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November 8, 2017

(BPW-2017-1053)

Mayor Eric Garcetti
Room No. 305
City Hall
Attn: Mandy Morales

Subject: LEASE AGREEMENT BETWEEN THE BUREAU OF SANITATION AND LOS ANGELES WORLD AIRPORTS FOR THE DEVELOPMENT OF THE ARGO DRAIN SUB-BASIN STORMWATER PROJECT

As recommended in the accompanying report of the Director of the Bureau of Sanitation, which this Board has adopted, the Board of Public Works requests approval and forwarding to the City Council to authorize the Director of the Bureau of Sanitation (BOS) or designee to execute the proposed Lease Agreement between BOS and the Los Angeles World Airports for the development of the Argo Drain Sub-basin Project.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The cost of the Lease will be offset by BOS services and fees.

Respectfully submitted,

Dr. Fernando Campos
Executive Officer, Board of Public Works

FC:mm

DEPARTMENT OF PUBLIC WORKS

BUREAU OF SANITATION
BOARD REPORT NO. 2
NOVEMBER 8, 2017

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California
AND REFERRED TO THE MAYOR
NOV 08 2017


Executive Officer
Board of Public Works

CD: 11

AUTHORITY TO EXECUTE A LEASE AGREEMENT BETWEEN LOS ANGELES
BUREAU OF SANITATION AND LOS ANGELES WORLD AIRPORTS FOR THE
DEVELOPMENT OF THE ARGO DRAIN SUB-BASIN STORMWATER PROJECT

RECOMMENDATIONS

1. Approve and forward this report, with its transmittal, to the Mayor and the City Council, with the recommendation that the City Council, subject to concurrence of the Mayor, authorize the Director of LA Sanitation (LASAN) or designee to execute the proposed Lease Agreement (LEASE) between LASAN and the Los Angeles World Airports (LAWA) for the development of the Argo Drain Sub-basin Project.
2. Notify Dr. Shahram Kharaghani (213 485-0587), Manager of the Watershed Protection Division of LASAN, when the LEASE is ready to be executed by the Director of LASAN.
3. Upon execution, request the City Clerk to attest and certify five original copies of the LEASE.

FISCAL IMPACT STATEMENT

There will be no fiscal impact to the General Fund. The cost of the Lease will be offset by LASAN services and fees.

TRANSMITTALS

1. One copy of the LEASE, including Attachments and Exhibits.
2. One copy of the approved LAWA Board Report of October 5, 2017 and meeting minutes.

DISCUSSION

Background

LASAN and LAWA are required to comply with federal, state, and local regulatory requirements associated with the federal Clean Water Act, including those administered by the California State Water Resources Control Board (SWRCB). On November 8, 2012, the SWRCB renewed the National Pollutant Discharge Elimination System Permit for the Municipal Separate Storm Sewer System (NPDES MS4 Permit) (Order No. R4-2012-0175, NPDES No. CAS004001) with stringent waste discharge requirements for stormwater and non-stormwater discharges to receiving waters in the City of Los Angeles (City) including Santa Monica and San Pedro Bays.

201-5103-898

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The NPDES MS4 Permit includes limits of pollutants to these receiving waters in the form of Total Maximum Daily Loads (TMDLs). LASAN is the NPDES MS4 Permit holder on behalf of the City and it is charged with the responsibility of keeping the City in compliance with all provisions of this permit. LAWA properties at Los Angeles International Airport (LAX) drain from three local sub-basins to the Santa Monica and San Pedro Bays.

In addition to the NPDES MS4 Permit, LAWA is also subject to the requirements of the Industrial General Permit (IGP) for industrial areas of LAX such as mechanic shops, maintenance yards, and aircraft fueling areas. The most recent IGP for LAX (Order NPDES NO. CAS000001) became effective on July 1, 2015, and includes more restrictive regulations for stormwater-related discharges from industrial facilities at LAX.

As both LASAN and LAWA have regulatory obligations to comply with federal Clean Water Act requirements, the Parties propose to work jointly in the development of the Argo Drain Sub-basin Project for the management of urban runoff and stormwater on the north side of LAX. This project will assist the City in complying with the NPDES MS4 Permit, TMDLs for Santa Monica Bay, Low Impact Development (LID) provisions, and the IGP requirements for LAX.

In 2015, LASAN and LAWA executed the MOU for the preparation of design and environmental documents for the Argo Drain Sub-basin Project. As per that MOU, LAWA paid \$2,739,530 for design and environmental services, and the City of Los Angeles Bureau of Engineering (BOE) prepared environmental documents, pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), and designed the project in consultation with LASAN and LAWA. Additionally, the MOU included the preparation of design and environmental documents for the Imperial Drainage Basin project which is currently under design by LAWA.

The proposed Lease Agreement contains LAWA standard terms, a term of 50 years and includes the Parties' obligations regarding construction, management and operation of the proposed facility as well as rent obligations. The Parties anticipate the annual rent would be set at fair market value for the land (currently estimated at \$527,180.60) and that LASAN would operate and maintain the Argo Drain Sub-basin Project, with the Parties splitting the annual operation and maintenance costs (currently estimated at \$511,291) 50% to LAWA and 50% to LASAN. Additionally, the annual cost of recurring Sewer Service Charge (SSC), Inspection and Control (IC) and Significant Industrial User Fees (SIU) (currently estimated \$282,923) for the Imperial Drainage Basin Project would be LAWA's obligation. LAWA's payment of costs for such operation and maintenance would take the form of an offsetting credit towards the LASAN rent. The parties expect that LAWA's provision of a land lease for the proposed Argo Drain Sub-basin Facility will be deemed to fully offset the annual Argo Drain Sub-basin Facility O&M costs as well as the annual LASAN SSC, IC and SIU charges for the Imperial Drainage Basin Project, notwithstanding any necessary escalation or adjustments.

Argo Drain Sub-basin Project

The Argo Drain Sub-basin Project was originally proposed by LASAN as part of the Proposition O Clean Water Bond Program in 2008. Adjustments to the project scope and refinement of the design resulted in a revised proposed design developed in 2016. Additional design revisions were added during 2016-17 and construction plans were finalized by the City of Los Angeles BOE in April 2017.

The Argo Drain Sub-basin Project will be located on approximately 5 acres of LAWA property and collect stormwater runoff from a 2,200 acre drainage area on the north side of LAX including portions of the City of Los Angeles Westchester community. About half of the flows are generated from LAWA's properties. Project components include: a) diversion structures and debris-removal screens in the local storm drain system (County and LAWA), b) conveyance of diverted stormwater to a pump station, c) a clarifier for sediment removal, d) an Underground Infiltration Facility consisting of a tank and wells, and e) a methane mitigation system. The project will reduce the discharge of stormwater runoff and associated pollutants to Santa Monica Bay and recharge local groundwater by infiltration of stormwater.

Imperial Drainage Basin Project

The objective of this project is to collect stormwater runoff from future developments/redevelopments at LAX in the Imperial/Pershing sub-basin. LAWA at its own cost will design and construct the Imperial Drainage Basin Project as well as prepare the appropriate environmental documents pursuant to CEQA and NEPA. The Imperial Drainage Basin Project is currently in implementation by LAWA and will construct a new high-flow diversion structure to divert captured stormwater runoff into a detention basin and then to a sewer line to LASAN's Hyperion Water Reclamation Plant.

Per the MOU Article 3 section I, LAWA will share the Lease Agreement with the Federal Aviation Administration (FAA) to obtain approval for expenditures and actions stipulated by the Lease that fall under their jurisdiction. The LAWA Board of Airport Commissioners approved the Lease Agreement, with minor amendments, at their October 5, 2017 meeting.

APPROVAL AS TO FORM

The LEASE has been reviewed by the City Attorney's Office and has been approved as to form.

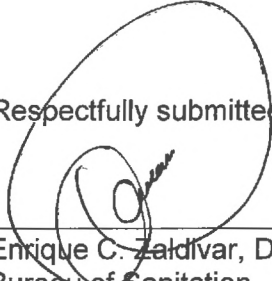
STATUS OF FINANCING

There will be no fiscal impact to the General Fund, or any other City Funds from this Lease. The cost of the Lease will be offset by LASAN services and fees.

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Respectfully submitted,



Enrique C. Zaldivar, Director
Bureau of Sanitation

Report prepared by:
Shahram Kharaghani, WPD
(213) 485-0587

BPW-2017-1053

LEASE
BETWEEN THE CITY OF LOS ANGELES,
DEPARTMENT OF AIRPORTS
AND
THE CITY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS, BUREAU OF SANITATION
AT LOS ANGELES INTERNATIONAL AIRPORT
[Argo Drain Sub-Basin Storm Water Facility]

This LEASE (the "Lease") is made and entered into as of this _____ day of _____, 2017 ("Effective Date"), at Los Angeles, California, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by order of and through its Board of Airport Commissioners (the "Board") of the DEPARTMENT OF AIRPORTS also known as Los Angeles World Airports (hereinafter referred to as "LAWA" or "Lessor"), and the CITY OF LOS ANGELES, a municipal corporation, acting by order of and through its City Council on behalf of its DEPARTMENT OF PUBLIC WORKS, BUREAU OF SANITATION also known as Los Angeles Sanitation (hereinafter referred to as "BOS" or "Lessee") (sometimes herein referred to individually as a "party," or together as "parties").

RECITALS

A. WHEREAS the parties previously entered into a Memorandum of Understanding (hereinafter the "MOU") dated 5/11/2015, a copy of which is attached hereto as Attachment 1¹; and,

B. WHEREAS, pursuant to the MOU and this Lease, Lessee will construct, operate and maintain the Argo Drain Sub-Basin Storm Water Facility (further described below and referred to herein as the "Argo Facility") and Lessee will be responsible for the ongoing operation and standard maintenance of the Argo Facility; and,

The parties hereto, for and in consideration of the foregoing recitals, and the covenants and conditions hereinafter contained to be kept and performed, DO HEREBY AGREE AS FOLLOWS:

ARTICLE 1. SPECIFIC TERMS AND PROVISIONS

Section 1. Demised Premises.

1.1. **Description.** The Premises consists of approximately 5.0 acres of land in the Northside area of the Los Angeles International Airport ("LAX"), as shown on Exhibit A, attached hereto and made a part hereof.

¹ The MOU is provided for informational purposes. To the extent there is a conflict between the terms set forth in the MOU and the terms of this Lease, the provisions of this Lease will prevail.

1.2. **Acceptance and Surrender.** Lessee accepts the Demised Premises in an "AS-IS, WHERE-IS, WITH ALL FAULTS" condition. Lessee agrees to surrender the Demised Premises upon the expiration or earlier termination of this Lease in the condition as of the date the Lease commences, except as modified in accordance with Section 4, Section 57, Section 59, Section 61, Section 62 and Section 73.2 or any other modifications made pursuant to and as permitted by this Lease, herein, ordinary wear and tear excepted.

Section 2. Term of Lease.

2.1. **Commencement Date.** The date which LAWA permits Lessee to take possession of the Demised Premises, at the reasonable discretion of the Chief Executive Officer of the Department of Airports (hereinafter referred to as "LAWA's CEO" or "CEO") and memorialized in writing in a notice executed by both parties.

2.1.2. **Sewer Facilities Charge.** Pursuant to Los Angeles Municipal Code ("LAMC") Section 64.1.3, pursuant to the MOU, Attachment 1 and at the time LAWA applies for its Hyperion Connection (also known as NCOS) permit, LAWA shall pay to BOS a one-time Sewer Facilities Charge, which shall be approximately Six Hundred Thousand Dollars (\$600,000), subject to the calculation requirements of LAMC Sec. 64.1.3.

2.2. **Expiration Date.** The date which is fifty (50) years from the Commencement Date, unless earlier terminated pursuant to the terms provided in this Lease.

2.2.1. **LAWA's Termination Option.** Subject to Section 2.2.2 below, LAWA reserves the right to terminate the whole or any portion of the Lease in the event that the CEO determines, in his or her sole discretion, that a safety or security concern, or Airport operational requirement, necessitates said termination. LAWA shall have the right to terminate the Lease, as provided in this Section 2.2.1, upon not less than twenty-four (24) months' prior written notice, unless a safety or security concern requires earlier or immediate termination. Upon such termination, LAWA shall pay to the Lessee the Termination Fee (as defined in Section 2.2.2 below). Upon LAWA's payment of such Termination Fee, all improvements for which Lessee has been compensated shall be owned by LAWA (except as to any improvements disclaimed by LAWA which Lessee shall remove), and, as appropriate, the Lease shall terminate provided that nothing herein shall affect Lessee's liability for any acts or omissions prior to such termination. For the avoidance of doubt, if LAWA terminates this Lease through any provision other than Section 2.2.1 or Section 57.2.1, then Section 2.2.2 shall not apply.

2.2.2. **Termination Fee.** If LAWA exercises its Termination Option under Section 2.2.1, then LAWA shall pay Lessee a Termination Fee, as follows: the Termination Fee shall be the undepreciated value of the Qualified Investments (as defined in Section 4.3) on a monthly straight-line basis from the date that Lessee receives a Certificate of Occupancy, a Temporary Certificate of Occupancy, or Certificate of Substantial Completion AIA Document G704 for such Qualified Investments, to the expiration of the

Term, less any reimbursement received by Lessee for Qualified Investments through any form of consideration, including cash or rent credit.

2.3. If Lessee remains in possession of all or any part of the Demised Premises after the expiration of the term hereof, with or without the express or implied consent of LAWA, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term. In such case, if the fee payment agreement for the Hyperion Sewage Service Charge (SSC), Significant Industrial User Fee (SIU) and Inspection and Control Fee (IC) has not been renewed or allowed to exist on a month to month basis, then the rent and other monetary sums due hereunder shall be payable in the amount of one hundred fifty percent (150%) of the rent paid for the last month of the lease period plus any other charges payable by Lessee hereunder at the time specified in this Lease and such month to month tenancy shall be subject to every other provision, covenant and agreement contained herein, including any applicable rental adjustments as set forth in this Lease provided that: a) LAWA or Lessee may terminate such month-to-month tenancy upon thirty (30) days' notice, and b) the Periodic Adjustment to Fair Market Rental will be determined by LAWA in its sole discretion. Acceptance by LAWA of rent after such expiration or earlier termination shall not constitute a holdover hereunder or result in a renewal. The foregoing provisions of this Subsection are in addition to and do not affect the right of re-entry or any right of LAWA hereunder or as otherwise provided by law, and in no way shall such provisions affect any right which LAWA may otherwise have to recover damages from Lessee for loss or liability incurred by LAWA resulting from such failure by Lessee to surrender the Demised Premises. Nothing contained in this Subsection shall be construed as consent by LAWA to any holding over by Lessee, and LAWA expressly reserves the right to require Lessee to surrender possession of the Demised Premises to LAWA as provided in this Lease upon the expiration or other termination of this Lease.

Section 3. Use of Demised Premises.

3.1. **Authorized Uses.** The use of the Demised Premises is limited to and as set forth in LAWA's Notice to Proceed Project No. T-LAX-12531 (the "NTP"), which is incorporated herein by reference:

- Construction, operation, repair and maintenance of the Argo Facility only to the extent approved in writing by the CEO or his or her designee.
- Recreational or commercial surface uses only as permitted by the applicable LAX general and Specific Plans and to the extent specifically authorized in writing, in advance, by LAWA's CEO in his or her sole discretion.

3.2. **Unauthorized Uses.** Lessee expressly acknowledges that the Demised Premises shall not be used for any use other than that specified in Subsection 3.1, without the prior written consent of LAWA's CEO. Without limitation to the foregoing, Lessee shall not use the Demised Premises for any purpose that is contrary to the Minimum Standards, or that constitutes waste or nuisance, or that would unreasonably annoy other occupants or invitees of Airport.

3.3. **Minimum Standards.** Use of the Demised Premises will be subject to and Lessee agrees to comply fully with minimum standards ("Minimum Standards") which are attached hereto and incorporated by reference herein as Exhibit C, provided that Lessee does not waive its right to seek relief from a court of competent jurisdiction to the extent that such Minimum Standards are contrary to applicable law or this Lease.

