

Legislation Meeting Agenda



Committee Chair: Colin Smith

800 Michaelian Office Bldg.
148 Martine Avenue, 8th Floor
White Plains, NY 10601
www.westchesterlegislators.com

Monday, September 30, 2024

1:00 PM

Committee Room

Joint w/B & A and PWT

CALL TO ORDER

Please note: Meetings of the Board of Legislators and its committees are held at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601, and remotely via the WebEx video conferencing system. Legislators may participate in person or via Webex. Members of the public may attend meetings in person at any of its locations, or view it online on the Westchester County Legislature's website: <https://westchestercountyny.legistar.com/> This website also provides links to materials for all matters to be discussed at a given meeting.

Joint with Budget & Appropriations committee.

Legislator Emiljana Ulaj will be participating remotely from 520 White Plains Road, Tarrytown, NY 10591.

Legislator Colin Smith will be participating remotely from 1132 Main Street, Suite 1, Peekskill, NY 10566.

Legislator Margaret Cunzio will be participating remotely from 4401 S. King Highway, Myrtle Beach, SC 29575.

MINUTES APPROVAL

Monday, September 23, 2024 at 1:00 p.m.

I. ITEMS FOR DISCUSSION

Guests: Law Dept.: County Attorney John Nonna, Assistant Chief Deputy County Attorney Justin Adin, and Senior Assistant County Attorney Shawna MacLeod; DPW&T: April Gasparri, Director of Aviation, and Brian Hegt, Assistant to the Commissioner

1. [2024-473](#) PH - Amend Ground Lease Agreement with White Plains Aviation

Partners

A RESOLUTION to set a Public Hearing on "A LOCAL LAW authorizing the County of Westchester to amend a ground lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains for space at Westchester County Airport." [Public Hearing set for _____, 2024 at _____ .m.]. LOCAL LAW INTRO: 2024-475.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION, BUDGET & APPROPRIATIONS AND PUBLIC WORKS & TRANSPORTATION

2. [2024-474](#) ENV. RESO. - Amend Ground Lease Agreement with White Plains Aviation Partners

AN ENVIRONMENTAL RESOLUTION determining that there will be no significant adverse impact on the environment from the proposed lease amendment.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION, BUDGET & APPROPRIATIONS AND PUBLIC WORKS & TRANSPORTATION

3. [2024-475](#) LL - Amend Ground Lease Agreement with White Plains Aviation Partners

A LOCAL LAW authorizing the County of Westchester to amend a ground lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains for space at Westchester County Airport.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION, BUDGET & APPROPRIATIONS AND PUBLIC WORKS & TRANSPORTATION

4. [2024-476](#) ACT - Settlement with White Plains Aviation Partners

AN ACT authorizing the County Attorney to settle counterclaims in the federal action entitled White Plains Aviation Partners, LLC, d/b/a/ Million Air White Plains v. County of Westchester.

COMMITTEE REFERRAL: COMMITTEES ON LEGISLATION, BUDGET & APPROPRIATIONS AND PUBLIC WORKS & TRANSPORTATION

II. OTHER BUSINESS

III. RECEIVE & FILE

ADJOURNMENT



George Latimer
County Executive

John M. Nonna
County Attorney

September 10, 2024

Westchester County Board of Legislators
County of Westchester
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Re: Proposed Local Law Regarding Lease Amendment and
Request for Authorization to Settle Counterclaims in *White
Plains Aviation Partners, LLC, d/b/a Million Air White Plains v.
County of Westchester*, No. 21 Civ. 5312 (VB)

Dear Honorable Members of the Board:

Attached for your consideration is (1) a proposed Local Law which, if approved by your Honorable Board, would authorize the County of Westchester ("County") to amend a ground lease agreement with White Plains Aviation Partners, LLC, d/b/a Million Air White Plains ("Million Air") at Westchester County Airport ("Airport"), in order to (among other things) add approximately 7,192 square feet to the Leased Premises, equating to approximately 35 automobile parking spaces; and (2) a proposed Act which, if enacted, would authorize the settlement of four of the County's five counterclaims in the pending litigation between the County and Million Air, as set forth below. The County's remaining counterclaim, along with all of Plaintiff's claims in the litigation, will be dismissed without prejudice subject to the terms of a written interim settlement agreement, as discussed further below.

On May 16, 2016, your Honorable Board adopted Local Law No. 3-2016, which authorized the County to terminate a prior lease with Million Air and enter into a new 30-year ground lease (the "Lease") that allowed Million Air to operate both a Light General Aviation ("LGA") facility and a Full Service Heavy Aircraft General Aviation Fixed Base Operation ("FBO") on approximately 22.4 acres ("Leased Premises") at the Airport. Pursuant to the terms of the Lease, Million Air subsequently constructed a new approximately 50,000 sq. ft. hangar and refurbished terminal building at Million Air's FBO.

Separately, in 2019, the County entered into a license agreement ("License") with Million Air, permitting Million Air to use approximately 7,192 square feet of undeveloped space adjacent to the Federal Aviation Administration tower ("Lot 2") solely for parking vehicles owned by Million Air, its employees, subtenants and service providers, for a term from March 1, 2019, through February 28, 2020. The License was not extended, but Million Air continued to use Lot 2.

On June 16, 2021, Million Air commenced an action in federal court, alleging that the County breached certain terms of the Lease. Boiled down, Million Air claimed, among other things, that the County unreasonably withheld approval for Million Air to construct a proposed approximately 78,000 square foot hangar for heavy general aviation on its Leased Premises. Million Air sought a Court order directing the County to approve construction of the proposed hangar, along with “millions of dollars in damages.”

