review or compliance, including monitoring or mitigation, necessary pursuant to CEQA within the scope of the existing Project/EIR, shall be paid by the City. If the scope of the Project analyzed pursuant to CEQA changes Pacific Airshow shall pay for all such costs associated with such changes.

Any compliance, monitoring, or mitigation measures, imposed by any regulatory agency including without limitation, mitigation measures, imposed by the Coastal Commission/Coastal Development Permit shall be paid by Pacific Airshow.

The City will indemnify, hold harmless, and defend Pacific Airshow from any claims, suits, damages, or costs (including attorney's fees) to third parties arising out of or in connection with CEQA compliance caused, or undertaken by City.

City shall not be liable for any damages, however so incurred, by Pacific Airshow by reason of a lawsuit challenging the environmental review or any provisions of this Agreement.

11.4 Parking. Pursuant to Section 2 b. ii. of the Settlement Agreement as modified herein, City grants Pacific Airshow the exclusive use of and right to monetize the City Parking Spaces, at no cost to Pacific Airshow, during the dates of the Event(s). For clarification purposes, during the dates of an Event, the City Parking Spaces includes any City Parking Spaces Pacific Airshow elects to use or monetize. Pacific Airshow shall also have the exclusive use of up to 600 City Parking Spaces, at no cost to Pacific Airshow, for 14 days prior to dates of an Event for load-in, and 12 days following dates of an Event for load-out as required by Pacific Airshow's operational needs related to an Event (inclusive of any embedded multi-day musical festival). Pacific Airshow shall have discretion over where the operational parking is to be allocated and be granted the exclusive right to operate the Huntington Street entrance to the beach parking lots as required by their operational needs. Should Pacific Airshow require additional parking above and beyond this allocation, the price shall be set at \$10 per City Parking

Space per day. During Pacific Airshow's use of City Parking Spaces pursuant to this Agreement, the City shall staff the parking lots with personnel and kiosk attendants at City's expense.

11.5 Beginning in 2030, the City will retain the rate of \$10 per space for each parking space actually sold by Pacific Airshow, up to the total number of City Parking Spaces available for sale by Pacific Airshow for each Event year. The \$10 per space retained by the City shall be automatically increased by the Consumer Price Index each year starting in 2031.

11.6 RV Camping. City grants Pacific Airshow the exclusive use of, control of, and right to monetize any RV Camping in/of the City Parking Spaces, where such RV Camping is allowed by law, at no cost to Pacific Airshow, during the dates of an Event. Additionally, Pacific Airshow shall have the exclusive use of up to 15 RV camping spaces for 14 days prior to the dates of an Event for load-in and 12 days following dates of an Event for load-out, as required by Pacific Airshow's operational needs. The City shall work with Pacific Airshow to ensure that public camping reservations do not interfere with Pacific Airshow's use and operational needs of the RV camping lot. During Pacific Airshow's use of RV Camping Spaces pursuant to this Agreement, the City shall staff the lots with personnel and kiosk attendants at City's expense. Beginning in 2030, the City will retain a rate of \$100 per RV space for each RV parking space actually sold by Pacific Airshow. The \$100 per space retained by the City shall be automatically increased by the Consumer Price Index each year starting in 2031.

11.7 Fees and Costs.

11.7.1 Pursuant to section 2 b. (iv) of the Settlement Agreement, City shall waive and not require Pacific Airshow to pay City fees and costs (including but not limited to, all public safety fees [marine safety, police, fire, etc.], application fees, permit fees, beach maintenance fees, setup & take-down fees, banner placement fees, public works, electrician/electrical, and restroom maintenance/cleaning fees, road and street closure fees, pollution prevention fees, etc.) for Pacific Airshow for any such fees and costs incurred in connection with an Event.

11.7.2 City shall assist Pacific Airshow in mitigating all 3rd party fees related to public safety and permits (including OC Sheriff's Department fees, State Park fees, permit fees, etc.), and 3rd party public works, restroom, refuse/trash, and road closure fees, by providing as much of the services as possible from the City's resources and trade relationships to diminish the need for 3rd party services.