3.4. **Access to Demised Premises.** Throughout the term of this Lease, Lessee, its affiliates, subsidiaries, agents, servants, employees, contractors, licensees and business invitees (collectively "Lessee Entities"), shall have ingress and egress to and from the Demised Premises, provided Lessee Entities have complied with all City and LAWA rules and regulations. Such access to the Demised Premises shall be subject to airfield access control and permitting requirements as may be established by LAWA and/or Federal Agencies and temporary blockage or redirection due to Airport security, Airport construction, and Airport operational necessity.

3.5. **Non-Exclusive Use of Common Access Roads.** Throughout the term of this Lease, Lessee Entities shall have non-exclusive right to use the access roads adjacent to the property lines of the Demised Premises ("Common Access Roads") for:

- construction,
- ingress and egress to and from the airfield, and
- landside access to the Demised Premises,

provided Lessee Entities have complied with all City and LAWA rules and regulations. Such access to the Common Access Roads shall be subject to permitting requirements as may be established by LAWA and/or Federal Agencies and temporary blockage or redirection due to Airport security, Airport construction, and Airport operational necessity.

Section 4. Lessee Required Improvements.

4.1. **Required Improvements by Lessee.** For and in consideration of the execution of this Lease by LAWA, and subject to the provisions contained in Section 57 and additional provisions in this Lease, Lessee, undertakes and agrees to construct at the Demised Premises certain Lessee improvements agreed upon by LAWA and Lessee as described in Exhibit A (referred to herein interchangeably as "Required Lessee Improvements," "Required Improvements" or "Lessee Improvements"), in accordance with any project approvals under LAWA's Tenant Improvement Project No. T-LAX-12531, by reference.

Lessee shall comply with Section 4.3 and Section 4.5 for all of Lessee's Required Improvements.

Lessee shall maintain the Demised Premises and improvements in compliance with all applicable laws for the duration of the Lease. The obligations under this Section 4.1 shall not be construed to limit the Lessee's obligations under the terms of this Lease including but not limited to Section 62.

4.2. Construction Payment. Within ten (10) business days of the Effective Date, LAWA will pay into the BOS Capital Improvement Expenditure Program, the sum of Six Million, Seven Hundred Sixty Thousand, Four Hundred Seventy Dollars (\$6,760,470.00) or, 17.5% of the BOS approved final hard costs construction bid, whichever is less, to fund a portion of the construction of the Argo Facility.

4.3 Except for the Construction Payment described in Section 4.2 above, Lessee expressly agrees to pay all costs and expenses, direct and indirect, associated with Lessee's Required Improvements, including but not limited to all costs associated with inspection, design and engineering and other professional or consultant services, permitting and inspection fees, project financing, utility relocation and upgrading, environmental impact reports, landscaping, and other costs related to Lessee's Required Improvements. Without limiting the foregoing, if any of Lessee improvements to the Demised Premises (including but not limited to Lessee's Required Improvements) cause any authority having jurisdiction to require upgrades or repairs to areas or facilities inside or outside of Lessee's Demised Premises, then Lessee shall be solely responsible for the cost of such upgrades or repairs. If such upgrades or repairs are performed by LAWA, then Lessee shall pay for the cost of such upgrades or repairs, plus an administrative fee of 15%.

4.4. Qualified Investments. With exception to LAWA's not to exceed maximum of \$9,500,000.00 monetary contribution, as outlined in Attachment 1 and amount approved October 5, 2017 by Board of Airport Commissioners Resolution No. 26359, net amounts expended by Lessee for improvements on the Demised Premises shall be deemed Qualified Investments if: i) such amount has been actually incurred by Lessee; ii) such amount has been approved in writing by the CEO in advance of any construction; iii) such improvements have been constructed in accordance with Section 57; iv) such amount is for Permissible Costs (as defined below); and v) such amount has been verified in accordance with Section 4.5.2 below.

4.4.1. "Permissible Costs" shall mean the actual cost of demolition, design, and construction of any new improvements from time to time located on the Demised Premises, plus the cost of required bonds, which shall also include the full undepreciated value on a straight line basis of the full share of Proposition O Storm Water Bond Funds ("**Storm Water Bond Fund**") used to design and construct the Argo Facility, construction insurance, building, and other similar fees related to the construction of such improvements incurred by Lessee, but shall not include financing costs; payments made by Lessee to independent contractors for engineering and architectural design work shall be included as Qualified Investments, provided that such costs shall not exceed twenty percent (20%) of the aggregate amount of Qualified Investments for each Qualified Investment submittal. Amounts paid to any Lessee Entity shall be a Permissible Cost only to the extent that the amounts paid are (i) fair and are otherwise no less favorable to Lessee than would be obtained in a comparable arm's-length transaction with an unrelated third party or (ii) specifically approved in writing by the CEO, upon the separate written request of the Lessee, made prior to incurring such costs.

4.4.2. Only payments made by Lessee, and Lessee's contractors and subcontractors (without duplication) may be included as Permissible Costs. Any costs incurred by any sublessee, licensee or other occupant of any portion of the Demised Premises, other than Lessee, shall not constitute Permissible Costs. Costs associated with acquisition or installation of items that are not permanently affixed to the Demised Premises shall not be Permissible Costs.

4.5. Verification. To be deemed a Qualified Investment, amounts spent by Lessee must be verified by LAWA, and must meet the following conditions:

4.5.1. The expenditure must be submitted to LAWA for verification within one hundred twenty (120) calendar days following the earlier to occur of the following, to the extent applicable: (a) Lessee's receipt of a Certificate of Substantial Completion AIA Document G704 Form, certificate of occupancy, or temporary certificate of occupancy; (b) the completion of the improvements.

4.5.2. Lessee must provide to LAWA a schedule of all expenditures, which shall show line item detailed information as to each cost, including but not limited to, description, payee and date of payment. Lessee shall be responsible for providing reasonable documentation to LAWA indicating that the amounts were expended (including, but not limited to, copies of returned checks and lien waivers, if requested), and that they are true and correct. LAWA, at its option, may conduct an audit of such expenditures, or may engage a CPA firm to conduct such audit.

4.5.3. Within five (5) years following the completion of the Required Improvements, LAWA may, at its sole discretion, and with 30 days' prior written notice to Lessee, require Lessee to provide access to all records and other information necessary to perform an audit of fees and charges paid toward any or all of the improvements. LAWA, at its option, may conduct an audit of such expenditures, or may engage, at Lessee's expense, a CPA firm to conduct such audit.

4.6. Lessee expressly agrees to pay all costs and expenses, direct and indirect, associated with Required Improvements, including but not limited to all costs associated with inspection, design and engineering and other professional or consultant services, permitting and inspection fees, project financing, utility relocation and upgrading, environmental impact reports, landscaping, and other costs related to Lessee's Required Improvements. Without limiting the foregoing, if any of Lessee improvements to the Demised Premises (including but not limited to Required Improvements) cause any authority having jurisdiction to require upgrades or repairs to areas or facilities inside or outside of Lessee's Demised Premises, then Lessee shall be solely responsible for the cost of such upgrades or repairs. If such upgrades or repairs are performed by LAWA, then Lessee shall pay for the cost of such upgrades or repairs, plus an administrative fee of 15%.

4.7. Compliance. In Lessee's construction of the Required Improvements and other improvements (collectively, "Lessee Improvements"), Lessee will comply with all applicable federal, state and local laws.

4.7.1. Construction work performed on Lessee Improvements may require payment of prevailing wages, and Lessee is obligated to make that determination. Lessee shall be bound by and comply with applicable provisions of the California Labor Code and Federal, State, and local laws related to labor. Lessee shall indemnify and pay or reimburse LAWA for any damages, penalties or fines and interest (including, but not limited to, external attorney's fees and costs of litigation) that LAWA incurs, or pays, as a result of noncompliance with applicable prevailing wage laws in connection with the Lessee Improvements.

4.7.2. Before any work is performed for the Lessee Improvements, Lessee's contractors may be required to file a performance bond (the "Performance Bond") with LAWA to be approved by LAWA. If required by applicable law, Lessee's contractor shall provide the Performance Bond on a form provided by LAWA. The Performance Bond shall be for one hundred percent (100%) of the price of completing all Lessee Improvements to guarantee faithful performance of all such work. The Performance Bond must be issued by a surety who is authorized to issue bonds in California.

4.7.3. Before any work is performed for the Lessee Improvements, Lessee's contractor may be required to file a payment bond (the "Payment Bond") with LAWA to be approved by LAWA. If required by applicable law, Lessee shall provide the Payment Bond on a form provided by LAWA. The Payment Bond shall be for one hundred percent (100%) of the price of completing all Lessee Improvements to satisfy claims of material suppliers, mechanics, laborers, and subcontractors employed by Lessee on all such repairs. The Payment Bond must be issued by a surety who is authorized to issue bonds in California.

4.7.4. LAWA must release the Performance Bond and Payment Bond in accordance with applicable law.

4.7.5. Compliance with Applicable LAX Commitment, Mitigation and Control Measures. All construction, improvements, maintenance and operations shall be conducted in a manner which will comply with any and all LAX Environmental Commitments, Mitigation and Control Measures, including but not limited to, those set forth in the Community Benefits Agreement, the Stipulated Settlement Agreement the LAX Master Plan EIR, The Specific Plan Amendment Study EIR, the Northside Plan Update EIR and any other project level environmental impact reports related to the premises.

4.8. Project Labor Agreement. Lessee agrees to require its general contractor(s) to be subject to the terms of the Department of Public Works' project labor agreement (the "PLA") (as may or may not be applicable in accordance with the PLA's terms).

Section 5. Rent, Rent Credits and Rent Offsets.

5.1. Rent. Commencing on either twenty-four (24) months from the Commencement Date or upon completion of construction of the Argo Facility, whichever is earlier, (the "**Rent Commencement Date**"), annual Rent for the Demised Premise shall be due to be paid to LAWA at the rates shown in Exhibit B subject to the requirements of Sections 5.2 and 5.3 below.

The Yearly Rent shall be as set forth in Exhibit B, as adjusted pursuant to the terms of this Lease. Lessee acknowledges that the CEO is authorized to replace the Exhibit B, to reflect rental adjustments, fees and/or other charges established periodically by the Board that shall be generally applicable to similarly situated lessees at Airport and that Lessee accepts responsibility for payments based on such modifications effective as of the date specified by the Board pursuant to Section 5.2 and 5.3 below. Rent received from any subtenants shall be used for maintenance and operation costs related to the surface use only.

5.2. Rental Adjustments. Provided that nothing herein shall be construed to grant Lessee any rights to extend this Lease, it is agreed that rent shall be adjusted each year in accordance with the procedures provided hereinafter.

5.2.1. Annual Adjustments. Except when adjusted as provided in Section 5.2.2. Periodic Adjustment to Fair Market Rental below, the annual Rent for the Demised Premises, the O&M Credit Not to Exceed Amount, and the SSC, SIU and IC Offset Not to Exceed Amount shall be subject to automatic, annual rental adjustments effective July 1 of each year (the "Annual Adjustment Date"). However, LAWA may change the Annual Adjustment Date through a resolution adopted by the Board provided that there shall be no more than one annual adjustment pursuant to this Section 5.2.1 in any twelve-month period. The annual Rent, the O&M Credit Not to Exceed Amount and the SSC, SIU and IC Offset Not to Exceed Amount shall be adjusted on the Annual Adjustment Date according to the percentage increases over the prior year, if any, in the Consumer Price Index, All Urban Consumers for the Los Angeles-Riverside-Orange County, California area, 1982-84=100 (CPI-U), as published by the U.S. Department of Labor, Bureau of Labor Statistics ("B.L.S."), or its successor, as follows:

Annual Rent, the O&M Credit Not to Exceed Amount and the SSC, SIU and IC Offset Not to Exceed Amount shall be multiplied by the CPI-U for the month of March immediately preceding the Annual Adjustment Date (hereinafter referred to as the "Adjustment Index"), divided by the said CPI-U as it stood on March of the prior year (hereinafter referred to as the "Base Index") provided that the Annual CPI Adjustment shall not be less than two percent (2%) per year nor more than seven percent (7%) per year, in accordance with the calculation below. In the event that the Adjusted Annual Rent indicates a rate increase in excess of seven percent (7%), the rental rate increase shall be carried over and implemented in the succeeding year, as necessary, at a rate not to exceed seven (7%) per year.

The formula for calculation of Adjusted Annual Rent commencing each July 1 during the term of this Lease shall be as follows:

$$\text{Adjusted Annual Rent} = \text{Annual Rent} \times (\text{Adjustment Index/Base Index})$$

If the B.L.S. should discontinue the preparation or publication of the CPI-U, and if no transposition table is available, then LAWA shall adopt a comparable publicly-available local consumer price index for adjusting and revising the Annual Rent on July 1 annually.

5.2.2. Periodic Adjustment to Fair Market Rental. Provided nothing herein shall be construed to grant Lessee any extension rights unless expressly stated in this Lease, it is agreed that: (i) the Rent payable hereunder shall be adjusted effective as of a date not later than July 1, 2024, and every five years thereafter to a fair market rental rate payable hereunder; and (ii) the Improvement rate payable hereunder shall be adjusted effective as of the date on which ownership is transferred to LAWA pursuant to Section 60, and every five years thereafter to a fair market rental rate payable hereunder (each a "Periodic Adjustment"), provided that LAWA may change any of the periodic adjustment dates through a resolution adopted by the Board, and further provided that the Periodic Adjustment for each rental rate shall occur every five years. For purposes of adjusting the Improvement rate to a fair market rental value on fifth anniversary of the Reversion Date, such rental value will be based on the condition of the Demised Premises as of the Reversion Date.

5.2.2.1. Parties May Negotiate in Good Faith. At least one (1) year prior to the scheduled Periodic Adjustment Date and in accordance with Section 5.2.2 above, the parties may (but are not required to), in good faith, negotiate the rental rate(s) applicable to the subject adjustment period(s) as referenced above. Such good faith negotiations, initiated by either party, may include the involvement of a third party reviewer to review and make nonbinding recommendations regarding each party's rate adjustment proposal, discussions regarding external and internal factors that may be unique to the land and/or improvements so that the reviewer(s) can take them into consideration when making the recommendations, in substantially the same manner as corroborated by the parties and applicable to the Demised Premises. The parties shall have continuing opportunities to negotiate in good faith in an attempt to reach agreement on rental adjustment(s) notwithstanding each party's obligation to perform its duties as described under Section 5.2.2.2 below. If the parties are able to reach an agreement on the adjustment to the rental rate(s), then said rate(s) shall be presented as a recommendation to the Board. However, if the parties are unable to reach final agreement during said negotiation period, the parties may continue to negotiate in good faith to attempt to reach agreement until arbitration commences pursuant to Section 5.2.2.6 below.

5.2.2.2. Appraisal Process. If the parties cannot reach agreement on the rental rate(s) or the Board does not approve the agreed upon rental rate(s) as described in Section 5.2.2.1 at least nine (9) months prior to the scheduled Periodic Adjustment Date, then the parties shall determine the Monthly Rent by the procedures described in Sections 5.2.2.3 through 5.2.2.5 below. LAWA may elect to have such procedures apply separately to the rent applicable to improvements and may adjust the land rental rates on the basis of airport-wide land rental rates then in effect, provided that such rates were adopted in compliance with applicable laws. Should LAWA choose to adopt this adjustment option, LAWA will provide written notice to Lessee no later than ten (10) months prior to the Periodic Adjustment Date of the intention to adjust land and improvements separately. Separate appraisals will be procured for the land and the improvements (if any). Under this option, both the land and improvement adjustments will be completed separately under Sections 5.2.2.2 through 5.2.2.6. LAWA or Lessee may elect to use the same appraiser for both appraisal reports. Every effort will be made by LAWA and Lessee to consolidate any required meetings as required in the appraisal process described below.