When the County answered Million Air’s operative complaint in October 2022, it denied any allegation that the County unreasonably withheld approval to build the proposed hangar. In addition, the County asserted five counterclaims against Million Air: breach of contract (1) under Lease section 3.1 for keeping a T-Hangar (known as T-Hangar 25) out-of-service; (2) under Lease sections 5.3 and 9.6 for failing to maintain and repair T-hangar 25, and for failing to restore it to a serviceable condition; (3) under Lease sections 7.1 and 11.1 for using T-hangar 25 for non-aeronautical purposes; (4) under Lease sections 13.8 and 13.9 for failing to obtain the County’s prior written consent to sublease a lounge to Blade Urban Air Mobility, Inc.; and (5) under Lease Article 1 and the 2019 License, for Million Air’s failure to surrender Lot 2 following the License’s expiration.

During the course of the litigation, Million Air restored T-hangar 25 to service, which has been confirmed by the Airport Manager and the County’s Department of Public Works and Transportation. This T-hangar restoration resolves three of the County’s five counterclaims—Counterclaims One, Two, and Three—as each was premised on the T-hangar’s being inoperable. The proposed Act presented herewith, if adopted by the Board, would allow for the dismissal of each of these three Counterclaims with prejudice.

Additionally, the parties have negotiated a Lease Amendment which, as more fully discussed below, will, among other things, add Lot 2 to Million Air’s Leased Premises and will require Million Air to pay the County for its past use of the parking area. If the Lease Amendment is authorized by the Board pursuant to the Local Law enclosed herewith, then this will dispose of a fourth counterclaim of the County’s—Counterclaim Five.

As mentioned, the Lease Amendment will add Lot 2 to the Leased Premises. In consideration of this amendment, Million Air will pay the County \$77,083.25 for the past use of the parking area. In addition, the annual rent on the FBO will increase by \$15,678.56 commencing retroactively to February 1, 2024. The annual rent on the entire Leased Premises, inclusive of Lot 2, will be subject to increases as specified in the Lease. Million Air will remain responsible for the maintenance, repairs, snow and ice removal, and environmental compliance of Lot 2, to the extent that Million Air is responsible under the Lease for maintaining the balance of the Leased Premises.

Also as part of this Lease Amendment, Million Air will agree to maintain T-hangar 25 on the Leased Premises and T-hangar 25’s associated ramp for LGA use, and Million Air will also continue to provide no fewer than 39 tie-down spaces for 39 LGA aircraft. All remaining terms and conditions of the Lease will remain unchanged. The terms of the Lease Amendment will be in substantially the same form as the draft amendment attached to the proposed Local Law.

Accordingly, if the proposed Lease Amendment is approved, then the Act enclosed herewith, if adopted, would also permit the County to dismiss Counterclaim Five regarding the License with prejudice.

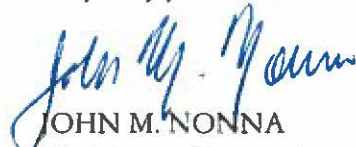
With respect to the remaining issues in the litigation, the parties have agreed that if the Lease Amendment is approved and executed, and the County's four Counterclaims are dismissed with prejudice, then the parties will dismiss all other claims and counterclaims currently pending in the litigation without prejudice, subject to the terms of a written interim settlement agreement between the parties, to allow for further discussions without the expenditure of litigation costs and expenses.

It is also important to note that the County withdrew a Short Form Environmental Assessment ("EA") under the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321, *et seq.*, to the Federal Aviation Administration (the "FAA"), which covered both previously constructed facilities, and Million Air's proposed 78,000 sq. ft. hangar, and substituted a revised Standard EA covering the already constructed 50,000 sq. ft. hangar and terminal building. In the interim settlement agreement, Million Air acknowledges that this new EA will remain the operative EA before the FAA until a Finding of No Significant Impact FONSI is issued regarding the already constructed facilities.

The interim settlement also provides the County with an express reservation of rights concerning any and all objections the County may have regarding Million Air's request to construct a new approximately 78,000 hangar on the Leased Premises. Finally, the interim settlement agreement states explicitly that nothing shall obligate the County Board to act in a specific manner concerning Million Air's request to build the proposed hangar and/or regarding any proposed corresponding lease amendment that may come before the Board.

I recommend adoption of the enclosed Proposed Local Law and Act.

Very truly yours,



JOHN M. NONNA
Westchester County Attorney

JMN/scm

BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a communication from the County Attorney transmitting a proposed Local Law that would authorize the County of Westchester ("County") to amend a ground lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains ("Million Air") for approximately 22.4 acres ("Leased Premises") at Westchester County Airport ("Airport"), in order to add approximately 7,192 square feet to the Leased Premises, equating to approximately 35 automobile parking spaces.

On May 16, 2016, your Honorable Board adopted Local Law No. 3-2016 that authorized the County to terminate a prior lease with Million Air and enter into a new 30-year ground lease (the "Lease") that allowed Million Air to operate both a Light General Aviation ("LGA") facility and a Full Service Heavy Aircraft General Aviation Fixed Base Operation ("FBO") on the Premises. Pursuant to the terms of the Lease, Million Air subsequently constructed a new FBO hangar and a terminal building.

Your Committee has been advised that the Lease provides that on that portion of the Premises utilized for LGA purposes, Million Air pays the County a percentage of gross revenue generated there, with the percentage increasing every five years of the lease term. On the FBO portion, the initial rental is at the rate of \$1.00 per square foot over an area of six (6) acres for a total of \$261,360.00 yearly, payable in equal monthly installments. Commencing in the forty-third (43rd) month after the commencement date, the annual rent in connection with the FBO will increase to the rate of \$1.85 per square foot over an area of nine (9) acres for a total of \$725,274.00 yearly. The Lease provides for

annual rent increases thereafter. Million Air is responsible for all utility costs, heating oil, water and real estate taxes.

Your Committee has been advised that, in addition to the Lease, the County entered into a license agreement with Million Air permitting it to use approximately 7,192 square feet of undeveloped space adjacent to the Federal Aviation Administration tower ("Lot 2") solely for parking vehicles owned by Million Air, its employees, subtenants and service providers, for a term from March 1, 2019 through February 28, 2020. The license agreement was not extended but Million Air continued using Lot 2.