11.8 The City shall enact and adopt any necessary rules, policies, and procedures to effectuate the terms and spirit of this Agreement.

12. INSURANCE.

12.1 Insurance Coverages. Prior to Pacific Airshow commencement of any activities under this Agreement or pursuant to a related Specific Event Permit, and without limiting Pacific Airshow's indemnification obligation to City, Pacific Airshow shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, for the duration of the applicable Specific Event Permit, primary policies of insurance of the type and amounts below, issued by an insurance company currently authorized by the Insurance Commissioner to

transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by City, which shall cover the City and all elected and appointed officers, employees and agents of City, as provided for herein. Not more frequently than once each calendar year, if in the opinion of the City the coverages or the limits of insurances described herein are not adequate, Pacific Airshow shall increase the limits and/or provide such additional coverages as required by the City. Pacific Airshow expressly agrees that City bears no responsibility or liability for cancelation, event stoppages, closures, delays, changes, or any other condition or event caused by Pacific Airshow's inability or delay obtaining the required insurance.

12.1.1 Commercial General Liability Insurance. A policy of commercial general liability insurance, with coverage at least as broad as Insurance Services Office ("ISO") form CG 00 01, written on a per occurrence basis for bodily injury, personal injury and property damage. Defense costs must be paid in addition to limits. Coverage for an additional insured shall not be limited to its vicarious liability. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted. Limits shall be no less than \$10,000,000 per occurrence for all covered losses and no less than \$10,000,000 general aggregate.

12.1.2 Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for Pacific Airshow against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by Pacific Airshow in the course of carrying out the work or services contemplated in this Agreement or arising under this Agreement.

12.1.3 Aircraft Liability. A policy of comprehensive aircraft liability insurance written on a per occurrence basis covering bodily injury and property damage in an amount not less than \$1,000,000 combined single limit for each accident. Said policy shall be obtained by the performers and shall include coverage for owned, non-owned, leased, hired aircraft and any aircraft

12.1.4 Subcontractors. In the event Pacific Airshow subcontracts any portion of the promotion, management or operation of an Event, Pacific Airshow shall either: 1) include each subcontractor as insureds under its policies of insurance required herein; or, 2) Pacific Airshow shall furnish to City all documentation, required herein for Pacific Airshow, for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

12.2 General Insurance Requirements.

12.2.1 Proof of Insurance, Enforcement and Notice. No activities under this Agreement shall commence until both Pacific Airshow has provided City with insurance certificates, endorsement forms and appropriate insurance binders evidencing the above insurance coverages, as well as said documentation is approved by City. City reserves the right

to inspect complete, certified copies of, and endorsements to, all required insurance policies, at any time. Any failure to comply with the reporting or other provisions of the policies, including breaches or warranties, shall not affect coverage provided to City. In the event any insurance policy required under this Agreement is cancelled or amended (and the insurance policy is not replaced pursuant to Section 12.2.2 below), or does not comply with the requirements herein, then: 1) City has the right but not the duty to obtain insurance required herein and any premium paid by City will be promptly reimbursed by Pacific Airshow; or, 2) City, notwithstanding any other provisions of this Agreement, may immediately terminate this Agreement and/or revoke the applicable Specific Event Permit, at the sole discretion of the City. Pacific Airshow shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Pacific Airshow's actions or inactions under this Agreement, and that involve or may involve coverage under any of the required insurance policies.

12.2.2 Cancellation/Amendment. All of herein required policies of insurance shall provide the insurance may not be amended or cancelled by insurer or any Party hereto without providing thirty (30) calendar days prior written notice (with exception of ten (10) calendar days prior written notice for nonpayment) to City. In the event any of said policies of insurance are amended or cancelled, Pacific Airshow shall, five (5) business days prior to the cancellation date, submit new evidence of insurance in conformance with this Agreement to City.