5.2.2.3. Step 1: Independent Appraisals. LAWA and Lessee shall each select an appraiser, who is a member of the Appraisal Institute or its successor organization and meets the Minimum Qualifications as defined within this Lease (a "Qualified Appraiser"). Either Lessee or LAWA shall, when notified in writing by the other to do so, deliver to the other party the name and address of such appraiser (each, selected Qualified Appraiser, a "Main Appraiser"). The CEO or designee shall immediately fix the time and place for a conference between the two parties and the Main Appraisers no later than fifteen (15) days from the date of the exchange of names and addresses of the Main Appraisers. At such meeting, both Lessee and LAWA may have discussions with the Main Appraisers as to any externalities that may affect the derivation of rental value conclusions. The Appraisal Instructions to be given to the Main Appraisers are as defined within this Lease. LAWA and Lessee shall each pay the fees and expenses of their respective Main Appraisers. The narrative appraisals must be completed according to the Uniform Standards of Professional Appraisal Practice (USPAP) for the year in which the appraisal is completed. No later than one hundred (100) calendar days after the date of the appraiser meeting, a copy of the completed, final USPAP-compliant appraisal report procured by both LAWA and Lessee will be made available for review by the other party on the same day. If either LAWA or Lessee fails to deliver its appraisal report by the appraisal report delivery deadline, the late party will inform the other party in writing of the reason for the delay and the expected date on which appraisal reports will be exchanged. If either party's appraisal report cannot be delivered within four (4) months of the appraiser meeting, the complying party shall have its appraisal report presented to the Board for approval. Upon exchange of the two appraisal reports, in the event that the determination of the rental value in the two appraisal reports differs by fifteen percent (15%) or less, the rate that is the average of the determinations in the two

appraisal reports shall be presented as a recommendation to the Board. If the rate determinations in the two appraisal reports differ by more than fifteen percent (15%), the parties shall proceed to Section 5.2.2.5 below.

5.2.2.4. Step 2: Arbitration Appraiser Selection. The Main Appraisers selected by each party shall be instructed to agree upon and select an Arbitration Appraiser (as defined below) no later than six (6) weeks after the appraiser meeting described above. The Arbitration Appraiser shall be a Qualified Appraiser that is not under contract with LAWA for appraisal services. If the Arbitration Appraiser selected is not available to perform the task pursuant to the instructions set forth in Section 5.2.2.6 below or is unwilling to execute a LAWA contract for the performance of appraisal services, then LAWA and Lessee shall inform the Main Appraisers and require them to repeat the selection process again until an available Arbitration Appraiser is selected. If the Main Appraisers cannot come to agreement on the selection of an Arbitration Appraiser within (6) six weeks from the date of the appraiser meeting, the CEO shall select an Arbitration Appraiser.

5.2.2.5. Appraisal Review Period. The parties shall have one (1) month to review each other's appraisal reports from the date of the appraisal exchange as described in 5.2.2.3 above. The parties may continue to negotiate the adjusted rental rates during this period. Within fifteen (15) calendar days of the appraisal report exchange in Section 5.2.2.3 above, the CEO shall fix a time and place for a negotiation meeting between the parties to be held no later than six (6) weeks from the date of the appraisal report exchange. At such meeting, the parties shall attempt to reach a final agreement on the adjusted rental rates. Either party may include its Main Appraiser in the meeting, if desired. If Lessee and LAWA reach agreement on the rental rate adjustments, the CEO shall present the results as a recommendation to the Board. If Lessee and LAWA are unable to reach agreement on the adjusted rental rate(s) by the date that is fourteen calendar (14) days from the date of the negotiation meeting, then the parties shall proceed to Step 3 below.

5.2.2.6. Step 3: Appraiser Arbitration. LAWA and Lessee shall each pay one-half of the fees and expenses of the Arbitration Appraiser. The Arbitration Appraiser selected by the two Main Appraisers or the CEO, as the case may be, in Step 2, shall receive copies of both Lessee and LAWA's final appraisal reports that were procured in Step 1 and a list of the rental rate adjustments that have not been agreed to by the parties. The Arbitration Appraiser shall be allowed three (3) weeks to review both appraisal reports. After review of the two appraisal reports, the Arbitration Appraiser will determine which of the rental rate(s) from the two appraisal reports are the most reasonable, considering comparable data selection, market information and applicable valuation methodology. The Arbitration Appraiser will communicate its decision in writing to both Lessee and LAWA three (3) weeks after engagement. The CEO shall present the agreed-upon rental rate(s) and the Arbitration Appraiser's determinations as a recommendation to the Board.

LAWA shall make every effort to present the rate(s) for approval to the Board prior to the Periodic Adjustment Date.

5.2.3. Appraisal Criteria. The following appraisal criteria shall apply to Sections 5.2.2.3 through 5.2.2.6.

5.2.3.1. Appraiser Minimum Qualifications. The Main Appraiser must possess, at a minimum, an MAI or SRPA designation and must be licensed in the State of California. The Main Appraiser must perform all of the calculations and technical portions of the appraisal report as well as derive the final value conclusions within the appraisal report. The Main Appraiser must have geographic market knowledge of the Los Angeles County area. Knowledge of the entire Southern California real estate market is preferred. The Main Appraiser must have a minimum seven (7) years of experience of appraising Property in Southern California. If the Main Appraiser is valuing property within the perimeter fence of an airport ("on-airport"), he or she must have performed a minimum of five (5) appraisals of on-airport property within the past five (5) years.

5.2.3.2. Main Appraisers must be in good standing with the California Bureau of Real Estate Appraisers (CBREA) or its successor organization and have no more than one complaint filed against him or her for any reason and no complaints that have resulted in any disciplinary actions. The Main Appraisers must certify in the appraisal report that he or she has never received any disciplinary actions from the CBREA. The Main Appraisers must be able to provide documentation of the sources of comparable rental rate and sales data to the reasonable satisfaction of LAWA and Lessee.

5.2.3.3. Appraisal Instructions. The Main Appraiser shall consider the following in completing the appraisal report:

5.2.3.3.1. Los Angeles Administrative requirements that are in force upon Lessee within its Lease at the date of value.

5.2.3.3.2. FAA regulations that may affect value such as the Building Restriction Line, Object Free Area, Runway Protection Zone, building height limitations as related to the "Transitional Zone" and any other regulations that may affect value.

5.2.3.3.3. City zoning that applies to the property. If the LAWA-approved use does not conform to the current zoning at the date of value, and the current use is also determined to be the highest and best use, then the Main Appraiser will value the property as if it had the zoning that would allow its current use (variance granted).

5.2.3.3.4. Any public or private easements, such as utilities or rights-of-way, including avigation rights and restrictions of use to leasehold in relation to installation of the Argo Drain Sub-Basin Storm Water Facility authorized by City and made by Lessee.

5.2.3.3.5. The appraisal of land shall be determined as if vacant under its highest and best use at the date of value, taking into consideration the government imposed restrictions listed above (both by law and restrictions as imposed under the Lease). The leasehold estate or "lessee's interest" (as defined within the most recent edition of "The Appraisal of Real Estate" as published by the Appraisal Institute) shall not to be considered.

5.2.3.3.6. LAWA and Lessee shall have the right to modify any conditions of the appraisal process upon mutual written agreement of the parties.

5.2.4. With respect to additions, improvements, or alterations to leasehold structures authorized by LAWA and made by Lessee during the term of this Lease, Lessee shall not be charged rent for the rental value thereof unless and until title to said additions, improvements, or alterations revert to LAWA pursuant to the terms of this Lease or by operation of law.

5.2.5. Notwithstanding Section 70 below and subject to Section 5.2.6 below, if either Party alleges that the other Party has failed to comply with the procedure specified in Section 5.2.2.2 above, the Party alleging noncompliance must notify the other Party in writing within 30 days, describing such noncompliance in detail and providing the other Party a reasonable time for cure (in any case, not less than 10 days), otherwise such noncompliance shall be deemed waived; provided that failure by the parties to timely comply with the rental readjustment procedures herein shall not be construed to constitute a waiver of the right of LAWA to a rental readjustment. In the event adjustment of rental is not completed prior to the adjustment date, Lessee shall continue to pay the rent set for the preceding period, at the intervals and in the manner fixed for such preceding period, and if such rent is thereafter fixed in a different amount, such new rental shall take effect retroactively back to the beginning date of the readjustment period. Subject to Lessee's right of contest and right to escrow funds, unless the Board otherwise agrees to a payment plan with interest, Lessee shall promptly pay to LAWA that sum, if any, which has accrued as a result of such retroactive application. If a rental reduction occurs, LAWA shall provide a rent credit to Lessee's account equal to the sum which has accrued as a result of such retroactive application.

5.2.6. If LAWA has complied with the appraisal procedure and related time frames as set forth above, LAWA shall be entitled to receive, in addition to all retroactive rents that become due as a result of Board-adjusted rental rate(s), the time value of said rental increase(s) calculated from the effective date of the increase(s) to the time period

that the rental increase(s) are assessed to the Lessee at an interest rate representing what LAWA may have otherwise been entitled to if the funds associated with the increase(s) were available for LAWA's use; however, in no event shall the interest rate be less than 5%.

5.2.7 Assessments, Fees, and Charges. In addition to the rental obligation, Lessee hereby agrees to pay such assessments, fees, and charges as shall be set by the Board and that shall be generally applicable to similarly situated lessees at Airport.

5.3. Rent Credits and Offsets.

5.3.1. **Rent Credits.** Subject to a requirement that Lessee is, at all times, conducting all maintenance and operational requirements to provide the benefits of the Argo Facility to LAWA and at no direct cost to LAWA, Lessee shall, after the Argo Facility DBO, be entitled to Rent credits equal to the lesser of (a) the applicable O&M Credit Not to Exceed Amount shown in Exhibit O or (b) fifty percent (50%) of the actual annual operations and maintenance costs of the Argo Facility.

5.3.1.1. During the time period between the Commencement Date and the Rent Commencement Date, LAWA shall pay to BOS the SSC, SIU and IC, which shall apply as future Rent offsets during the Term of the Lease.

5.3.1.2. On July 1, 2024, and on each Periodic Adjustment Date thereafter, the O&M Credit Not to Exceed Amount shall be adjusted at a percentage rate equal to the Rent percentage adjustment on each Periodic Adjustment Date.

5.3.1.3. Additionally, beginning on July 1, 2025 and annually between each Periodic Adjustment Date thereafter, the O&M Credit Not to Exceed Amount shall be adjusted at a percentage rate equal to the Rent percentage adjustment pursuant to Section 5.2.1.

Lessee shall report to LAWA on an annual basis the operations and maintenance costs and offset matrix with supporting documentation for LAWA's review and concurrence. Should LAWA find a discrepancy in the costs allocated, Lessee shall in good faith work to resolve such discrepancies. If Lessee and LAWA are unable to agree on the cost allocated, LAWA's Board shall make a determination of the discrepancies based on the supporting facts.

5.3.2. **Rent Offsets.** Following the operational date of a storm water connection allowing up to 60 million annual gallons of LAX storm water runoff from the LAX Imperial/Pershing sub-basin in the Hyperion Treatment Plant, only if LAWA is not being invoiced for and only if no SSC, SIU and/or IC are levied on LAWA for storm water flows discharged from the LAX Imperial/Pershing sub-basin into the Hyperion Treatment Plant, Lessee may offset Rent by the lesser of (a) the applicable SSC, SIU and IC Offset Not to Exceed Amount shown in Exhibit P or (b) the actual SSC, SIU and IC that would be due to be paid by LAWA for actual storm water flows into the Hyperion Treatment Plant from the LAX connection. Additionally, if charges/fees for storm water runoff from the LAX Imperial/Pershing sub-basin into the Hyperion Treatment

Plant exceed the SSC, SIU and IC Offset Not to Exceed Amount, Lessee and not LAWA shall pay or owe the exceedance and in no case shall LAWA be charged a rate in excess of similarly situated entities providing storm water to the Hyperion Treatment Plant.

5.3.2.1. On July 1, 2024, and on each Periodic Adjustment Date thereafter, the SSC, SIU and IC Offset Not to Exceed Amount shall be adjusted at a percentage rate equal to the Rent percentage adjustment on each Periodic Adjustment Date.

5.3.2.2. Additionally, beginning on July 1, 2025 and annually between each Periodic Adjustment Date thereafter, the SSC, SIU, and IC Offset Not to Exceed Amount shall be adjusted at a percentage rate equal to the Rent percentage adjustment pursuant to Section 5.2.1.

5.4. **Reconciliation and Payments.**

Commencing on the earlier of (a) the first completed lease year after the Argo Facility DBO or (b) the first completed lease year after the operational date of a storm water connection allowing up to 60 million annual gallons of LAX storm water runoff from the LAX Imperial/Pershing sub-basin into the Hyperion Treatment Plant, within 60 days of receipt of the Lessee reports required in Section 9, LAWA shall provide Lessee with a summary of the accrued unpaid Rent, authorized Rent Credits and authorized Rent Offsets from the most recently completed lease year.

5.4.1. Prior to each Periodic Adjustment to Fair Market Rental process, LAWA will inform Lessee to the extent of any accrued unpaid Rent net of Rent Credits and Rent Offsets, if any, for the years since the most recent Periodic Adjustment Date, including an accrued unpaid Rent net of Rent Credits and Rent Offsets, with interest charges, from periods prior to the most recent Periodic Adjustment Date.

5.4.2. Upon the completion of each Periodic Adjustment to 'Fair Market Rental process, Lessee shall determine whether it elects to either (a) pay LAWA accrued unpaid Rent net of Rent Credits and Rent Offsets, if any, or (b) continue to accrue unpaid Rent net of Rent Credits and Rent Offsets, if any, which accrued unpaid balance would then be subject to an annual interest charge based on the then current five-year U.S. Treasury interest rate.

5.4.3. If LAWA exercises its Termination Option pursuant to Section 2.2.1, accrued unpaid Rent net of Rent Credits and Rent Offsets, if any, will be due to be paid to LAWA immediately.

5.4.4. If, at any time during the Term, the amount of accrued unpaid Rent net of Rent Credits and Rent Offsets is greater than the sum of forecast Rent net of Rent Credits and Rent Offsets, as determined by the CEO in his or her sole discretion, LAWA may deem Lessee in default pursuant to Section 70 and have available to LAWA all remedies under this Lease including, but not limited to Termination, pursuant to Section 70.

Section 6. Utility Services.

6.1. Subject to Section 4.6, Lessee shall pay all charges for water, gas, power, communications, and any and all other utility services used by Lessee in connection with its occupancy of the Demised Premises, including deposits, connection fees, or charges and meter installation rentals required by the supplier of any such utility service, and the costs of all equipment and improvements necessary for connecting the Demised Premises to such utility service facilities (collectively, "Utility Services"). Costs for all such Utility Services shall be included in the O&M Credit Not to Exceed Amount.

6.2. Lessee shall meter all utilities separately and shall install all meters at Lessee's expense unless LAWA and Lessee agree that separately metering any or all of the utilities is not feasible. To the extent Lessee is not paying for any Utility Service directly to the utility company providing said Utility Service, and such Utility Service is being metered, sub-metered, or otherwise paid for by LAWA or a third party ("Utility Third Party") then Lessee shall pay the costs for Utility Services allocable to the Demised Premises as reasonably determined by LAWA or Utility Third Party as the case may be, plus fifteen percent (15%) administrative costs, unless Lessee and LAWA or Utility Third Party agree otherwise in writing.

6.3. LAWA may, at LAWA's own expense, install, maintain and repair utilities under, over, through or in any part of the Demised Premises and Lessee shall not be entitled to payment or abatement of rent or any other compensation in connection with any such installation, maintenance and/or repair. If LAWA installs, maintains or repairs utilities under, over, through or in any part of the Demised Premises and LAWA damages the Demised Premises during such utility work, then LAWA shall repair the damage to a reasonable condition. Furthermore, LAWA will make all reasonable efforts during the installation, maintenance and/or repair not to create a materially adverse effect on Lessee's on-going business concern. Lessee waives any and all claims against LAWA for compensation for any and all loss or damage sustained by reason of any defect, deficiency, or impairment of any water supply system, drainage or sewer system, gas supply system (if provided), telephone system, electrical supply system, or electrical apparatus or wires serving the Demised Premises, with the exception for claims against LAWA for compensation for loss or damage directly resulting from installation, maintenance and/or repair performed by LAWA.