The County now requests the authority of your Honorable Board to amend the Lease in order to add Lot 2 to the Leased Premises. In consideration of this amendment, Million Air will pay the County \$77,083.25 for the past use of the parking area. In addition, the annual rent on the FBO will increase by \$15,678.56 commencing retroactively to February 1, 2024. The annual rent on the entire Leased Premises, inclusive of Lot 2, will be subject to increases as specified in the Lease. Million Air will remain responsible for the maintenance, repairs, snow and ice removal, and environmental compliance of Lot 2, to the extent that it is responsible under the Lease for maintaining the balance of the Leased Premises. As part of this lease amendment, Million Air will also agree to maintain the T-hangar on the Leased Premises (identified as T-25) and its associated ramp for LGA use, and continue to provide no fewer than 39 tie-down spaces for 39 LGA aircraft. All remaining terms and conditions of the Lease will remain unchanged. The terms of the lease amendment will be in substantially the same form as the draft amendment attached to the proposed Local Law.

The Department of Planning has advised that based on their review, this is an Unlisted Action, pursuant to Part 617 of the New York State Environmental Quality Review Act ("SEQRA"). A Resolution and Environmental Assessment Form ("EAF") are attached to assist your Honorable Board in complying with SEQRA. Your Committee has carefully considered the EAF and the applicable SEQRA regulations. For the reasons set forth in the attached EAF, your Committee believes that this proposed action will not have any significant adverse impact on the environment and accordingly recommends passage of the annexed Resolution prior to enacting the Local Law authorizing the County to amend the lease.

Your Committee has been advised that an affirmative vote of two-thirds of all members of your Honorable Board is required to adopt the annexed Local Law. Your Committee has carefully considered the legislation and urges your Honorable Board to adopt the annexed Local Law authorizing an amendment to the Lease.

Dated: , 2024

White Plains, New York

COMMITTEE ON

c:dlv 7-15-2024

FISCAL IMPACT STATEMENT

SUBJECT: WP Aviation Partners Amended Lease ☐ NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

☐ GENERAL FUND

☒ AIRPORT FUND

☐ SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense

Total Current Year Revenue \$ 19,598

Source of Funds (check one): ☒ Current Appropriations ☐ Transfer of Existing Appropriations

☐ Additional Appropriations

☐ Other (explain)

Identify Accounts: 161-44-4110-9096

Potential Related Operating Budget Expenses:

Annual Amount

Describe:

Potential Related Operating Budget Revenues:

Annual Amount \$19,598 (2024)

Describe: A Local Law authorizing the County of Westchester to amend a ground lease

agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains

for an increase in rent for space at Westchester County Airport.

Anticipated Savings to County and/or Impact on Department Operations:

Current Year:

Next Four Years: 2025 - 2028 \$31,257 per year; 2029 \$26,130

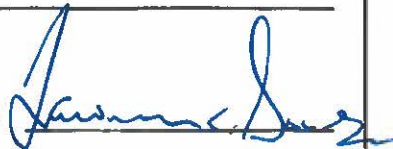
\$15,679, thereafter

Prepared by: Debra Ogden

Title: Sr. Budget Analyst

Department: Budget

Date: July 15, 2024

Reviewed By: 

Budget Director

Date: 7/15/24

RESOLUTION NO. - 2024

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. -2024 entitled "A LOCAL LAW authorizing the County of Westchester to amend a ground lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains for space at Westchester County Airport". The public hearing will be held at m. on the day of , 2024 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

RESOLUTION NO. - 2024

WHEREAS, there is pending before this Honorable Board a Local Law to authorize the County of Westchester to amend a ground lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains for space at Westchester County Airport; and

WHEREAS, this Honorable Board has determined that the proposed lease amendment would constitute an action under Article 8 of the Environmental Conservation Law, known as the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, pursuant to SEQRA and its implementing regulations (6 NYCRR Part 617), this project is classified as an "Unlisted action," which requires this Honorable Board to make a determination as to whether the proposed action will have a significant impact on the environment; and

WHEREAS, the County of Westchester is the only involved agency with discretionary authority for this action and, therefore, is assuming the role of Lead Agency for the environmental review of this project; and

WHEREAS, in accordance with SEQRA and its implementing regulations, a Short Environmental Assessment Form has been prepared to assist this Honorable Board in its environmental assessment of this proposed action; and

WHEREAS, this Honorable Board has carefully considered the proposed action and has reviewed the attached Short Environmental Assessment Form and the criteria set forth in Section 617.7 of the implementing regulations and has identified the relevant areas of environmental concern, as described in the attached Short Environmental Assessment Form, to determine if this proposed action will have a significant impact on the environment.

NOW, THEREFORE, be it resolved by the County Board of Legislators of the County of Westchester, State of New York, as follows:

RESOLVED, that based upon the Honorable Board's review of the Short Environmental Assessment Form and for the reasons set forth therein, this Board finds that there will be no significant adverse impact on the environment from the proposed action and be it further

RESOLVED, that the Clerk of the Board of Legislators is authorized and directed to sign the "Determination of Significance" in the Short Environmental Assessment Form, which is attached hereto and made a part hereof, as the "Responsible Officer in Lead Agency"; to issue this "Negative Declaration" on behalf of this Board in satisfaction of SEQRA and its implementing regulations; and to immediately transmit same to the Commissioner of Planning to be filed, published and made available pursuant to the requirements of Part 617 of 6 NYCRR; and be it further

RESOLVED, that the Resolution shall take effect immediately.