12.2.3 Additional Insureds. All of the insurance policies herein provided for shall name City and its elected and appointed officers, employees and agents ("**City Parties**") as additional insureds and such coverage shall contain no special limitations on the scope of protection afforded to City and City Parties. A severability of interests provision must apply to all additional insureds ensuring that Pacific Airshow's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability, and policies of insurance shall not contain any cross-liability exclusions.

12.2.4 Primary, Subrogation, Contribution and Coverage. All of the above policies of insurance shall be primary insurance, except for any claims arising out of City's breach of this Agreement, misconduct or negligence, in which case, City's policies of insurance shall be primary. The insurers for above policies, Pacific Airshow and any subcontractors are all deemed hereof to waive all rights of subrogation and contribution they may have against City or City Parties, and their respective insurers, and all insurance policies required herein shall be endorsed to waive such rights. For any claims arising out of Pacific Airshow's breach of this Agreement, misconduct or negligence, any insurance maintained by City or City Parties will apply in excess of, and not contribute with, Pacific Airshow's insurance. If Pacific Airshow maintains broader coverage and/or higher limits than the minimum amounts provided herein, City requires and shall be entitled to the broader coverage and/or higher limits maintained by Pacific Airshow. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City and City Parties. None of the coverages required herein will be in compliance with this Agreement if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing. Requirements of specific coverage features or limits contained herein are not intended as a limitation on coverage, limits or other requirements, or a waiver of any

coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any Party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

12.2.5 Limitations, Self-Insured Retention and Deductibles. Pacific Airshow agrees that requirements herein shall not be construed as limiting in any way the extent to which Pacific Airshow may be held responsible for the payment of damages to any persons or property resulting from Pacific Airshow's activities or the activities of any person or persons for which Pacific Airshow is otherwise responsible nor shall it limit Pacific Airshow's indemnification liabilities as provided herein. All insurance policies must specify that where the primary insured does not satisfy any self-insured retention, any additional insured may satisfy the self-insured retention. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City and City Parties, or Pacific Airshow shall procure a bond guaranteeing payment of losses and related investigations, claim administration, attorney's fees, defense expenses and claims.

13. INDEMNITY.

13.1 General Obligations. Pacific Airshow agrees, to the full extent permitted by law, to indemnify, protect, defend and hold harmless City (inclusive of City's subsidiaries, , and elected and appointed officers), its employees and agents (and each of their respective directors, officers, employees, contractors, volunteers, representatives, and agents) (each an "**Indemnitee**" and collectively, "**Indemnites**") against, and will hold and save them and each of them harmless from, whether actual or threatened, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein "**Claims or Liabilities**") that may be asserted or claimed by any person, firm or entity directly arising out of, the work, operations or activities provided herein of Pacific Airshow, its officers, employees, agents, or subcontractors, or invitees, or any individual or entity for which Pacific Airshow is legally liable (each an "**Indemnitor**" and collectively, "**Indemnitors**"), or arising from Indemnitors' reckless or willful misconduct, or arising from Indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement or of an applicable Specific Event Permit, and in connection therewith: 1) Pacific Airshow will defend any action or actions filed or threatened in connection with any such Claims or Liabilities. and, 2) Pacific Airshow will promptly pay any judgment rendered against Indemnitee(s) for any such Claims or Liabilities and will save and hold Indemnitee(s) harmless therefrom. Notwithstanding anything herein, Pacific Airshow shall have no duty to indemnify the Indemnites if the Claims or Liabilities arise out of or in connection with (1) the negligence or misconduct of any third party or (2) any of the Indemnites' breach of this Agreement, reckless or willful misconduct, or gross negligence.

13.2 Further Provisions. The indemnity obligation herein shall be binding on successors, assigns and heirs of Pacific Airshow and shall survive termination of this Agreement. Failure of City and/or City Parties (collectively "City" for solely this Section 13.2) to monitor compliance with any of the indemnification provisions herein shall not be a waiver hereof. The indemnification provisions herein do not apply to Claims or Liabilities occurring as a result of

City's negligence or willful misconduct. The indemnification provided herein includes Claims or Liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Indemnitors, both arising from Event activities, as well as in the performance of this Agreement and the applicable Specific Event Permit. In the event of any dispute between Pacific Airshow and City, as to whether liability arises from the negligence or willful misconduct of City, each Party will be obligated to pay for its own defense until such time as a final judgment has been entered adjudicating each Party's fault.