Section 7. Notices.

7.1. Written notices to LAWA hereunder shall be sent to the CEO with a copy sent to the City Attorney of the City of Los Angeles and addressed to said parties at:

Deputy Executive Director	City Attorney
Commercial Development Group	Department of Airports
Department of Airports	1 World Way
1 World Way	Post Office Box 92216
Post Office Box 92216	Los Angeles, CA 90009-2216
Los Angeles, CA 90009-2216	

and via electronic mail to CDG-Lessee-Notices@lawa.org or to such other address as LAWA may designate by written notice to Lessee.

7.2. Written notices to Lessee hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

**City of Los Angeles
Department of Public Works,
Bureau of Sanitation
Enrique C. Zaldivar, P.E. Director
1149 S. Broadway, 9th Floor
Los Angeles CA 90015-2213**

**Edward Jordan
Assistant City Attorney
200 North Main Street, 7th Floor
Los Angeles CA 90012**

or to such other address as Lessee may designate by written notice to LAWA. Lessee consents to personal jurisdiction in any California federal or state court.

7.3. The execution of any such notice by the CEO shall be as effective as to Lessee as if it were executed by Board or by Resolution or Order of said Board, and Lessee shall not question the authority of the CEO to execute any such notice.

7.4. All such notices, except as otherwise provided herein, may either be delivered personally to the CEO or to the Office of the City Attorney, Airport Division, in the one case, or to Lessee in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail, or may be delivered by a nationally recognized overnight commercial courier service that requires the recipient's signature for delivery, and shall be effective one (1) business day after delivery to such courier.

Section 8. Disclosure of Hazardous Substances.

8.1. LAWA hereby notifies Lessee that petroleum products, Asbestos Containing Material ("ACM") (including, but not limited to, building materials such as floor tile, mastic, roofing, and joint compound), Lead Based Paint ("LBP"), Possible Mercury-Containing Switches and Fluorescent Tubes, and Possible PCB-Containing Materials (including but not limited to fluorescent light ballast and electrical transformers ("Possible PCB")) may be present in structures and materials on the Demised Premises.

8.2. General Release and Waiver by Lessee. Lessee on behalf of itself and its successors and assigns releases LAWA from and waives any and all claims of any nature whatsoever, whether direct or indirect, known or unknown, foreseen or unforeseen, arising from or related to petrochemicals, ACM, LBP, actual Mercury-fluorescent tubes and switches, and actual PCB-containing materials in the Demised Premises. The Lessee acknowledges and agrees that it has been advised by legal counsel in California and is familiar with the provisions of California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM, MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

The provisions of this section shall survive the expiration or earlier termination of this Lease.

Section 9. Annual Reporting.

9.1. Lessee shall within 60 days of the close of each Lease year provide LAWA with an annual report for each Lease year, at a level of detail reasonably acceptable to the CEO, setting forth (1) the annual operation and maintenance expenses incurred by Lessee (with invoices substantiating all costs and expenses), (2) the Argo Facility performance and operations and (3) the actual number of storm water gallons of LAX storm water runoff from the LAX Imperial/Pershing sub-basin into the Hyperion Treatment Plant as reported by LAWA.

9.2. Compliance with Northside Design Features, and Applicable Environmental Commitments and Mitigation Measures. Without limiting Lessee's obligations under Section 76, Lessee's Annual Report shall reflect Lessee's compliance with all applicable LAX Specific Plan Northside Design Guidelines, Environmental Commitments, and Mitigation Monitoring and Reporting Program requirements, as well as LAX Reduced Emission Construction Equipment (Third Party Monitor), Alternative Fuel and First Source Hiring Programs.

ARTICLE 2. STANDARD TERMS AND PROVISIONS

Section 51. Limitations on Use of Demised Premises.

51.1. Lessee shall not use the Demised Premises, nor any portion thereof, for any purpose other than that set forth in Article 1, without first having had and obtained the written consent of the CEO, which consent may be withheld in the CEO's sole discretion, and which written consent is approved as to form by the City Attorney.

51.2. There is hereby reserved to LAWA, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Demised Premises herein leased. This public right of flight shall include the right to cause in said airspace any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from, or operating on Airport. Lessee agrees not to make any claim or institute legal action against LAWA under any theory of recovery for any interference with Lessee's use and enjoyment of the Demised Premises which may result from noise emanating from the operation of aircraft to, from, or upon Airport.

51.3. Lessee, by accepting this Lease, agrees for itself and its successors and assigns that it will not make use of the Demised Premises in any manner which might interfere with the landing

and taking off of aircraft from Airport or otherwise constitute a hazard to such operations. In the event that the Lessee interferes with any air traffic as described above, LAWA reserves the right to enter upon the Demised Premises hereby leased and cause the abatement of such interference at the expense of Lessee.

51.4. Lessee shall conduct its, and cause its sublessees to conduct their operations on the Demised Premises in such manner as to reduce as much as is reasonably practicable, considering the nature and extent of said operations, any and all activities which interfere unreasonably with the use of other premises adjoining the Demised Premises at Airport, including, but not limited to, the emanation from the Demised Premises of noise, vibration, movements of air, fumes, and odors.

51.5. Lessee is prohibited from installing or using any wireless workstations, access control equipment, wireless internet servers, application or system software such as transceivers, modems, or other interface units that access frequencies from 2.0 Gigahertz to 6.0 Gigahertz, inclusive, without first obtaining approval from the CEO.

51.6. Lessee has no rights under this Lease to install or use any antennae or telecommunications equipment on the roof or exterior of any building or structure on the Demised Premises, unless such installation or use is directly related to the conduct of Lessee's business and in full compliance with LAWA's permit process and telecommunications policies, as may be modified from time to time at the sole discretion of the CEO. Lessee may not license or sublease to others the right to install or use antennae or other telecommunications equipment on the Demised Premises.

Section 52. Rental Payments.

52.1. **Delivery of Rental Payments.** Subject to Section 5, Rent (net of Rent Offsets and Rent Credits), if any, shall be periodically paid by Lessee. In the event the commencement or termination date of this Lease falls on any date other than the first day of the calendar year, the applicable rental for that year shall be calculated pro rata according to the number of days during which the Demised Premises, or any part of same, were occupied by Lessee during said year. All payments shall include the contract number, which is stamped on the first page of this Lease, on each payment check and the remittance advice attached to the invoice, if any, delivered to Lessee by LAWA. Upon written approval by the CEO, the Lessee may be approved to make electronic rental payments to LAWA.

52.2. All payments shall be mailed to the following address:

**City of Los Angeles
Los Angeles World Airports
P.O. Box 54078
Los Angeles, CA 90054-0078**

52.3. LAWA may, from time to time, designate another address to which rental payments shall be made and will provide at least thirty (30) days advance written notice of such address change. Invoices may be sent by LAWA to Lessee as a customer courtesy, and receipt of such

invoice shall not be a condition prior to payment of rent.

Section 53. Liquidated Damages for Delinquent Payment.

[This section intentionally left blank]

Section 54. Reports.

54.1 LAWA may, at its discretion and with reasonable notice to Lessee, require Lessee within ten (10) days after the end of each calendar month, to report to the LAWA certain operating statistical and financial data applicable to LAWA airports covering the previous calendar month in such form and content as shall reasonably be specified by the CEO. Those reports shall include, but not be limited to:

54.1.1. Data related to water collected in the diversion structure (volume, flow, rate of infiltration, etc.)

54.1.2. Data related to debris removal (frequency, amount, composition)

54.1.3. Copies of any reports generated for the Storm Water Program for the City of Los Angeles, and any reports required by and/or provided to outside agencies, regulatory agencies, or City departments.

Section 55. Audits.

55.1. LAWA may, at its sole discretion and with reasonable notice to Lessee, require Lessee to provide access to all records and other information necessary to perform an audit of rental, fees, Rent Credits, Rent Offsets, and other charges paid and payable to LAWA, and any required information for payments by LAWA to lessee, including but not limited to invoices and proof of payments related to reimbursement for Lessee improvements and other Lessee-required investments. LAWA shall have the right to access such records and information for five (5) years past the end of the fiscal year in which they were generated and up to five (5) years past the expiration or early termination of this Lease. Lessee shall retain all records and other information necessary to perform an audit as described above for a minimum of five (5) years.

Section 56. Faithful Performance Guarantee.

[This Section Is Intentionally Omitted]

Section 57. Improvements and Alterations.

57.1. By Lessee.

57.1.1. Prior to the construction of any improvements, including but not limited to Required Improvements, structural improvements, additions, alterations, or signs, Lessee shall obtain approval from LAWA through its Tenant Improvement Approval Process

(TIAP). Lessee shall submit to LAWA for concept approval the preliminary plans and estimated construction cost for such improvements. Upon approval by the CEO of Lessee's preliminary plans, Lessee shall prepare working drawings and specifications which shall be true and correct developments of the preliminary plans so approved. Lessee shall then submit a written request for construction approval and a minimum of five (5) complete sets of said approved working drawings and copies of the specifications to LAWA for written approval by the CEO. The CEO's written approval and any conditions related to the construction of the improvements or alterations shall become a part of the Lease as though fully set forth herein once the document is fully executed by both parties. Upon receipt of the CEO's approval, Lessee shall cause the construction called for by the approved working drawings and specifications to be commenced and completed promptly. No substantial changes, additions, or alterations shall be made in said working drawings or specifications, or in the construction called for thereby, without first obtaining the CEO's approval in writing. As required by TIAP and upon completion of the improvements approved by LAWA, Lessee shall furnish to LAWA, at no charge, three complete sets of "record" drawings, and one complete set in Computer Aided Design (CAD) format which complies with the then current LAWA CAD standards. These drawings must include any applicable permit numbers, the structural and other improvements installed by Lessee in the Demised Premises, and the location and details of installation of all equipment, utility lines, heating, ventilating, and air-conditioning ducts and related matters. Lessee shall keep said drawings current by updating them in order to reflect any changes or modifications which may be made in or to the Demised Premises.

57.1.2. Any conditions, restrictions, or limitations placed upon the approval of Lessee improvements by the CEO pursuant to Section 57.1.1 shall be conditions of this Lease as though fully set forth herein once the document is fully executed by both parties. Lessee shall hold LAWA harmless from liability with respect to any claims regarding any improvements, additions, or alterations made thereto.

57.1.3. As required by TIAP, for each and every construction or alteration project undertaken on the Demised Premises, Lessee shall prepare a final construction report. This report shall contain the following elements: (1) type of improvement constructed or altered; (2) floor area or capacity of improvement constructed or altered; (3) total cost of construction or alteration including a detailed cost breakdown; (4) completion date for construction or alteration; and (5) a copy of the certificate of occupancy. The construction report shall be delivered to LAWA at the address provided in the Notices Section of the Lease no later than sixty (60) days following completion, and applicable permitting approvals of the construction or alteration.

57.1.4. Lessee shall also keep the Demised Premises and any improvements constructed thereon free and clear of liens for labor and material expended by or for Lessee or on its behalf in accordance with Section 58 Liens, herein.

57.1.5. Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Administration Regulations in the event any future structure or building is planned for the Demised Premises, or in the event of any

planned modification or alteration of any present or future building or structure situated on the Demised Premises

57.1.6. Lessee agrees that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on the land leased hereunder above the mean sea level elevation obstruction contours shown on the contour drawings on file with LAWA, if applicable. In the event the aforesaid covenants are breached, LAWA reserves the right to enter upon the land leased hereunder and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Lessee.

57.1.7. Before any work is performed on or within the Demised Premises, as described in the aforementioned Subsection 57.1.1, Lessee may be required to file Payment and Performance Bonds with LAWA. Furthermore, Lessee agrees to require its contractors to file with LAWA any Payment Bonds as required by TIAP. All required Payment and Performance Bonds must be approved by LAWA before any work commences.

57.2. By LAWA.

57.2.1. LAWA reserves the right to further develop or improve the landing area of Airport or any other portion of the Airport, as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance. If any such development or improvement interferes substantially with Lessee's use and occupancy of the Demised Premises, Lessee shall be entitled to an appropriate reduction in rental or termination of this Lease in which case the payment requirement of Section 2.2.2, Termination Fee shall apply.

57.2.2. LAWA reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.

57.2.3. Lessee acknowledges that LAWA retains the right without compensation to Lessee to install or use antennae or telecommunications equipment on the roof or exterior of any building or structure on the Demised Premises (and the right to install and attach cables, wires and conduits on, over or under the Demised Premises), or to lease or license others to do so. LAWA agrees to install such antennae and/or telecommunications equipment in such a manner that will not cause a loss of water-tightness in the roof or wall structures or their related components. The right to install or use said antennae or telecommunications equipment shall not include the right to penetrate fully through roof or wall structures owned by Lessee without first obtaining approval of the Lessee, which approval may not be unreasonably withheld. LAWA further agrees to repair any damage caused by LAWA's installation of antennae or telecommunications equipment on the roof or exterior of any building or structure on the Demised Premises. LAWA will make best efforts not to interfere with the use of the Demised Premises, as described herein, during the installation or maintenance of such antennae and/or telecommunications equipment.

Section 58. Liens.

58.1. During the term of this Lease, the fee interest in the real property underlying the Demised Premises shall not be used as security for any loans or mortgages nor otherwise have any liens placed on it. Additionally, Lessee shall keep any LAWA-owned improvements on the Demised Premises free and clear of any liens or other encumbrances. By way of specification without limitation, Lessee shall keep the Demised Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by or for Lessee and shall indemnify, hold harmless and defend LAWA from any liens and encumbrances arising out of any work performed or materials furnished by or at the request of Lessee. In the event that Lessee does not, within thirty (30) calendar days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, LAWA shall have in addition to all other remedies provided herein and by law, the right, but not the obligation to cause, upon ten (10) business days prior written notice to Lessee, the same to be released by such means as it shall deem proper, including payment in satisfaction of the claim giving rise to such lien. All such sums paid by LAWA and all expenses incurred by it in connection therewith, including all documented costs and a 15% administrative fee, shall be paid by Lessee to LAWA on demand. Nothing in this Section shall be construed to limit any rights of Lessee to use its leasehold interest as security for any loans to the extent that such use is permitted under this Lease. Nothing in this Section shall be construed to place any obligations upon Lessee with respect to liens, loans, or mortgages placed upon the Demised Premises by LAWA, its Board, City officers, agents, or employees.

Section 59. Modification to Size of Demised Premises.

59.1. **Modification of Premises and Documents.** Addition or deletion of space for which Lessee is charged, not to exceed a cumulative total of twenty percent (20%) of the Demised Premises as described at the commencement of the Lease, may be made by mutual agreement of LAWA and Lessee, except as otherwise provided pursuant to Section 69 herein, if applicable. Such addition or deletion shall be by written amendment and shall specify appropriate adjustments in rental, charges, or credits, as applicable, and shall not require approval by Board or Council, unless the modification involves an amount in excess of \$150,000 per year, in which case prior Board approval shall be required. The CEO shall revise and replace the Premises, Exhibit A and the Payments, Exhibit B, as necessary.

59.2. **Damage to or Destruction of Improvements.** If, during the term of this Lease, any buildings, structures, or improvements on the Demised Premises are partially or totally destroyed from a risk covered by the insurance described in Section 64, Insurance, herein, thereby rendering said Demised Premises partially or totally inaccessible or unusable, Lessee must restore the Demised Premises to substantially the same condition as they were immediately before destruction.

59.2.1. If, during the term of this Lease, improvements on the Demised Premises are partially or totally destroyed from a risk not covered by the fire and extended coverage insurance described in the insurance, Exhibit E, herein, thereby rendering said Demised Premises partially or totally inaccessible or unusable, such destruction shall not

automatically terminate this Lease, If, however, the cost of restoration exceeds ten percent (10%) of the full replacement value of improvements, as said value existed immediately before said destruction, the Parties may, as agreed by both parties in writing, terminate this Lease or continue the Lease. If the Parties elect to terminate as above provided, Lessee and LAWA shall be obligated, to demolish all damaged improvements and remove all debris from the Demised Premises, the cost for which shall be shared by the Parties proportionately, based on each Party's contribution to design and construction costs. If the Parties agree to continue this Lease, this Lease shall continue in full force and effect for the remainder of the term specified herein and the Lessee and LAWA shall restore the Demised Premises to substantially the same condition as they were in immediately before destruction and shall share the cost therefore proportionately, based on each Party's contribution to design and construction costs.