Short Environmental Assessment Form

Part 1 - Project Information

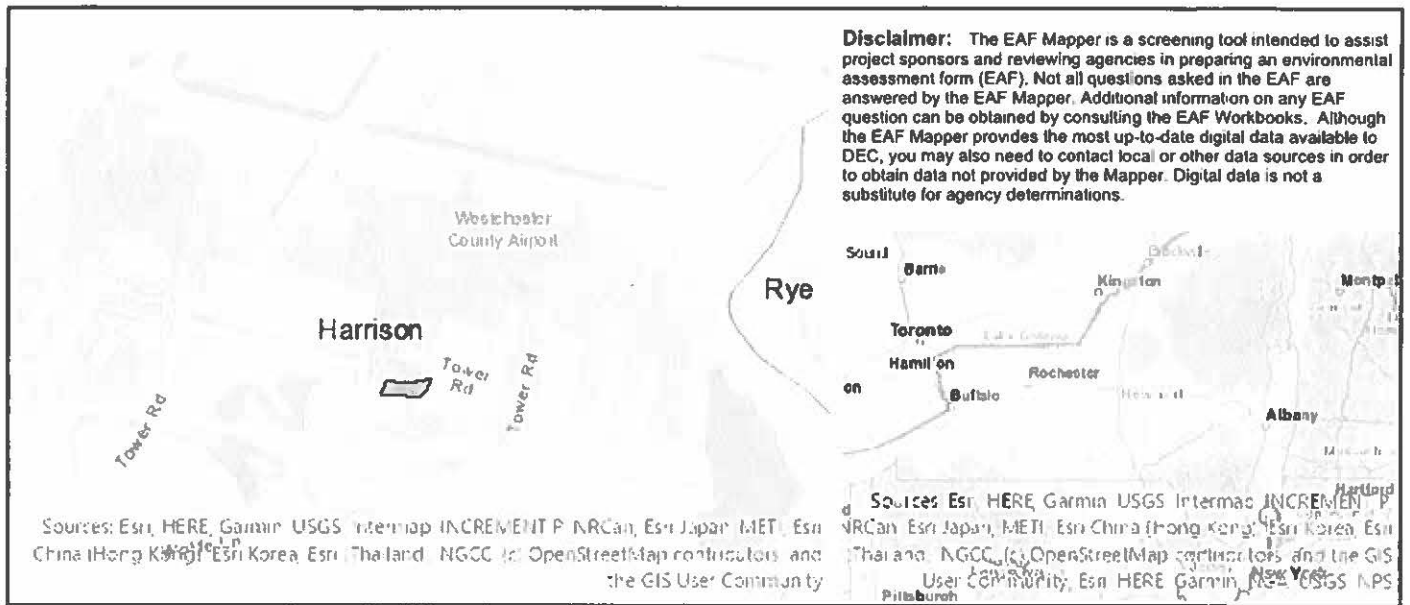
Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part I based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Million Air Lease Amendment - Lot 2			
Project Location (describe, and attach a location map): 136 Tower Road, Hangar M, White Plains, NY 10604 (Town of Harrison, Westchester County)			
Brief Description of Proposed Action: Amendment of a 30-year ground lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains (Million Air) for approximately 22.4 acres at Westchester County Airport in order to add approximately 7,192 square feet to its leased premises to accommodate a vehicle parking lot of approximately 35 automobile parking spaces. Million Air was given a license to use this space, which was originally a grass field, for vehicular parking for one year beginning in March 2019 to assist with parking needs during construction of additional improvements. However, Million Air has continued to use the space for parking. Under the amendment, Million Air will remove approximately 3,200 square feet of the existing pavement associated with this parking lot, a third of which is within the existing Million Air leasehold, and replace it with porous pavement. In addition to paying additional rent for this space, Million Air will also agree to maintain the T-hangar on its leased premises (known as T-25) and its associated ramp for light general aviation use and will continue to provide no fewer than 39 tie-down spaces for light general aviation aircraft. All remaining terms and conditions of the lease will remain unchanged.			
Name of Applicant or Sponsor:		Telephone: 914-995-4400	
County of Westchester		E-Mail: dsk2@westchestercountyny.gov	
Address: 148 Martine Avenue			
City/PO: White Plains		State: NY	Zip Code: 10601
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO ☐ YES ☒
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO ☐ YES ☒
3. a. Total acreage of the site of the proposed action?		22.4 acres	
b. Total acreage to be physically disturbed?		+/-0.1 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		698 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☒ Residential (suburban)			
☐ Forest ☐ Agriculture ☐ Aquatic ☒ Other(Specify): Airport			
☐ Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	☐	☐	☒
b. Consistent with the adopted comprehensive plan?	☐	☐	☒
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	☐	☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? Name: Airport 60 Ldn Noise Contour, Reason: Exceptional or unique character, Agency: Westchester County, If Yes, identify: Date: 1-31-90	NO	YES	
	☐	☒	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	☒	☐	
b. Are public transportation services available at or near the site of the proposed action?			
	☒	☐	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?			
	☒	☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies:	NO	YES	
N/A - The ground lease amendment does not involve any building improvements, other than to maintain an existing T-hangar. The existing terminal/office space associated with this Fixed Base Operator is compliant with the state energy code.	☐	☒	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ The existing facility is already connected to a public water supply. The amendment provisions do not involve additional water consumption.	NO	YES	
	☐	☒	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ The existing facility is already connected to the county sewer system. The amendment provisions do not involve additional sewage generation.	NO	YES	
	☐	☒	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	☒	☐	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?			
	☐	☒	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	☐	☒	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?			
	☒	☐	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			



Part 1 / Question 7 [Critical Environmental Area]	Yes
Part 1 / Question 7 [Critical Environmental Area - Identify]	Name: Airport 60 Ldn Noise Contour, Reason: Exceptional or unique character, Agency: Westchester County, Date: 1-31-90
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	Yes

Project: Million Air Lease - Lot 2

Date: July 2024

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☒	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☒	☐
3. Will the proposed action impair the character or quality of the existing community?	☒	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☒	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☒	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☒	☐
7. Will the proposed action impact existing:	☒	☐
a. public / private water supplies?	☒	☐
b. public / private wastewater treatment utilities?	☒	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☒	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☒	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☒	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☒	☐

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

There will be no significant adverse environmental impact from the proposed action since the provisions of the ground lease amendment will serve to reduce impacts associated with existing development.