14. ASSIGNMENT, TRANSFER. The benefits under this Agreement shall be granted to and inure to Pacific Airshow, and any affiliate, assignee, transferee, subsidiary or parent of Pacific Airshow, as designated by Pacific Airshow and approved by the City ("Pacific Airshow's Designee"). Pacific Airshow shall have the right to assign or transfer the rights and interest under this Agreement to a party of Pacific Airshow's designation, i.e., Pacific Airshow's Designee, who must be approved by the City. Such approval by the City shall not be withheld, unless five or more of seven members of the City Council vote to withhold approval. In the event Pacific Airshow notifies City in writing with the name of Pacific Airshow's proposed designee, and the City does not respond to such designation in writing within 45 days of the notification, Pacific Airshow's proposed designee shall be deemed approved by the City. Notification to City by Pacific Airshow shall be in writing to the City Attorney, the City Manager, and each of the members of the City Council.

15. NOTICES.

15.1 Any notice or other communication either Party desires or is required to give to the other Party or any other person in regards to this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, as follows:

If to City:	City of Huntington Beach 2000 Main Street Huntington Beach, CA 92648
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If to Pacific Airshow:	Pacific Airshow, LLC 5252 Bolsa Avenue Huntington Beach, CA 92649
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15.2 Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

16. FORCE MAJEURE. In the event either Party is prevented from performing any of its obligations, under either this Agreement or an applicable Specific Event Permit, by reason

of any event outside of such Party's control, including, without limitation, fire, weather, unsafe conditions, volcano, explosion, flood, landslide, epidemic, acts of nature, war, terrorism, or other hostilities, strike, civil commotion, domestic or foreign governmental acts, orders, or regulations ("**Force Majeure Event**"), then such obligations of such Party during the duration of such Force Majeure Event, and for a reasonable time thereafter, will be suspended. In the case of cancellation of an Event due to a Force Majeure Event, the Parties agree to negotiate a date to reschedule such Event if practicable. If such canceled Event cannot reasonably be rescheduled or relocated within the City, neither Party shall be deemed to be in breach of this Agreement solely because of such cancellation. Neither any such cancellation, rescheduling, or relocation, nor the inability to reschedule or relocate, will, by itself, cause this Agreement to terminate.

17. RELATIONSHIP OF THE PARTIES. The Parties are acting herein solely as independent contractors. Nothing herein contained will create or be construed as creating a partnership, joint venture, or agency relationship between the Parties. Each Party acknowledges and agrees that it neither has nor will give the appearance or impression of having any legal authority to bind or commit the other Party in any way. Each Party will be solely responsible for all wages, income taxes, worker's compensation, and any other requirements for all personnel it supplies in connection with this Agreement.

18. GOVERNING LAW. Notwithstanding the place where this Agreement may be executed by either Party, this Agreement and any claim, controversy, dispute or other matter arising hereunder or related hereto (whether by contract, tort or otherwise) shall be governed in accordance with the laws of the State of California, without regard to the conflict of laws provisions thereof that would result in the application of the laws of any other jurisdiction. In any litigation arising out of or relating to this Agreement, the Parties agree that venue shall be solely in either the United States District Court, Central District of California, or a California state court located in Orange County, California.

19. ATTORNEY'S FEES. If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall NOT be entitled to attorney's fees.

20. MUNICIPAL POWERS. Nothing contained in this Agreement shall be construed as a limitation upon the powers and authority of City as a Chartered City of the State of California.

21. RIGHTS AND REMEDIES. The rights and remedies provided by this Agreement are given in addition to any other rights and remedies either Party may have by law, statute, ordinance or otherwise. All such rights and remedies are intended to be cumulative, and the use of any one right or remedy by either Party shall not preclude or waive its right to any or all other rights or remedies.