Section 60. Ownership of Improvements.

60.1. During the original Term of this Lease, title to all structures, improvements, facilities, or alterations constructed or installed by Lessee shall remain in Lessee. Upon the expiration of the original Term of this Lease, or earlier termination of this Lease, said structures, improvements, facilities, or alterations, other than machines, equipment, trade fixtures, and similar installations of a type commonly removed without structural damage to the Demised Premises, shall become a part of the land upon which they are constructed, or of the building to which they are affixed, and title thereto shall thereupon vest in LAWA, unless LAWA requests Lessee to remove some or all of said structures, improvements, facilities, or alterations. LAWA is not required to request removal, however, if so requested, Lessee shall promptly remove said items at Lessee's sole cost and expense, including full remediation and restoration of the Demised Premises pursuant to Section 73, herein. If LAWA requests Lessee to remove some or all of the structures, improvements, facilities or alterations, Lessee may sell the removed items as salvage and retain the proceeds of that sale or sales. In the event the removal of any fixture damages any part of the Demised Premises, Lessee shall repair such damage and restore the Demised Premises to as good condition as the same was in prior to said damage, reasonable wear and tear excepted, as may be required and approved by the LAWA.

60.2. During the term of this Lease, title to all structures, improvements, facilities, or alterations constructed or installed by Lessee for which Lessee has been reimbursed by LAWA shall thereupon vest in LAWA.

60.3. Upon title to said structures, improvements, facilities, or alterations vesting in LAWA, LAWA shall be entitled to reasonable rent, fees and/or other charges, as determined by the Board, and Lessee shall be obligated to pay same for as long as Lessee occupies or uses said structures, improvements, facilities and alterations.

Section 61. Signs.

61.1. No identification signs pertaining to Lessee's operations shall be installed or placed in or on the Demised Premises or Airport until Lessee has submitted to the CEO drawings,

sketches, design dimensions, and type and character of such identification signs proposed to be placed thereon or therein and has received written approval from the CEO. The CEO's written approval and any conditions related to the subject signs shall become a part of the Lease as though fully set forth herein once the document is fully executed by both parties.

61.2. Other than approved identification signs, Lessee shall not, at any time, under any circumstances, install, place, or maintain any type of advertising, on the Demised Premises.

Section 62. Maintenance and Repair of Demised Premises.

62.1. Except as otherwise expressly stated in this Lease and in accordance with Exhibit D, Lessee, solely at its own cost and expense, shall keep and maintain the Demised Premises and all improvements in good repair and working order, reasonable wear and tear excepted, and in a clean, properly maintained, and safe condition. All maintenance, repairs, and replacements shall be in accordance with applicable prevailing industry maintenance standards; maintenance requirements, which LAWA may develop; in compliance with all manufacturers' recommendations, warranties and guarantees; and all federal, state, and local government rules and regulations. Lessee shall keep the Demised Premises, at all times, free and clear of weeds, wastepaper, discarded plastic, graffiti, discarded pallets, and all other trash and debris of any kind.

62.2. If Lessee fails to so maintain or repair the Demised Premises, LAWA may serve a "Notice to Cure" upon Lessee. Said Notice shall prescribe the work to be accomplished by Lessee in order to correct the maintenance deficiencies and shall state the due date by which Lessee shall have to complete the work as prescribed in the Notice. In addition, a copy of the "Notice to Cure" may be posted on the Demised Premises in a conspicuous place. Furthermore, LAWA retains the right, but not the obligation, to make emergency repairs when, in the sole determination of the CEO, failure to take immediate action will damage the facilities or disrupt operations, at Lessee's sole cost and expense, plus an administrative fee in the amount of 15% of cost.

62.3. If, in the opinion of the CEO, any default is of such nature that it cannot physically be corrected within the period originally specified by LAWA, and if the party in default has responded with a course of action and has commenced to remedy such default promptly after the receipt of such Notice, and shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete the same.

62.4. If the work prescribed in the "Notice to Cure" is not completed by Lessee in a manner reasonably satisfactory to the CEO, and Lessee fails to correct such work within the time specified by LAWA in the mailed Notice, or as set forth in Subsection 62.3, LAWA may, at LAWA's sole option, and at Lessee's sole cost and expense, enter upon the Demised Premises and perform whatever work may, in the opinion of the CEO, be required to correct the maintenance deficiencies. If LAWA exercises this option, Lessee shall pay to LAWA a sum equal to the direct cost of labor and materials expended for said work, plus a surcharge equal to fifty percent (50%) of said direct cost. Payment shall be made within thirty (30) days of invoice date.

Section 63. LAWA's Right of Access and Inspection.

63.1. LAWA, by and through its officers, employees, agents, representatives, and contractors, shall have the right at all times to enter upon the Demised Premises for the purpose of inspecting the same or for doing any act or thing which LAWA may be obligated or have the right to do under this Lease, or otherwise, and no abatement of rental shall be claimed by or allowed to Lessee by reason of the exercise of such rights.

Section 64. Insurance.

64.1. Lessee shall be self-insured and its contractors shall procure at their own expense, and keep in effect at all times during the term of this Lease, the types and amounts of insurance specified on Insurance, Exhibit E, attached hereto and incorporated by reference herein. The specified insurance shall also, either by provisions in the policies, by LAWA's own endorsement form or by other endorsement attached to such policies, include and insure LAWA, its Board and all of LAWA's officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk described on Insurance, Exhibit E, hereof with respect to Lessee's acts or omissions in its operations, use, and occupancy of the Demised Premises or other related functions performed by or on behalf of Lessee in, on or about Airport.

64.2. Each specified insurance policy (other than Workers' Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Lease with the City of Los Angeles and its Department of Airports."

64.3. All such insurance shall be primary and noncontributing with any other insurance held by and its Department of Airports where liability arises out of or results from the acts or omissions of Lessee, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Lessee. Such policies may provide for reasonable deductibles and/or retentions acceptable to the CEO based upon the nature of Lessee's operations and the type of insurance involved.

64.4. LAWA shall have no liability for any premiums charged for such coverage(s). The inclusion of LAWA, its Board and all of LAWA's officers, employees, and agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venture with Lessee in Lessee's operations at Airport. In the event Lessee fails to furnish LAWA evidence of insurance and maintain the insurance as required, LAWA, upon ten (10) days prior written notice to comply, may (but shall not be required to) procure such insurance at the cost and expense of Lessee, and Lessee agrees to promptly reimburse LAWA for the documented cost thereof plus fifteen percent (15%) for administrative overhead. Payment shall be made within thirty (30) days of invoice date.

64.5. At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed with LAWA. If such coverage is canceled or reduced, Lessee shall, within fifteen (15) days of such cancellation of coverage, file with LAWA evidence that the required insurance has been reinstated or provided through another insurance company or companies.

64.6. Lessee shall provide proof of all specified insurance and related requirements to LAWA either by production of the actual insurance policy(ies), by use of LAWA's own endorsement form(s), by broker's letter acceptable to the CEO, in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the CEO. The documents evidencing all specified coverages shall be filed with LAWA in duplicate and shall be procured and approved in strict accordance with the provisions in Sections 11.47 through 11.56 of City's Administrative Code prior to Lessee occupying the Demised Premises. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) days prior to the effective date thereof. LAWA reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

64.7. LAWA and Lessee agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Lease by the CEO who may, thereafter, require Lessee, on thirty (30) days prior, written notice, to adjust the amounts of insurance coverage to whatever reasonable amount said CEO deems to be adequate.

64.8. Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code Sections 1760 through 1780, and any other regulations and/or directives from the State Department of Insurance or other regulatory board or agency. Lessee agrees, except where exempted, to provide LAWA proof of said insurance by and through a surplus line broker licensed by the State of California.

Section 65. Hold Harmless.

65.1. In addition to the requirements of Section 64, Insurance herein, Lessee shall, to the fullest extent permitted by law, defend (with counsel satisfactory to LAWA), indemnify and hold harmless LAWA and any and all of its boards, commissioners, officers, directors, agents, employees, assigns and successors in interest (collectively "LAWA Defendants") from and against any and all allegations, suits, claims, causes of action, liability, losses, damages, demands or expenses (including, but not limited to, external attorney's fees and costs of litigation) (collectively "Claims"), prosecuted by anyone (including Lessee and/or Lessee's agents, former and current employees, or competitors) by any reason of, arising out of, related to, connected with or pertaining to: (1) the acts or omissions of Lessee, its agents, servants, employees or invitees; (2) the Lease; or (3) the Demised Premises, except to the extent Lessee proves to LAWA that such Claim was caused by LAWA's willful misconduct.

65.2. In Lessee's defense of LAWA under Section 65.1, including but not limited to the negotiation, compromise, and settlement of any action, LAWA shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals there from, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

65.3 LAWA shall, to the fullest extent permitted by law, defend (with counsel satisfactory to Lessee), indemnify and hold harmless Lessee and any and all of its boards, commissioners, officers, directors, agents, employees, assigns and successors in interest (collectively "Lessee Defendants") from and against any and all allegations, suits, claims, causes of action, liability, losses, damages, demands or expenses (including, but not limited to, external attorney's fees and costs of litigation) (collectively "Claims"), prosecuted by anyone (including LAWA and/or LAWA's agents, former and current employees, or competitors) by any reason of, arising out of, related to, connected with or pertaining to: (1) the acts or omissions of LAWA, its agents, servants, employees or invitees.

65.4 In LAWA's defense of Lessee under Section 65.3, including but not limited to the negotiation, compromise, and settlement of any action, Lessee shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals there from, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

65.5. Survival of Indemnities. The provisions under this Section 65 shall survive the termination of this Lease. Rights and remedies available to LAWA hereinabove shall survive the termination of this Lease. Further, the rights and remedies are cumulative of those provided for elsewhere in this Lease and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

Section 66. Nondiscrimination and Equal Employment Practices/Affirmative Action Program.

66.1. Federal Non-Discrimination Provisions.

66.1.1. The Lessee for itself, its heirs, representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease, for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

66.1.2. The Lessee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color or national

origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Lessee shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

66.1.3. The Lessee assures that it will comply with pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates the Lessee or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property.

66.1.4. Lessee shall furnish its services on a reasonable and not unjustly discriminatory basis to all users, and charge reasonable and not unjustly discriminatory prices for each unit or service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

66.1.5. Lessee agrees that it shall insert the provisions found in Subsections 66.1.3 and 66.1.4 above in any sublease, assignment, license, or permit by which said Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Demised Premises herein leased.

66.2. Municipal Non-Discrimination Provisions .

66.2.1. **Non-Discrimination in Use of Premises**. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Demised Premises or any part of the Demised Premises or any operations or activities conducted on the Demised Premises or any part of the Demised Premises. Nor shall Lessee or any person claiming under or through Lessee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of Lessees, sublessees, or vendees of the Demised Premises. Any sublease or assignment which may be permitted

under this Lease shall also be subject to all non-discrimination clauses contained in Section 66.2.

66.2.2. **Non-Discrimination in Employment.** During the term of this Lease, Lessee agrees and obligates itself in the performance of this Lease not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition. Lessee shall take affirmative action to insure that applicants for employment are treated, during the term of this Lease, without regard to the aforementioned factors and shall comply with the affirmative action requirements of the Los Angeles Administrative Code, Sections 10.8, et seq., or any successor ordinances or law concerned with discrimination.

66.2.3. **Equal Employment Practices.** If the total payments made to LAWA under this lease are \$1,000 (one thousand dollars) or more, this provision shall apply. During the performance of this Lease, Lessee agrees to comply with Section 10.8.3 of the Los Angeles Administrative Code ("Equal Employment Practices"), which is incorporated herein by this reference. A copy of Section 10.8.3 has been attached to this Lease for the convenience of the parties as Exhibit F. By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of Lessee to comply with the Equal Employment Practices provisions of this Lease may be deemed to be a material breach of this Lease. No such finding shall be made, or penalties assessed, except upon a full and fair hearing after notice and an opportunity to be heard has been given to Lessee. Upon a finding duly made that Lessee has failed to comply with the Equal Employment Practices provisions of this Lease, this Lease may be forthwith terminated, cancelled, or suspended.

66.2.4. **Affirmative Action Program.** If the total payments to LAWA under this Lease are \$100,000 (one hundred thousand dollars) or more, this provision shall apply. During the performance of this Lease, Lessee agrees to comply with Section 10.8.4 of the Los Angeles Administrative Code ("Affirmative Action Program"), which is incorporated herein by this reference. A copy of Section 10.8.4 has been attached to this Lease for the convenience of the parties as Exhibit G. By way of specification but not limitation, pursuant to Sections 10.8.4.E and 10.8.4.F of the Los Angeles Administrative Code, the failure of Lessee to comply with the Affirmative Action Program provisions of this Lease may be deemed to be a material breach of this Lease. No such finding shall be made or penalties assessed, except upon a full and fair hearing, after notice and an opportunity to be heard has been given to Lessee. Upon a finding duly made that Lessee has failed to comply with the Affirmative Action Program provisions of this Lease, this Lease may be forthwith terminated, cancelled, or suspended.

Section 67. Taxes, Permits and Licenses.

67.1. Lessee shall pay any and all taxes of whatever character that may be levied or charged upon the Demised Premises, or upon Lessee's improvements, fixtures, equipment, or other

property thereon or upon Lessee's use thereof. Lessee shall also pay all license or permit fees necessary or required by law or regulation for the conduct of Lessee's business or use of the Demised Premises.

67.2. If a claim is made against LAWA for any of the above charges, LAWA shall promptly notify Lessee in writing; provided, however, that failure by LAWA to give such notice shall not constitute a waiver of Lessee's obligation to pay such taxes, license and/or permit fees.

67.3. In addition, by executing this Lease and accepting the benefits thereof, a property interest may be created known as a "possessory interest." If such possessory interest is created, Lessee, as the party in whom the possessory interest is vested, shall be subject to the payment of the property taxes levied upon such interest.

67.4. The obligations of Lessee under this Section, however, shall not prevent Lessee from contesting the validity and/or applicability of any of the above charges and during the period of any such lawful contest, Lessee may refrain from making, or direct the withholding of, any such payment without being in breach of the above provisions. Upon a final determination in which Lessee is held responsible for such taxes and/or fees, Lessee shall promptly pay the required amount plus all legally imposed interest, penalties and surcharges. If all or any part of such taxes and/or fees, penalties, or surcharges are refunded to LAWA, LAWA shall remit to Lessee such sum(s) to which Lessee is legally entitled.

Section 68. Assignments and Subleases.

68.1. Subject to Section 10 above, Lessee shall not, in any manner, assign, transfer, or encumber this Lease, or any portion thereof or any interest therein, without the prior written consent of the CEO, nor sublet or sublease the whole or any part of the Demised Premises, nor license or permit the use of the same, in whole or in part, without the prior written consent of the CEO. Any attempts to transfer, assign, or sublease without the consent required by this Section shall be void and shall transfer no rights to the Demised Premises. Consent to one assignment, subletting, or use or occupation shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use. This Lease shall not, nor shall any interest therein, be assignable as to the interest of Lessee by operation of law without the prior written consent of Board.

68.2. LAWA shall not unreasonably withhold its consent to the assignment of this Lease or the subletting of the Demised Premises or any portion thereof; provided, however, that the use of said premises by any such assignee or sublessee must be consistent with the use authorized herein, any prospective assignee must have a credit rating equal to or greater than the Lessee, and the prospective sublessee and/or assignee must agree to execute LAWA's Consent to Sublease and/or Assignment Agreement. A request by Lessee for assignment or subletting shall be submitted to LAWA in writing along with a fully executed copy of the proposed assignment or sublease, as well as a copy of all contracts or writings which set forth payments from sublessee(s)/assignee(s) to Lessee and/or which describe the acts or services to be performed by or for the sublessee(s)/assignee(s) in connection with the use of the space covered by Lease. Lessee shall promptly advise LAWA of early termination of assignments or subleases.