The parking lot reconstruction requirements will reduce stormwater runoff from impervious surfaces that were added without stormwater management. Porous pavement will infiltrate runoff to meet the runoff reduction requirements of the New York State Stormwater Management Design Manual. Excess storm water discharge that may occur due to extreme weather conditions will be directed to an existing conveyance system that already serves this area and discharges to Basin A at the Airport.

The T-hangar, tie-down and ramp requirements will ensure that a specific portion of the fixed base operation continues to serve light general aviation, whose operation and aircraft size need tie-down and t-hangar facilities. Preservation of the light general aviation footprint helps to minimize community impacts associated with aircraft operations and sustains the community's interest in these activities.

As the ground lease amendment does not provide for additional development or changes in use, there will be no additional impacts.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
☒ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
County of Westchester	
Name of Lead Agency Malika Vanderberg	Date Clerk of the Board of Legislators
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM

LOCAL LAW NO. - 2024

A LOCAL LAW authorizing the County of Westchester to amend a ground lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains for space at Westchester County Airport.

BE IT ENACTED by the County Board of Legislators of the County of Westchester as follows:

Section 1. The County of Westchester ("County") is hereby authorized to amend its lease agreement with White Plains Aviation Partners, LLC D/B/A Million Air White Plains ("Million Air") for the operation of both a Light General Aviation ("LGA") facility and a Full Service Heavy Aircraft General Aviation Fixed Base Operation ("FBO") on approximately 22.4 acres at Westchester County Airport for a term of 30 years ("Lease"), in order to add approximately 7,192 square feet to the Leased Premises, equating to approximately 35 automobile parking spaces.

Section 2. In consideration of this amendment, Million Air shall pay the County \$77,083.25 for the past use of the parking area. In addition, the annual rent on the FBO shall increase by \$15,678.56 commencing retroactively to February 1, 2024. The annual rent on the entire Leased Premises, inclusive of Lot 2, shall be subject to increases as specified in the Lease. Million Air shall remain responsible for the maintenance, repairs, snow and ice removal, and environmental compliance of Lot 2, to the extent that it is responsible under the Lease for maintaining the balance of the Leased Premises. As part of this lease amendment, Million Air shall also agree to maintain the T-hangar on the Leased Premises (identified as T-25) and its associated ramp for LGA use, and continue to provide no fewer than 39 tie-down spaces for 39 LGA aircraft.

SCHEDULE "A"

LEASE AMENDMENT

FIRST AMENDMENT

TO

LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (this "**Agreement**") made as of this ____ day of _____, 202__ (the "**Effective Date**"), between

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having its principal office at the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 ("**Landlord**")

and

WHITE PLAINS AVIATION PARTNERS, LLC D/B/A MILLION AIR WHITE PLAINS, a Delaware limited liability company, authorized to do business in New York, having an office and place of business at c/o Million Air HQ, 7555 Ipswich Road, Houston, Texas 77061 ("**Tenant**").

WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain Lease Agreement, dated as of June 1, 2016 (the "**Lease**") wherein Landlord leased to Tenant and Tenant leased from Landlord, the Premises (as such term is defined and described under the Lease);

WHEREAS, the parties also entered into a license agreement dated August 16, 2019 ("License Agreement"), permitting Tenant to use approximately 7,192 square feet of undeveloped space adjacent to the Federal Aviation Administration tower ("Licensed Premises") solely for parking vehicles owned by Tenant, its employees, subtenants and service providers, for a term from March 1, 2019 through February 28, 2020, which term was not extended; and

WHEREAS, Landlord and Tenant desire to modify the Lease to incorporate the formerly Licensed Premises into the Leased Premises.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter set forth, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree that as of the Effective Date the Lease is amended and modified as follows:

1. **Recitals; Definitions.** The recitals and whereas clauses are incorporated herein by this reference. All capitalized words, terms and phrases used herein shall have the meanings ascribed to them in the Lease unless otherwise herein defined or modified. For purposes of clarification, when this Agreement refers to a numbered "section" of the Lease, it shall be referring to such numbered "section," "article" or "paragraph," as the case may be, of the Lease. The capitalized

terms "Tenant" and "Lessee" may be used interchangeably under this Agreement and/or the Lease. The capitalized terms "Landlord" and "County" may be used interchangeably under this Agreement and/or the Lease.

2. **Modifications to Section 1.1 of the Lease.**

a. As used in the Lease and this Amendment, as the context requires, the term "Leased Premises" or "Premises" as defined under the Lease means the "Leased Premises" or "Premises" defined under the Lease, and shall include the land previously licensed to Tenant pursuant to the License Agreement.

b. Schedule A attached to the Lease is deleted and replaced with **Schedule A-1**, attached hereto and made a part hereof (the "**Amended Lease Land**") so that the "Land" leased under the Lease shall be the Amended Lease Land. Accordingly, Section 1.2 of the Lease is modified to reflect that the total Leased Premises shall now be the Amended Lease Land and shall also include an additional approximately 7,192 square feet, to accommodate a vehicle parking lot of approximately 35 vehicle parking spaces ("Lot 2").

c. Tenant shall pay to the Landlord the following rates and charges for the past use of Lot 2 beginning March 1, 2019, the start date of the original license agreement, through January 31, 2024: a total amount of \$77,083.25. This total amount will be paid in 59 monthly installments of \$1,306.50.