22. TIME IS OF THE ESSENCE. Time is of the essence in the performance of each and every provision contained within this Agreement.

23. DEFAULT. Upon default by either Party in performance of any of the terms and conditions required by this Agreement, the non-defaulting Party may give notice to the defaulting Party and the reasons for the default. The written notice shall include the timeframe in which the defaulting Party may cure the default. This timeframe is presumptively five (5) business days, but may be extended, or reduced, if circumstances warrant, as determined by the non-defaulting Party. Circumstances warranting an immediate timeframe to cure include, but are not limited to, when a default involves either public safety or immediate waste or damage to property. Any failure on the part of the non-defaulting Party to give notice of the default shall not be deemed to result in a waiver of non-defaulting Party's legal rights or any rights arising out of any provision of this Agreement.

24. NO ORAL OR IMPLIED WAIVERS OR MODIFICATIONS. If either Party fails to enforce any of the provisions of this Agreement or any rights hereunder or fails to exercise any election provided in this Agreement, it will not be considered to be a waiver of those provisions, rights or elections or in any way affect the validity of this Agreement. The failure of either Party to exercise any of these provisions, rights or elections will not preclude or prejudice such Party from later enforcing or exercising the same or any other provisions, rights or elections which it may have under this Agreement. No waiver will be of any force or effect unless set forth in a writing signed by the Party whose right is being waived. Subject to the immediately preceding sentence, no modifications to this Agreement will be binding upon the Parties unless modified, amended, cancelled, renewed, or extended in a writing signed by both Parties.

25. ENTIRE AGREEMENT. This Agreement (including all exhibits hereto) sets forth the entire agreement and understanding of the Parties relating to the subject matter hereof, and, with respect to such subject matter, supersedes and replaces all prior agreements, arrangements and understandings, written or oral, between the Parties. Except as may be expressly set forth herein, there are no promises, conditions, representations, understanding, interpretations or terms of any kind as conditions or inducement to the execution hereof or in effect between the Parties. Notwithstanding anything herein, and except for provisions in express conflict with this Agreement, the Settlement Agreement and General Release dated May 9, 2023, entered between the Parties, shall remain a separate and binding and enforceable contract between the Parties.

26. INTERPRETATION. The section headings included in this Agreement are for convenience of reference only and will not affect or be utilized in construing or interpreting this Agreement. If any term, clause or provision hereof is held invalid or unenforceable by an arbitrator or a court of competent jurisdiction, such invalidity will not affect the validity or operation of any other term, clause or provision and such invalid term, clause, or provision will be deemed to be severed from this Agreement. Neither this Agreement nor any provision herein will be construed in favor or against either Party based on which Party drafted this Agreement or such provision.

27. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES. No officer or employee of City shall be personally liable to Pacific Airshow, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Pacific

Airshow or to its successor, or for breach of any obligation of the terms of this Agreement or of an applicable Specific Event Permit.

28. COVENANT AGAINST DISCRIMINATION. Pacific Airshow covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of age, sex, race, color, religion, ancestry, national origin or other protected class in the performance of the activities and uses provided for by this Agreement.

29. COUNTERPARTS. This Agreement may be executed in counterparts, each of which will be deemed an original binding document but all of which will constitute one and the same instrument.

30. CORPORATE AUTHORITY. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) entering into this Agreement does not violate any provision of any other agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, City and Pacific Airshow have executed this Agreement to be effective as of the Effective Date.

CITY:
CITY OF HUNTINGTON BEACH,
a California municipal corporation and Charter
City

Mayor, City of Huntington Beach

APPROVED AS TO FORM:

Mike Vigliotta
City Attorney, City of Huntington Beach

PACIFIC AIRSHOW:
PACIFIC AIRSHOW, LLC, a California limited
liability company

[Name] _____
[Title] _____

[Name] _____
[Title] _____

APPROVED AS TO FORM:

Attorney for Pacific Airshow, LLC