68.3. Subject to Section 60 above, in the case of an assignment, unless otherwise noted, Lessee shall pay to LAWA fifty percent (50%) of any monetary or other economic consideration received by Lessee as a result of the assignment of this Lease. Any license or sublicense of the Demised Premises or any portion thereof shall be deemed a subletting for all purposes of this Section 68. For the purposes of this Section 68, any merger or consolidation of the Lessee (in which the Lessee is not the surviving party), any sale of substantially all of the assets of the Lessee, any other circumstance that results in an assignment of this Lease by operation of law, and the transfer (as part of a single plan of transfer) of 50% or more of the voting securities of the Lessee shall be deemed an assignment of this Lease subject to the provisions of this Section 68.

68.4. In the case of a sublease requiring the CEO's consent to a change of use of the Demised Premises, as a condition to the Consent to Sublease, it shall not be deemed unreasonable for LAWA to require that Lessee shall pay to City 50 percent (50%), of any monetary or other economic consideration received by Lessee as a result of the sublease.

Section 69. Space Utilization. (This Section applies to lessees who are federally certificated air carriers only).

[This Section Is Intentionally Omitted]

Section 70. Default.

70.1 Default Events. The following events shall be deemed to be events of default by Lessee under the Lease:

70.1.1. Lessee's amount of accrued unpaid Rent net of Rent Credits and Rent Offsets is greater than the sum of forecast Rent net of Rent Credits and Rent Offsets during the remaining Term, as determined by the CEO in his or her sole discretion;

70.1.2. Lessee fails to comply with any term, provision or covenant of this Lease, other than paying its Monthly Rent, and does not cure such failure within ten (10) days after Lessor has sent written notice to Lessee specifying such failure or such longer period of time as may be granted by CEO to cure such default as long as Lessee commences to cure such default within such ten (10) day period and diligently proceeds to cure such default;

70.1.3. Lessee makes an assignment of this Lease, or any rights granted to Lessee hereunder, to, and for the benefit of, Lessee's creditors;

70.1.4. Lessee, within thirty (30) days after the commencement of any proceeding against Lessee seeking adjudication of bankruptcy or reorganization, rearrangement, composition, readjustment, liquidation, dissolution or similar relief, fails to cause such proceedings to be dismissed;

70.1.5. Lessee, within sixty (60) days after the appointment without Lessee's consent or acquiescence of any trustee, receiver, or liquidator of the Lessee or a material part of its assets, causes such appointment to be vacated.

70.1.6. The interests of Lessee under this Lease shall not, except at LAWA's option and with its written consent, be assignable by operation of law. In case of the bankruptcy of Lessee, or the appointment of a receiver for Lessee and such receiver is not removed within one hundred twenty (120) days from the date of appointment, or if a receiver is appointed to take possession of the Demised Premises as a result of any act or omission of Lessee and such receiver is not removed within one hundred twenty (120) days from the date of appointment, or if Lessee makes an assignment of this Lease for the benefit of creditors, or if possession of the Demised Premises is taken by virtue of any attachment, execution, or the levy of any judicial process, LAWA, at its election, may, after written notice to Lessee, terminate this Lease.

70.2. **Lessor's Remedies.** Upon the occurrence of a Default Event, LAWA, in addition to any other rights or remedies available to LAWA at law or in equity, shall have the right to:

70.2.1. Terminate this Lease and all rights of Lessee under this Lease, by giving Lessee thirty (30) days written notice that this Lease is terminated, in which case, the provisions of Section 60, Ownership of Improvements, herein, shall apply and LAWA may recover from Lessee the aggregate sum of:

70.2.1.1. The worth at the time of award of any unpaid rent that had been earned at the time of termination;

70.2.1.2. The worth at the time of award of the amount by which (A) the unpaid rent that would have been earned after termination until the time of award exceeds (B) the amount of rental loss, if any, that Lessee affirmatively proves could be reasonably avoided;

70.2.1.3. The worth at the time of award of the amount by which (A) the unpaid rent for the balance of the term after the time of award exceeds (B) the amount of rental loss, if any, that Lessee affirmatively proves could be reasonably avoided;

70.2.1.4. Any other amount necessary to compensate LAWA for all the detriment caused by Lessee's failure to perform Lessee's obligations, including any such amounts ascertained or determined at any time after the Default Event; and

70.2.1.5. All other amounts in addition to or in lieu of those previously set out as may be permitted from time to time by applicable California law.

70.2.1.6. As used in Subsections 70.2.1.1. and 70.2.1.2. of this Section, the "worth at the time of award" is computed by adding interest at the rate of ten percent

(10%) per annum. As used in Subsection 70.2.1.3 of this Section, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%). As used in this Section, the term "rent" shall include the Monthly Rent and any and all other payments required by Lessee under this Lease.

70.2.2. Continue this Lease, and from time to time, without terminating this Lease, either

70.2.2.1. Recover all rent and other amounts payable as they become due or,

70.2.2.2. Relet the Demised Premises or any part on behalf of Lessee on terms and at the rent that LAWA, in LAWA's sole discretion, may deem advisable, all with the right to make alterations and repairs to the Demised Premises, at Lessee's sole cost, and apply the proceeds of reletting to the rent and other amounts payable by Lessee. To the extent that the rent and other amounts payable by Lessee under this Lease exceed the amount of the proceeds from reletting, LAWA may recover the excess from Lessee as and when due.

70.2.3. Upon the occurrence of a Default Event, LAWA shall also have the right, with or without terminating this Lease, to re-enter the Demised Premises and remove all property from the Demised Premises. LAWA may store the property removed from the Demised Premises at the expense and for the account of Lessee.

70.2.4. None of the following remedial actions, alone or in combination, shall be construed as an election by LAWA to terminate this Lease unless LAWA has in fact given Lessee written notice that this Lease is terminated or unless a court of competent jurisdiction decrees termination of this Lease: any act by LAWA to maintain or preserve the Demised Premises; any efforts by LAWA to relet the Demised Premises; any re-entry, repossession, or reletting of the Demised Premises by LAWA pursuant to this Section. If LAWA takes any of the previous remedial actions without terminating this Lease, LAWA may nevertheless at any later time terminate this Lease by written notice to Lessee.

70.2.5. If LAWA relets the Demised Premises, LAWA shall apply the revenue from the reletting as follows: first, to the payment of any indebtedness other than rent due from Lessee to LAWA; second, to the payment of any cost of reletting; third, to the payment of the cost of any maintenance and repairs to the Demised Premises; and fourth, to the payment of rent and other amounts due and unpaid under this Lease. LAWA shall hold and apply the residue, if any, to payment of future amounts payable under this Lease as the same may become due, and shall be entitled to retain the eventual balance with no liability to Lessee. If the revenue from reletting during any month, after application pursuant to the previous provisions, is less than the sum of (i) LAWA's expenditures for

the Demised Premises during that month and (ii) the amounts due from Lessee during that month, Lessee shall pay the deficiency to LAWA immediately upon demand.

70.2.6. After the occurrence of a Default Event, LAWA, in addition to or in lieu of exercising other remedies, may, but without any obligation to do so, cure the breach underlying the Default Event for the account and at the expense of Lessee. However, LAWA must by prior written notice first allow Lessee a reasonable opportunity to cure, except in cases of emergency, where LAWA may proceed without prior notice to Lessee. Lessee shall, upon demand, immediately reimburse LAWA for all costs, including costs of settlements, defense, court costs, and attorney fees, that LAWA may incur in the course of any cure.

70.2.7. No security or guaranty for the performance of Lessee's obligations that LAWA may now or later hold shall in any way constitute a bar or defense to any action initiated by LAWA or unlawful detainer or for the recovery of the Demised Premises, for enforcement of any obligation of Lessee, or for the recovery of damages caused by a breach of this Lease by Lessee or by a Default Event.

70.2.8. Except where this is inconsistent with or contrary to any provisions of this Lease, no right or remedy conferred upon or reserved to either party is intended to be exclusive of any other right or remedy, or any right or remedy given now or later existing at law or in equity or by statute. Except to the extent that either party may have otherwise agreed in writing, no waiver by a party of any violation or nonperformance by the other party of any obligations, agreements, or covenants under this Lease shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by either party to exercise a remedy for any violation or nonperformance by the other party be deemed a waiver by that party of the rights or remedies with respect to that violation or nonperformance.

70.3 **Cross Default:** A material breach of the terms of any other lease, license, permit, or contract held by Lessee with LAWA shall constitute a material breach of the terms of this Lease and shall give LAWA the right to terminate this Lease for cause in accordance with the procedures set forth in this Section.

70.4. **Failure to Pay Landing Fees:**

[This Section Is Intentionally Omitted]

Section 71. Waiver.

71.1. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. The subsequent acceptance of rent hereunder by LAWA shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Lease other than the failure of Lessee to pay the particular rent

so accepted, regardless of LAWA's knowledge of such preceding breach at the time of acceptance of such rent.

Section 72. Attorney's Fees.

72.1. If LAWA shall, without any fault, be made a party to any litigation commenced by or against Lessee arising out of Lessee's use or occupancy of the Demised Premises, then Lessee shall pay all external costs and expenses incurred by or imposed upon LAWA in connection with such litigation. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

Section 73. Hazardous and Other Regulated Substances.

73.1. **Definition of "hazardous substance(s)."** For the purposes of this Lease, "hazardous substances" means:

73.1.1. Any substance the presence of which requires the investigation or remediation under any federal, state or local statute, regulation, rule, ordinance, order, action, policy or common law; or

73.1.2. Any substance which is or becomes defined as a hazardous waste, extremely hazardous waste, hazardous material, hazardous substance, hazardous chemical, toxic chemical, toxic substance, cancer causing substance, substance that causes reproductive harm, pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance or amendments thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.); or

73.1.3. Any substance which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, council, board, or instrumentality of the United States, the State of California, the City of Los Angeles, or any political subdivision of any of them; or

73.1.4. Any substance the presence of which on the Demised Premises causes or threatens to cause a nuisance upon the Demised Premises or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Demised Premises; or

73.1.5. Any substance the presence of which on adjacent properties could constitute a trespass by Lessee; or

73.1.6. Any substance, without limitation, which contains gasoline, aviation fuel, jet fuel, diesel fuel or other petroleum hydrocarbons, lubricating oils, solvents, polychlorinated biphenyls (PCBs) asbestos, urea formaldehyde or radon gases.

73.2. **Environmental Indemnity.** Except for conditions existing prior to the original occupancy of the Demised Premises by Lessee or by Lessee's predecessors in interest, Lessee agrees to accept sole responsibility for full compliance with any and all applicable present and future rules, regulations, restrictions, ordinances, statutes, laws, and/or other orders of any governmental entity regarding the use, storage, handling, distribution, processing, and/or disposal of hazardous substances, regardless of whether the obligation for such compliance or responsibility is placed on the owner of the land, on the owner of any improvements on the Demised Premises, on the user of the land, or on the user of the improvements. Lessee agrees that any claims, damages, penalties, or fines asserted against or levied on LAWA and/or the Lessee as a result of noncompliance with any of the provisions in this Section shall be the sole responsibility of the Lessee and that Lessee shall indemnify and hold LAWA harmless from all such claims, damages, penalties, or fines. Further, LAWA may, at its option, pay such claims, damages, penalties, or fines resulting from Lessee's non-compliance with any of the terms of this Section, and Lessee shall indemnify and reimburse LAWA for any such payments.

73.3. Except for conditions existing prior to the original occupancy of the Demised Premises by Lessee or Lessee's predecessors in interest, in the case of any hazardous substance spill, leak, discharge, release or improper storage on the Demised Premises or contamination of the Demised Premises by any person, Lessee agrees to make or cause to be made any necessary repairs or corrective actions as well as to clean up and remove any spill, leakage, discharge, release or contamination, in accordance with applicable laws. In the case of any hazardous substance spill, leak, discharge, release or contamination by Lessee or its employees, servants, agents, contractors, or subcontractors on the Demised Premises or as may be discharged or released by Lessee or its employees, servants, agents, contractors, or subcontractors in, on or under adjacent property which affects other property of LAWA or its Lessees, Lessee agrees to make or cause to be made any necessary corrective actions to clean up and remove any such spill, leakage, discharge, release or contamination. If Lessee fails to repair, clean up, properly dispose of, or take any other corrective actions as required herein, LAWA may (but shall not be required to) take all steps it deems necessary to properly repair, clean up, or otherwise correct the conditions resulting from the spill, leak, discharge, release or contamination. Any such repair, cleanup, or corrective actions taken by LAWA shall be at Lessee's sole cost and expense and Lessee shall indemnify and pay for and/or reimburse LAWA for any and all costs (including any administrative costs) LAWA incurs as a result of any repair, cleanup, or corrective action it takes.

73.4. If Lessee installs or uses already installed underground storage tanks, above-ground storage tanks, pipelines, or other improvements on the Demised Premises for the storage, distribution, use, treatment, or disposal of any hazardous substances, Lessee agrees, upon the expiration and/or termination of this Lease, to remove the above referenced improvements, clean up releases of hazardous substances, or both, at the sole option of the Chief Executive Officer, the above-referred-to improvements. Said removal and/or cleanup shall be at the Lessee's sole cost and expense and shall be undertaken and completed in full compliance with all federal, state, and local laws and regulations, as well as with the reasonable directions of the Chief Executive Officer.

73.5. **Lessee's Provision to LAWA of Environmental Documents.** Unless otherwise agreed to by LAWA, Lessee shall promptly supply LAWA with complete and legible copies of all notices, reports, correspondence, and other documents sent by Lessee to or received by Lessee (including but not limited to communication from any governmental entity and/or Lessee contractor or third parties) regarding any hazardous substance or environmental compliance issue. Such written materials include, without limitation, all documents relating to any underground storage tank, and/or threatened or actual hazardous substance spill, leak, or discharge, or to any investigations into or clean-up of any actual or threatened hazardous substance spill, leak, or discharge including all test results.

73.6. **Survival of Environmental Indemnity Obligations.** This Section and the obligations herein shall survive the expiration or earlier termination of this Lease.

Section 74. Airfield Security.

74.1. Lessee shall be responsible for fully complying with any and all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws, airport security agreements, and/or orders of any federal, state, and/or local governmental entity regarding airfield security. Lessee shall be responsible for the maintenance and repair of that portion of the Airport perimeter fence, including gates and doors, located on the Demised Premises or controlled by Lessee. Lessee shall comply fully with applicable provisions of the Transportation Security Administration Regulations, 49 Code of Federal Regulations ("CFR") Sections 1500 through 1550 and 14 CFR Part 129, including the establishment and implementation of procedures acceptable to the CEO to control access from the Demised Premises to air operation areas in accordance with the Airport Security Program required by CFR Sections 1500 through 1550. Further, Lessee shall exercise exclusive security responsibility for the Demised Premises and, if Lessee is an aircraft operator, do so pursuant to Lessee's Transportation Security Administration approved Aircraft Operator Standard Security Program used in accordance with 49 CFR, Parts 1510, 1540 and 1546.

74.2. In addition to the foregoing, gates and doors located on the Demised Premises which permit entry into restricted areas at Airport shall be kept locked by Lessee at all times when not in use or under Lessee's constant security surveillance. Gate or door malfunctions which permit unauthorized entry into restricted areas shall be reported to Department of Airports' Operations Division without delay and shall be maintained under constant surveillance by Lessee until repairs are affected by Lessee or LAWA and/or the gate or door is properly secured.

74.3. Lessee shall cooperate with LAWA to maintain and improve Airport security, and shall cooperate in investigations of violations of state and local laws, ordinances, and rules and regulations, of any federal, state and/or local governmental entity regarding airport and airfield security. Lessee shall provide necessary assistance to, and cooperate with, LAWA in case of any emergency. Lessee shall, upon request, provide LAWA relevant information which will enable LAWA to provide efficient and effective management in response to any airport or airfield emergency.