3. **Increase in Rent.** Based on the inclusion of Lot 2 in the Leased Premises, and pursuant to Section 4.2 of the Lease, the annual rent on the Fixed Base Operation shall increase by \$15,678.56 commencing February 1, 2024. The annual rent on the entire Leased Premises, inclusive of Lot 2, shall be subject to increases as specified in Section 4.2 of the Lease.

4. **Maintenance and Repairs.**

Landlord is conceding Lot 2 of Tenant's Leased Premises in operable condition. It is paved, has surface markings and is lit. Tenant shall be wholly responsible for the maintenance, repairs, snow and ice removal, and environmental compliance of Lot 2, to the extent that Tenant is responsible under the Lease for maintaining the balance of the Leased Premises.

No later than close of business on March 12, 2024, Tenant will provide Landlord with its schedule to complete the required stormwater mitigation items addressed in Commissioner of DPW/T's letter dated August 1, 2022.

5. **T-Hangar and Tie Downs.** Subject to Sections 5.5 and 6.14 of the Lease, Tenant shall maintain the T-hangar on the Leased Premises (identified as T-25) and its associated ramp for light general aviation use. Tenant shall also continue to provide no fewer than 39 tie-down spaces for 39 light general aviation aircraft.

6. **Leasehold Mortgagee.** Pursuant to Section 22.3(A) of the Lease, the effectiveness of this Agreement shall be subject to and, conditioned on, Tenant's Leasehold Mortgagee consenting in writing to the amendment and modification of the Lease as set forth in this Agreement.

7. **Memorandum of Lease.** Upon request of either Landlord or Tenant, Landlord and Tenant shall execute and deliver to each other a memorandum of lease or an amendment of memorandum of lease, in recordable form, to reflect that the Lease has been amended by this Agreement. Tenant shall pay the cost and expense of recording any such memorandum of lease.

8. **Miscellaneous.** Other than as expressly amended or modified by this Agreement, the Lease and its terms shall continue in full force and effect. In the event of any conflict between the terms of this Agreement and the terms of the Lease, the terms of this Agreement shall govern and prevail. The provisions of this Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, legal representatives, successors and permitted assigns. This Agreement may be executed in one or more counterparts and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. No further changes to the Lease or this Agreement may be made except by a written agreement signed by Landlord and Tenant. Tenant has full power and authority to enter into and perform its obligations under this Agreement and, the person signing below on behalf of Tenant, has full power and authority to sign this Agreement on behalf of Tenant and bind Tenant to the terms and conditions of this Agreement. This Agreement has been duly authorized, executed and delivered by Tenant and is a legal, valid and binding obligation of Tenant enforceable against Tenant in accordance with its terms. No consent, approval, permit, authorization, registration or filing with any court, administrative agency, commission or other governmental authority or any other person, entity or body is required to be obtained in connection with Tenant's execution, delivery and performance of this Agreement. Landlord has full power and authority to enter into and perform its obligations under this Agreement and, the person signing below on behalf of Landlord, has full power and authority to sign this Agreement on behalf of Landlord and bind Landlord to the terms and conditions of this Agreement. This Agreement has been duly authorized, executed and delivered by Landlord and is a legal, valid and binding obligation of Landlord enforceable against Landlord in accordance with its terms. No consent, approval, permit, authorization, registration or filing with any court, administrative agency, commission or other governmental authority or any other person, entity or body is required to be obtained in connection with Landlord's execution, delivery and performance of this Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

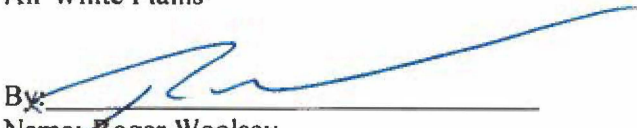
LANDLORD:

The County of Westchester

By: _____
Name: Hugh J. Greechan, Jr., P.E.
Title: Commissioner of Public Works
and Transportation

TENANT:

White Plains Aviation Partners, LLC d/b/a Million
Air White Plains

By:  _____
Name: Roger Woolsey
Title: CEO of REW Investments, Inc., its Managing Member

Authorized by the Board of Legislators of the County of Westchester pursuant to Local Law
Intro No. _____ on the _____ day of _____, 202__.

Authorized by the Board of Acquisition and Contract of the County of Westchester on the ____
day of _____, 202__.

Approved:

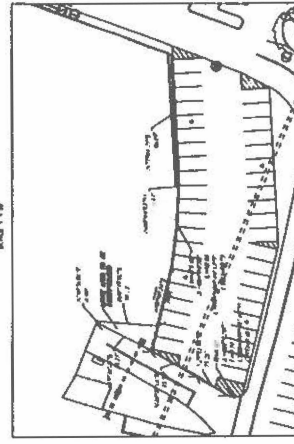
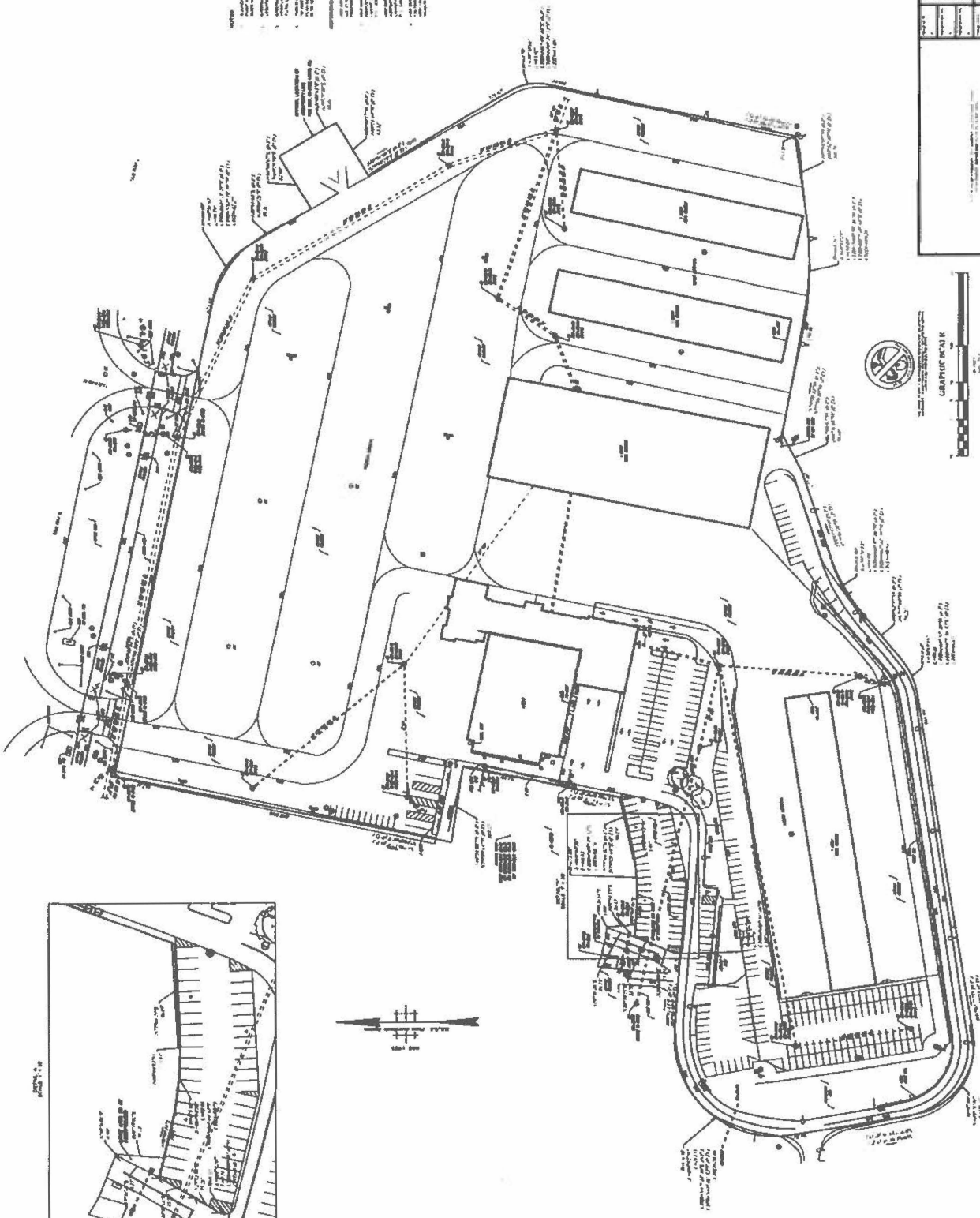
Associate County Attorney
The County of Westchester 4-30-2024



NOTES

1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL DIMENSIONS ARE TO THE CENTERLINE OF THE ROAD OR RAILROAD UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE BUILDING UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE FENCE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE CURB UNLESS OTHERWISE NOTED.
6. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE SIDEWALK UNLESS OTHERWISE NOTED.
7. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE DRIVEWAY UNLESS OTHERWISE NOTED.
8. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE LOT UNLESS OTHERWISE NOTED.
9. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE TRACT UNLESS OTHERWISE NOTED.
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13. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE COUNTY UNLESS OTHERWISE NOTED.
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15. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE COUNTRY UNLESS OTHERWISE NOTED.
16. ALL DIMENSIONS ARE TO THE EXTERIOR OF THE WORLD UNLESS OTHERWISE NOTED.

SYMBOL	DESCRIPTION
—	Centerline of Road
—	Centerline of Railroad
—	Centerline of Canal
—	Centerline of Pipeline
—	Centerline of Utility Line
—	Centerline of Fence
—	Centerline of Curb
—	Centerline of Sidewalk
—	Centerline of Driveway
—	Centerline of Lot
—	Centerline of Tract
—	Centerline of Township
—	Centerline of Range
—	Centerline of County
—	Centerline of State
—	Centerline of Country
—	Centerline of World



GRAPHIC SCALE

1" = 100'

1" = 1/2 MILE

1" = 1/4 MILE

1" = 1/8 MILE

1" = 1/16 MILE

1" = 1/32 MILE

1" = 1/64 MILE

1" = 1/128 MILE

1" = 1/256 MILE

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BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if enacted by your Honorable Board, would authorize the settlement of four of the County's five counterclaims in the pending litigation between the County and White Plains Aviation Partners, LLC, d/b/a Million Air White Plains ("Million Air"), as set forth below. The County's remaining counterclaim, along with all of Plaintiff's claims in the litigation, will be dismissed without prejudice subject to the terms of a written interim settlement agreement, as discussed further below.

Your Committee recalls that, on May 16, 2016, the County Board adopted Local Law No. 3-2016, which authorized the County to terminate a prior lease with Million Air and enter into a new 30-year ground lease (the "Lease") that allowed Million Air to operate both a Light General Aviation ("LGA") facility and a Full Service Heavy Aircraft General Aviation Fixed Base Operation ("FBO") on approximately 22.4 acres ("Leased Premises") at the Airport. Pursuant to the terms of the Lease, Million Air subsequently constructed an approximately 50,000 sq. ft. hangar and refurbished terminal building at Million Air's FBO.

Your Committee has been informed that separately, in 2019, the County entered into a license agreement ("License") with Million Air, permitting Million Air to use approximately 7,192 square feet of undeveloped space adjacent to the Federal Aviation Administration tower ("Lot 2") solely for parking vehicles owned by Million Air, its employees, subtenants and service providers, for a term from March 1, 2019, through February 28, 2020. The License was not extended, but Million Air continued to use Lot 2.

Your Committee is aware that on June 16, 2021, Million Air commenced an action in federal court, alleging that the County breached certain terms of the Lease. Boiled down, Million Air claimed, among other things, that the County unreasonably withheld approval for Million Air to construct a proposed approximately 80,000 square foot hangar for heavy general aviation on its Leased Premises. Million Air sought a Court order directing the County to approve construction of the proposed hangar, along with “millions of dollars in damages.”