74.4. All civil penalties levied by the TSA for violation of TSA Regulations pertaining to security gates or doors located on the Demised Premises or otherwise controlled by Lessee shall be the sole responsibility of Lessee. Lessee agrees to indemnify LAWA for any federal civil penalties amounts LAWA must pay due to any security violation arising from the use of Demised Premises or the breach of any obligation imposed by this Section. Lessee is also responsible for City's attorney's fees and costs.

Section 75. Business Tax Registration.

[This Section Is Intentionally Omitted]

Section 76. Laws, Rules, and Regulations.

76.1. In relation to its use and occupation of the Premises, Lessee shall be solely responsible for fully complying with any and all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws, policies and/or orders of any federal, state, and/or local government authority ("Applicable Laws"). This Lease shall be subject to and subordinate to all Applicable Laws and any LAWA agreement or obligation pursuant to Applicable Laws, including but not limited to LAWA's grant assurances to the Federal Aviation Administration.

76.2. Lessee shall be solely responsible for fully complying with any and all applicable present and/or future orders, directives, or conditions issued, given or imposed by the CEO which are now in force or which may be hereafter adopted by the Board of Airport Commissioners and/or the CEO with respect to the operation of Airport.

76.3. Lessee shall be solely responsible for any and all civil and/or criminal penalties assessed as a result of its failure to comply with any of these rules, regulations, restrictions, restrictions, ordinances, statutes, laws, orders, directives and or conditions.

Section 77. Disabled Access.

77.1. Lessee shall be solely responsible for fully complying with any and all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws and/or orders of any federal, state, and/or local governmental entity and/or court regarding disabled access to improvements on the Demised Premises including any services, programs, or activities provided by Lessee. Lessee shall be solely responsible for any and all damages caused by, and/or penalties levied as the result of, Lessee's noncompliance. Further, Lessee agrees to cooperate fully with LAWA in its efforts to comply with the Americans With Disability Act of 1990, and any amendments thereto or successor statutes.

77.2. Should Lessee fail to comply with Subsection 77.1, then LAWA shall have the right, but not the obligation, to perform, or have performed, whatever work is necessary to achieve equal access compliance. Lessee will then be required to reimburse LAWA for the actual cost of achieving compliance, plus a fifteen percent (15%) administrative charge.

Section 78. Living Wage Ordinance and Service Contractor Worker Retention Ordinances.

78.1. Living Wage Ordinance.

78.1.1. General Provisions: Living Wage Policy. This Lease is subject to the Living Wage Ordinance ("LWO") (Section 10.37, et seq., of the Los Angeles Administrative Code) which is incorporated herein by this reference. A copy of Section 10.37 has been attached hereto for the convenience of the parties as Exhibit H. The LWO requires that, unless specific exemptions apply, any employees of Lessees or Lessees of LAWA property who render services on the leased premises or licensed premises are covered by the LWO if any of the following applies: (1) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City of Los Angeles employees if the awarding authority had the requisite financial and staffing resources, or (3) the designated administrative agency of the City of Los Angeles has determined in writing that coverage would further the proprietary interests of the City of Los Angeles. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year. The LWO also requires that employees be provided with at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten (10) additional days per year of uncompensated time pursuant to Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Tax Credit ("EITC") and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. Lessee shall permit access to work sites for authorized City representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by the LAWA. Whether or not subject to the LWO, Lessee shall not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, pursuant to Section 10.37.6(c), Lessee agrees to comply with federal law prohibiting retaliation for union organizing.

78.1.2. Living Wage Coverage Determination. An initial determination has been made that this is a public lease under the LWO, and, that it is not exempt from coverage by the LWO. Determinations as to whether this Lease is a public lease or license covered by the LWO, or whether an employer or employee are exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. In some circumstances, applications for exemption must be reviewed periodically. LAWA shall notify Lessee in writing about any redetermination by City of coverage or exemption status. To the extent Lessee claims non-coverage or exemption from the provisions of the LWO, the burden shall be on Lessee to prove such non-coverage or exemption.

78.1.3. Compliance; Termination Provisions And Other Remedies: Living Wage Policy. If Lessee is not initially exempt from the LWO, Lessee shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the Execution Date of this Lease. If Lessee is initially exempt from the LWO, but later no longer qualifies for any exemption, Lessee shall, at such time as Lessee is no longer exempt, comply with the provisions of the LWO. Under the provisions of Section 10.37.6(c) of the Los Angeles Administrative Code, violation of the LWO shall constitute a material breach of this Lease and LAWA shall be entitled to terminate this Lease and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if LAWA determines that Lessee violated the provisions of the LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided elsewhere in this Lease. Nothing in this Lease shall be construed to extend the time periods or limit the remedies provided in the LWO.

78.1.4. Subcontractor Compliance. Lessee agrees to include, in every subcontract or sublease covering LAWA property entered into between Lessee and any subcontractor, a provision pursuant to which such subcontractor (A) agrees to comply with the Living Wage Ordinance and the Service Contractor Worker Retention Ordinance with respect to LAWA's property; (B) agrees not to retaliate against any employee lawfully asserting noncompliance on the part of the Subcontractor with the provisions of either the Living Wage Ordinance or the Service Contractor Worker Retention Ordinance; and (C) agrees and acknowledges that LAWA, as the intended third-party beneficiary of this provision may (i) enforce the Living Wage Ordinance and Service Contractor Worker Retention Ordinance directly against the subcontractor with respect to LAWA property, and (ii) invoke, directly against the subcontractor with respect to LAWA property, all the rights and remedies available to LAWA under Section 10.37.5 of the Living Wage Ordinance and Section 10.36.3 of the Service Contractor Worker Retention Ordinance, as same may be amended from time to time.

78.2. Service Contract Worker Retention Ordinance. This Lease may be subject to the Service Contract Worker Retention Ordinance ("SCWRO") (Section 10.36, et seq, of the Los Angeles Administrative Code), which is incorporated herein by this reference. A copy of Section 10.36 has been attached hereto for the convenience of the parties as Exhibit I. If applicable, Lessee must also comply with the SCWRO which requires that, unless specific exemptions apply, all employers under contracts that are primarily for the furnishing of services to or for the City of Los Angeles and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least three (3) months shall provide retention by a successor contractor for a ninety-day (90-day) transition period of the employees who have been employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the SCWRO. Under the provisions of Section 10.36.3(c) of the Los Angeles Administrative Code, LAWA has the authority, under appropriate circumstances, to terminate this Lease and otherwise pursue legal remedies that may be available if LAWA determines that the subject contractor violated the provisions of the SCWRO.

Section 79. Child Support Orders.

79.1. This Lease is subject to Section 10.10, Article I, Chapter 1, Division 10 of the Los Angeles Administrative Code related to Child Support Assignment Orders, which is incorporated herein by this reference. A copy of Section 10.10 has been attached hereto for the convenience of the parties on Exhibit J. Pursuant to this Section, Lessee (and any subcontractor of Lessee providing services to LAWA under this Lease) shall (1) fully comply with all State and Federal employment reporting requirements for Lessee's or Lessee's subcontractor's employees applicable to Child Support Assignments Orders; (2) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code Section 5230, et seq.; and (3) maintain such compliance throughout the term of this Lease. Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, failure of Lessee or an applicable subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Lessee or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Lease subjecting this Lease to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Lessee by LAWA (in lieu of any time for cure provided elsewhere in this Lease).

Section 80. Visual Artists' Rights Act.

80.1. Lessee shall not install, or cause to be installed, any work of art subject to the Visual Artists' Rights Act of 1990 (as amended), 17 U.S.C. 106A, et seq., or California Code Section 980, et seq., hereinafter collectively "VARA" on or about the Demised Premises without first obtaining a waiver, in writing, of all rights under VARA, satisfactory to the Chief Executive Officer and approved as to form and legality by the City Attorney's Office, from the artist. Said waiver shall be in full compliance with VARA and shall name LAWA as a party for which the waiver applies.

80.2. Lessee is prohibited from installing, or causing to be installed, any piece of artwork covered under VARA on the Demised Premises without the prior, written approval and waiver of the Chief Executive Officer. Any work of art installed on the Demised Premises without such prior approval and waiver shall be deemed a trespass, removable by LAWA, by and through its Chief Executive Officer, upon three (3) days written notice, all costs, expenses, and liability therefor to be borne exclusively by Lessee.

80.3. Lessee, in addition to other obligations to indemnify and hold LAWA harmless, as more specifically set forth in this Lease, shall indemnify and hold harmless LAWA from all liability resulting from Lessee's failure to obtain LAWA's waiver of VARA and failure to comply with any portion of this provision.

80.4. The rights afforded LAWA under this provision shall not replace any other rights afforded LAWA in this Lease or otherwise, but shall be considered in addition to all its other rights.

Section 81. Equal Benefits Ordinance.

81.1. Unless otherwise exempt in accordance with the provisions of the Equal Benefits Ordinance ("EBO"), Lessee certifies and represents that Lessee will comply with the applicable provisions of EBO Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time. Lessee shall not, in any of its operations within the City of Los Angeles or in other locations owned by the City of Los Angeles, including the Airport, discriminate in the provision of Non-ERISA Benefits (as defined below) between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration. As used above, the term "Non-ERISA Benefits" shall mean any and all benefits payable through benefit arrangements generally available to Lessee's employees which are neither "employee welfare benefit plans" nor "employee pension plans", as those terms are defined in Sections 3(1) and 3(2) of ERISA. Non-ERISA Benefits shall include, but not be limited to, all benefits offered currently or in the future, by Lessee to its employees, the spouses of its employees or the domestic partners of its employees, that are not defined as "employee welfare benefit plans" or "employee pension benefit plans", and, which include any bereavement leave, family and medical leave, and travel discounts provided by Lessee to its employees, their spouses and the domestic partners of employees.

81.2. Lessee agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the term of a Lease with the City of Los Angeles, the Lessee will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance at (213) 847-2625."

81.3. The failure of Lessee to comply with the EBO will be deemed by LAWA to be a material breach of the Lease. If Lessee fails to comply with the EBO, LAWA may cancel or terminate the Lease, in whole or in part, and all monies due or to become due under the Lease may be retained by LAWA. LAWA may also pursue any and all other remedies at law or in equity for any breach. Failure to comply with the EBO may be used as evidence against Lessee in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, *et seq.*, Contractor Responsibility Ordinance. If LAWA determines that Lessee has set up or used its contracting entity for the purpose of evading the intent of the EBO, LAWA may terminate the Lease.

Section 82. Condemnation. The Parties hereby agree that:

82.1. If the Demised Premises, or any portion thereof, or any interest therein, are taken by eminent domain, or otherwise, by any governmental authority, or by a "quasi-public entity" for public use, or sold to a governmental authority threatening to exercise the power of eminent domain, this Lease, and Lessee's obligation to pay rent hereunder, shall terminate as to the part so

taken as of the date the condemning authority takes title or possession, whichever first occurs, and the rent, fees and/or other charges hereunder shall be apportioned and paid to the date of such taking. A taking of the Demised Premises includes the taking of easements for air, light and any other easements in the land, including, but not limited to an impairment or taking of access to adjoining streets.

82.2. Effect of Partial Condemnation. In the event a portion of the Demised Premises are appropriated or taken and Lessee, at its sole discretion, determines that the remainder thereof is not suitable for the continued use of the Demised Premises by Lessee for conducting Lessee's operations thereon in the same manner and extent as carried on prior to such taking, Lessee shall have the right to terminate this Lease upon giving LAWA written notice of its intent to exercise said right. Said notice shall be given not more than one hundred twenty (120) days following the date of service of a complaint in eminent domain upon Lessee, or one hundred twenty (120) days following LAWA's demand that Lessee acknowledge its intent to terminate this Permit, unless LAWA and Lessee agree, in writing, to an earlier termination or to extend said period. If Lessee exercises its right to terminate this Permit pursuant to this Subsection 82.2, Lessee shall give LAWA thirty (30) days prior written notice of the effective date of said termination.

82.2.1. If, in the event of such taking of a portion of the Demised Premises, Lessee does not terminate this Lease, this Lease shall continue in full force and effect as to the part not taken, and the rent to be paid by Lessee during the remainder of the term, subject to adjustment as provided elsewhere in this Lease, shall be as follows: the land and improvement rental shall be reduced in the same proportion as the land taken by eminent domain bears to the area of the Demised Premises before the taking.

82.2.2. In determining whether a partial condemnation renders the remainder of the Demised Premises unsuitable for the use then being made of the Demised Premises by Lessee, Lessee, among other things, shall take into consideration the cost of restoration, the rentable area of the remaining improvements and the suitability of the remaining Demised Premises for conducting Lessee's operations thereon in the same manner and extent as carried on prior to such taking.

82.2.3. Except as provided for in Section 60, Ownership of Improvements hereof, should Lessee terminate this Lease pursuant to this Section 82, title to all improvements, additions or alterations constructed or installed by Lessee upon the Demised Premises and which have not already vested in LAWA shall thereupon vest in LAWA.

82.3. Application of Award Upon a Total or Partial Taking.

82.3.1. If this Lease is terminated pursuant to Subsection 82.2 herein, or, if all or a portion of the Demised Premises are taken, then the entire award or compensation paid for land, improvements, and buildings owned by LAWA, the amortized portion of the value of buildings and improvements built by Lessee and which will become the property of LAWA upon termination of this Lease, and/or loss or taking of business goodwill of LAWA or its Department, shall be the property of LAWA.

82.3.2. Lessee shall have the right to receive compensation for the unamortized value of the buildings and any improvements which are still owned by Lessee and which were placed on the Demised Premises by Lessee and located thereon at the time of such taking or appropriation, and for its trade fixtures, equipment, and supplies, and for loss or damage to Lessee's business goodwill. The "amortized value" which LAWA shall be entitled to receive is a portion of the award for said Lessee-owned buildings and improvements equal to an amount determined by a ratio equal to the number of years the building and/or improvements have been in existence over the original term of the Lease, without consideration of any possibility or probability of renewal, or of options, if any. There shall be no amortization of partially constructed improvements authorized by LAWA, if said construction is incomplete within the time period set forth in the approval granted by LAWA. The value, to be determined by LAWA, of such partially constructed improvements shall be paid to Lessee.

82.4. **Severance Damages.** The entire award of compensation paid for any severance damages, whether paid for impairment of access, for land, buildings, and/or improvements shall be the property of LAWA, regardless of whether any buildings or improvements so damaged are owned or were constructed by LAWA or Lessee. However, should LAWA determine that improvements are to be restored, that portion of the severance damages necessary to pay the cost of restoration, as set forth in Subsection 82.5 hereof, shall be paid to Lessee upon the written request of Lessee accompanied by evidence that the sum requested has been paid for said restoration and is a proper item of such cost and used for such purpose.

82.5. **Partial Taking: Restoration.** In case of a taking of the Demised Premises other than a total taking and/or should Lessee elect not to terminate this Lease pursuant to this Section, LAWA and Lessee may mutually agree that the Parties shall restore the Argo Drain Sub-Basin Storm Water Facility improvements on the Demised Premises proportionately, based on each Party's contribution of design and construction costs, and the Parties shall, whether or not the awards or payments, if any, on account of such taking are sufficient for the purpose, promptly commence and proceed with reasonable diligence to effect (subject to Force Majeure) restoration of the improvements on the remaining portion of the Demised Premises as nearly as possible to their condition and character immediately prior to such taking, except for any reduction in area caused thereby, or with such changes or alterations as may be made at the election of Lessee in accordance with Section 57, **Improvements and Alterations**, of this Lease.

82.5.1. In the event the improvements damaged and/or taken belong to LAWA, LAWA shall not be obligated to restore said improvements should LAWA, in its sole discretion, determine not to do so.

82.6. **Taking for Temporary Use.** In the event of a taking of all or any portion of the Leased Premises for temporary use, this Lease shall continue in full force and effect without reduction or abatement of rental or other sum payable hereunder, and Lessee shall be entitled to make claim for, recover and retain any awards or proceeds, made on account thereof, whether in the form of rent or otherwise, unless such period of temporary use or occupancy extends beyond

the term of this Lease, in which case such awards or proceeds shall be apportioned between LAWA and Lessee as heretofore specified. The Parties shall restore or cause to be restored proportionately, based on each Party's contribution of design and construction costs, any such areas temporarily taken to the condition existing before the taking.