Your Committee is also aware that when the County answered Million Air’s operative complaint in October 2022, it denied any allegation that the County unreasonably withheld approval to build the proposed hangar. In addition, the County asserted five counterclaims against Million Air: breach of contract (1) under Lease section 3.1 for keeping a T-Hangar (known as T-Hangar 25) out-of-service; (2) under Lease sections 5.3 and 9.6 for failing to maintain and repair T-hangar 25, and for failing to restore it to a serviceable condition; (3) under Lease sections 7.1 and 11.1 for using T-hangar 25 for non-aeronautical purposes; (4) under Lease sections 13.8 and 13.9 for failing to obtain the County’s prior written consent to sublease a lounge to Blade Urban Air Mobility, Inc.; and (5) under Lease Article 1 and the 2019 License, for Million Air’s failure to surrender Lot 2 following the License’s expiration.

Your Committee is informed that, during the course of the litigation, Million Air restored T-Hangar 25 to service, as confirmed by the Airport Manager and the County’s Department of Public Works and Transportation. This T-hangar restoration resolves three of the County’s five counterclaims—Counterclaims One, Two, and Three—as each was premised on the T-hangar’s being inoperable. The proposed Act presented herewith, if adopted by the Board, would allow for the dismissal of each of these three Counterclaims with prejudice.

Your Committee is also informed that the parties have negotiated a Lease Amendment which, as more fully discussed below and in the Committee Report for Local Law Intro. No. ____, will, among other things, add Lot 2 to Million Air's Leased Premises and will require Million Air to pay the County for its past use of the parking area. If the Lease Amendment is authorized by the Board pursuant to Local Law Intro. No. ____, then this will dispose of a fourth counterclaim of the County's—Counterclaim Five.

Your Committee acknowledges that the Lease Amendment will add Lot 2 to the Leased Premises. In consideration of this amendment, Million Air will pay the County \$77,083.25 for the past use of the parking area. In addition, the annual rent on the FBO will increase by \$15,678.56 commencing retroactively to February 1, 2024. The annual rent on the entire Leased Premises, inclusive of Lot 2, will be subject to increases as specified in the Lease. Million Air will remain responsible for the maintenance, repairs, snow and ice removal, and environmental compliance of Lot 2, to the extent that Million Air is responsible under the Lease for maintaining the balance of the Leased Premises.

Your Committee recognizes that, also as part of this Lease Amendment, Million Air will agree to maintain T-hangar 25 on the Leased Premises and T-hangar 25's associated ramp for LGA use, and Million Air will also continue to provide no fewer than 39 tie-down spaces for 39 LGA aircraft. All remaining terms and conditions of the Lease will remain unchanged. The terms of the Lease Amendment will be in substantially the same form as the draft amendment attached to the proposed Local Law.

Your Committee therefore understands that if the proposed Lease Amendment is approved through Local Law Intro. No. ____, then the Act enclosed herewith, if adopted, would also permit the County to dismiss Counterclaim Five regarding the License with prejudice.

The County Attorney has also advised your Committee that, with respect to the remaining issues in the litigation, the parties have agreed that if the Lease Amendment is approved and executed, and the County's four Counterclaims are dismissed with prejudice, then the parties will dismiss all other claims and counterclaims currently pending in the litigation without prejudice, subject to the terms of a written interim settlement agreement between the parties, to allow for further discussions without the expenditure of litigation costs and expenses.

Your Committee is also aware that the County withdrew a Short Form Environmental Assessment ("EA") under the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321, *et seq.*, to the Federal Aviation Administration (the "FAA"), which covered both previously constructed facilities, and Million Air's proposed 78,000 sq. ft. hangar, and substituted a revised Standard EA covering the already constructed 50,000 sq. ft. hangar and terminal building. In the interim settlement agreement, Million Air acknowledges that this new EA will remain the operative EA before the FAA until a Finding of No Significant Impact ("FONSI") is issued regarding the already constructed facilities.

Your Committee has also been informed that the interim settlement provides the County with an express reservation of rights concerning any and all objections the County may have regarding Million Air's request to construct a new approximately 78,000 hangar on the Leased Premises. Finally, the interim settlement agreement states explicitly that nothing shall obligate the County Board to act

in a specific manner concerning Million Air's request to build the proposed hangar and/or regarding any proposed corresponding lease amendment that may come before the Board.

The County Attorney has recommended approval of the settlement of four of the County's Counterclaims Your Committee concurs with this recommendation and recommends that this Honorable Board adopt the proposed Act.

Dated: White Plains, New York
 , 2024

COMMITTEE ON

2024-07-15 - SCM

AN ACT authorizing the County Attorney to settle counterclaims in the federal action entitled *White Plains Aviation Partners, LLC, d/b/a Million Air White Plains v. County of Westchester*, pending in the United States District Court for the Southern District of New York, No. 21 Civ. 5312 (VB).

BE IT ENACTED by the County Board of Legislators of the County of Westchester as follows:

Section 1. Upon enactment of Local Law Intro. No. ____-2024, the County Attorney is hereby authorized to agree to a dismissal with prejudice of Counterclaims One, Two, Three, and Five in the federal action entitled *White Plains Aviation Partners, LLC, d/b/a Million Air White Plains v. County of Westchester*, pending in the United States District Court for the Southern District of New York, No. 21 Civ. 5312 (VB), which relate to the County's claims that White Plains Aviation Partners, LLC, breached its lease with the County by not properly using and maintaining a T-Hangar for light general aviation known as T-Hangar 25, and by using certain parking spaces without authorization.

Section 2. The County Attorney or his designee is hereby authorized to execute and deliver all documents and take such actions as the County Attorney deems necessary or desirable to accomplish the purposes hereof.

Section 3. This Act shall take effect immediately.