Section 83. Miscellaneous Provisions.

83.1. **Fair Meaning.** The language of this Lease shall be construed according to its fair meaning, and not strictly for or against either LAWA or Lessee.

83.2. **Section Headings.** The section headings appearing herein are for the convenience of LAWA and Lessee, and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Lease.

83.3. **Void Provisions.** If any provision of this Lease is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Lease, and all such other provisions shall remain in full force and effect.

83.4. **Two Constructions.** It is the intention of the parties hereto that if any provision of this Lease is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

83.5. **Laws of California.** This Lease shall be construed and enforced in accordance with the laws of the State of California and venue shall lie at Airport.

83.6. **LAWA's Consent.** In each instance herein where LAWA's, Board's or the CEO's approval or consent is required before Lessee may act, such approval or consent shall not be unreasonably withheld, unless otherwise provided.

83.7. **Gender.** The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

83.8. **Exclusivity.** It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act [49 U.S.C. 40103(e) and 47107(a)(4) (Public Law 103-272; 108 STAT. 1102)].

83.9. **Rights of United States Government.** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between City and the United States relative to the development, operation, or maintenance of Airport. Failure of Lessee or any occupant to comply with the requirements of any existing or future agreement between the City and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Lessee's rights hereunder.

83.10. **War or National Emergency.** This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation, and taking over of Airport or the exclusive or nonexclusive use of Airport by the United States during the time of war or national emergency.

83.11. **Time.** Time shall be of the essence in complying with the terms, conditions, and provisions of this Lease.

83.12. **Integration Clause.** This is an integrated agreement. It is understood that no alteration or variation of the terms of this Lease shall be valid unless made in writing and signed by the parties hereto. This Lease contains the entire agreement between the parties hereto and supersedes any and all prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements or understandings, oral or written, between and among the parties relating to the subject matter contained in this Lease which are not fully set forth herein.

83.13. **Force Majeure.** Except as otherwise provided in this Lease, whenever a day is established in this Lease on which, or a period of time, including a reasonable period of time, is designated within which, either party hereto is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by the period of the Force Majeure (as hereinafter defined); provided, however, that nothing contained in this Subsection shall excuse Lessee from the prompt payment of any rental or other monetary charge required of Lessee hereunder.

For purposes of this Lease, the term "Force Majeure" shall mean, in relation to the conditions that may cause a party to be temporarily, partially or wholly prevented from performing its obligations to the other party under this Agreement and not for any other purpose or for any benefit of any third party: any event beyond the reasonable control of the party claiming it, including, but not limited to, embargoes, shortages of material, acts of God, acts of public enemy (such as war, (declared or undeclared), invasion, insurrection, terrorism, riots, rebellion or sabotage), acts of a governmental authority (such as the United States' Department of Transportation, the United States Federal Aviation Administration, the United States Transportation Security Administration, the United States Environmental Protection Agency and defense authorities), fires, floods, earthquakes, hurricanes, tornadoes and other extreme weather conditions; provided, however, that strikes, boycotts, lockouts, labor disputes, labor disruptions, work stoppages or slowdowns shall not be considered an event of Force Majeure. The term Force Majeure includes delays caused by governmental agencies in the processing of applicable building and safety permits but only to the extent that such processing time actually exceeds the normal and reasonable processing time period for such governmental agency permit; provided, however, that any delays caused by Lessee or its Contractors in the processing of such permits (such as Lessee or its Contractors' failure to submit complete applications for such permits) shall not be considered a basis for a claim of Force Majeure by Lessee. Any lack of funds shall not be deemed to be a cause beyond the control of a party. If Lessee shall claim a delay due to Force Majeure, lessee must notify LAWA in writing within five (5) business days of the first occurrence of any claimed event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming Force Majeure and the

anticipated delay in Lessee's performance to the extent such anticipated delay is known to Lessee at the time such notice to LAWA is required. If Lessee fails to provide such notice within said five (5) business-day period, then no Force Majeure delay shall be deemed to have occurred. Delays due to events of Force Majeure shall only be recognized to the extent that such event actually delays the performance by such party and cannot otherwise be mitigated using commercially reasonable efforts.

83.14. **Approvals.** Any approvals required by LAWA, Lessor or City under this Lease shall be approvals of the Department of Airports acting as Lessor and shall not relate to, constitute a waiver or, supersede or otherwise limit or affect the governmental approvals or rights of the City as a governmental agency, including the approval of any permits required for construction or maintenance of the Demised Premises and the passage of any laws including those relating to zoning, land use, building and safety.

83.15. **Conflicts in this Lease.** If there are any direct conflicts between the provisions of Article 1 and Article 2 of the Lease, the provisions of Article 1 shall be controlling. If there are any direct conflicts between the provisions of Article 1 and Article 2 of the Lease and Exhibits A and B, the specific information contained in Exhibits A and B shall be controlling, provided nothing herein shall be construed to contradict applicable law.

83.16. **Ordinance and Los Angeles Administrative Code (hereinafter referred to as "Code") Language Governs.** Ordinance and Code Exhibits are provided as a convenience to the parties only. In the event of a discrepancy between the Exhibits and the applicable ordinance and/or code language, or amendments thereto, the language of the ordinance and/or code shall govern.

83.17. **Amendments to Ordinances and Codes.** The obligation to comply with any Ordinances and Codes which have been incorporated into this Lease by reference, shall extend to any amendments which may be made to those Ordinances and Codes during the term of this Lease.

83.18. **Days.** Unless otherwise specified, "days" shall mean calendar days.

83.19. **Deprivation of Lessee's Rights.** LAWA shall not be liable to Lessee for any diminution or deprivation of Lessee's rights under this Lease which may result from Lessee's obligation to comply with any and all applicable laws, rules, regulations, restrictions, ordinances, statutes, and/or orders of any federal, state and/or local government authority and/or court hereunder on account of the exercise of any such authority as is provided in this Section, nor shall Lessee be entitled to terminate the whole or any portion of the Lease by reason thereof.

83.20. **Reconciliation of Area and/or Square Footage:** If, at any time, it is discovered that any measurement of any portion(s) of the Demised Premises stated in this Lease is inaccurate, this Lease shall be amended to appropriately reflect the correct measurement(s), and corresponding adjustments in the Monthly Rent shall be made. Any such adjustment(s) made to the Monthly Rent, shall be retroactive to the commencement of the Lease, or to that date(s) on which LAWA deems approval of correct measurement(s) to the Demised Premises is appropriate.

Section 84. First Source Hiring Program For Airport Employers. (LAX only).

84.1. Lessee shall comply with the provisions of the First Source Hiring Program adopted by the Board. The rules, regulations, requirements, and penalties of the First Source Hiring Program are attached as Exhibit K and made a material term of this Lease.

Section 85. Other Agreements Not Affected.

85.1. Except as specifically stated herein, this Lease, and the terms, conditions, provisions and covenants hereof, shall apply only to the Demised Premises herein particularly described and shall not in any way change, amend, modify, alter, enlarge, impair, or prejudice any of the rights, privileges, duties, or obligations of either of the parties hereto, under or by reason of any other agreement between said parties, except that nothing contained in such other agreement shall limit the use by Lessee of the within Demised Premises for the herein referred to purpose.

Section 86. Noise Abatement Procedures. (Applicable to LAX air carrier only).

[This Section Is Intentionally Omitted]

Section 87. Contractor Responsibility Program.

87.1. Lessee shall comply with the provisions of the Contractor Responsibility Program adopted by the Board. The Executive Directives setting forth the rules, regulations, requirements and penalties of the Contractor Responsibility Program and the Pledge of Compliance Form is attached hereto as Exhibit L and incorporated herein by reference.

Section 88. Alternative Fuel Vehicle Requirement Program.

88.1. Lessee shall comply with the provisions of the Alternative Fuel Vehicle Requirement Program. The rules, regulations, and requirements of the Alternative Fuel Vehicle Requirement Program are attached hereto as Exhibit M and made a material term hereof.

Section 89. Campaign Contributions.

89.1. Lessee, its sublessees and subcontractors, and their respective principals (hereinafter, "Principals") are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract or lease is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Lessee is required to provide and update certain information to the City as specified by law. Lessee and any sublessee subject to Charter Section 470(c)(12) shall include the following notice in any contract or lease with a sublessee expected to receive at least \$100,000 for performance under this contract:

“Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions”

As provided in Charter Section 470(c)(12) and related ordinances, you are sublessee on City of Los Angeles contract #_____. Pursuant to City Charter Section 470(c)(12), sublessee and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. The sublessee is required to provide to Lessee names and addresses of the sublessee's principals and contact information and shall update that information if it changes during the 12-month time period. Sublessee's information included must be provided to Lessee within 5 business days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.”

89.2. Lessee, its sublessees, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the LAWA to terminate this Lease and pursue any and all legal remedies that may be available.

[REMAINDER OF THIS PAGE INTENTIONALL LEFT BLANK]

SIGNATURE BLOCKS

IN WITNESS WHEREOF, the parties hereto have themselves or through their duly authorized officers caused this Lease to be executed as of the day and year herein below written.

APPROVED AS TO FORM:

MICHAEL N. FEUER

City Attorney

CITY OF LOS ANGELES

Date: _____

Date: _____

By: _____
Assistant City Attorney

By _____
Deborah Flint
Chief Executive Officer
Department of Airports

APPROVED AS TO FORM:

MICHAEL N. FEUER

City Attorney

CITY OF LOS ANGELES

Date: _____

Date: _____

By: _____
Deputy City Attorney

By _____
Enrique C. Zaldivar, Director
Los Angeles Sanitation

ATTEST:

HOLLY L. WOLCOTT

City Clerk

Date: _____

Date: _____

By: _____
Deputy/Assistant City Clerk

By: _____
Kevin James, President
Board of Public Works

Council File No. _____

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ATTACHMENT

Attachment 1 The MOU

EXHIBITS

Exhibit A	Premises
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Exhibit I	Service Contract Worker Retention Ordinance
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Exhibit K	First Source Hiring Program For Airport Employers (LAX only)
Exhibit L	Contractor Responsibility Program
Exhibit M	Alternative Fuel Vehicle Requirement Program
Exhibit N	Project Labor Agreement Letter of Assent
Exhibit O	Rent Credits
Exhibit P	SSC, SIU and IC Offset

ATTACHMENT 1

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made and entered into by and between the City of Los Angeles Department of Public Works, Bureau of Sanitation (LA SAN) and The City of Los Angeles Department of Airports (LAWA), acting by and through its Board of Airport Commissioners (BOAC), collectively referred to herein as the "Parties" or individually as "Party," with respect to the following:

RECITALS

WHEREAS, LAWA properties at Los Angeles International Airport drain into three major sub-basins, including the Dominguez Channel sub-basin, which drains to San Pedro Bay, the Argo Drain sub-basin, which drains to Santa Monica Bay, and the Imperial/Pershing sub-basin, which drains to the Santa Monica Bay with the exception of low-flow drainage being routed to Hyperion Treatment Plant; and

WHEREAS, LAWA and LA SAN have regulatory obligations to comply with federal Clean Water Act requirements, including those administered through the City of Los Angeles' Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System (NPDES) permit, and LAWA is subject to the requirements of the Industrial General Permit (IGP) for LAX, all of which serve to minimize the discharge of pollutants to Santa Monica Bay through stormwater runoff; and

WHEREAS, LAWA's IGP covers industrial areas of LAX, such as mechanic shops, maintenance yards, aircraft fueling areas, and the like, and the rest of LAX is covered under the MS4 NPDES permit per the CWA; and

WHEREAS, on April 1, 2014, the California State Water Resources Control Board adopted a new NPDES Permit for the Discharge of Stormwater associated with Industrial Activities to update the IGP. The new IGP will become effective on July 1, 2015, and includes more restrictive regulations for the permitting, monitoring and reporting processes for storm water-related discharges from industrial facilities including LAX; and

WHEREAS, LAWA is developing and redeveloping parts of LAX, and these development/redevelopment projects are required to comply with the Low Impact Development (LID) requirements to capture and/or treat stormwater runoff as required by the City's MS4 NPDES permit; and

WHEREAS, LA SAN AND LAWA are seeking a process by which potential work to be performed on LAX within the Argo and Imperial/Pershing drainage basins will comply with the state's SUSMP requirements, the City's LID requirements, and the BMP requirements anticipated in the Industrial General Permit, and the Parties seek to do so on an identified drainage basin basis; and

WHEREAS LA SAN and LAWA are considering two separate potential projects to enhance existing storm water handling and treatment systems at LAX, including a facility to manage flows from the Argo Drain sub-basin, and an Imperial/Pershing sub-basin connection to the Hyperion Treatment Plant; and

WHEREAS, the proposed enhancements would be designed to comply with the upcoming changes to the California NPDES IGP and the MS4 under the CWA;

WHEREAS, the lead agency for each project would retain the absolute sole discretion to 1) modify the potential projects as may, in its sole discretion be necessary to comply with CEQA 2) select other feasible alternatives to avoid significant environmental impacts, 3) balance the benefits of the potential facility projects against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, and/or 4) determine not to proceed with the potential Argo Facility and Hyperion Connection projects; and

WHEREAS, the potential Argo Facility project and Hyperion Connection project will not proceed unless and until the Parties have negotiated, executed, and delivered mutually acceptable agreements based upon information produced from the CEQA and NEPA environmental review processes and from other public review and hearing processes, and subject to all applicable government approvals;

ARGO DRAINAGE BASIN PROJECT

WHEREAS, the proposed Argo Drain Sub-basin Facility would be located within the Santa Monica Bay watershed and would be designed to accommodate a watershed area of approximately 2,200 acres, including the Argo Drainage Channel flows located on LAWA property; and

WHEREAS, the proposed Argo Drain Sub-basin Facility would (i) assist LAWA with compliance with its IGP requirements and MS4 permits for tributary flows to the Argo Drain sub-basin, (ii) accommodate the additional flows generated from LAWA's development/redevelopment projects, and (iii) assist LAWA compliance with the LID requirements for those projects in the Argo Drain sub-basin; and

WHEREAS, the potential Argo Drain Sub-basin Facility would be located on approximately five (5) acres of LAWA property, requiring a Lease and License Agreement of this land to LA SAN; and

IMPERIAL DRAINAGE BASIN PROJECT

WHEREAS, LAWA has other proposed developments/redevelopments at LAX from which stormwater flows are generated in the Imperial/Pershing sub-basin; and

WHEREAS, a proposed new high-flow diversion structure to connect the LAWA stormwater runoff generated from within the Imperial/Pershing sub-basin to a sewer line

to LA SAN's Hyperion Treatment Plant (HTP) would assist LAWA to comply with its IGP and LID requirements for the Imperial/Pershing sub-basin; and

WHEREAS, the proposed Hyperion Connection would be part of the wastewater system separate from the stormwater system, and there could be costs associated with that connection that would be recovered by LA SAN through the Sewer Service Charges and Sewerage Facilities Charges; and

WHEREAS, the proposed Hyperion connection facility would require LA SAN to issue a new Industrial Waste Discharge Permit to LAWA and require LAWA to pay annual SSCs and a one-time SFC specifically related to the establishment and use of the new Hyperion Connection ; and

WHEREAS, the proposed Hyperion Connection would call for LAWA to pay the aforementioned SSCs and SFC in the form of an offsetting credit towards the LA SAN lease cost for the proposed Argo Drain Sub-basin Facility;

NOW, THEREFORE, in consideration of the mutual benefits and promises made herein, the Parties do hereby agree as follows:

ARTICLE 1 – RECITALS

The recitals set forth above are fully incorporated as part of this MOU.

ARTICLE 2 – DEFINITIONS

Argo Drain sub-basin: A storm drain located mostly within the existing LAWA property and with a tributary drainage area of approximately 2,200 acres. The Argo Drain sub-basin is distinct from the Imperial Drain sub-basin.

Argo Drain Sub-basin Facility: A proposed project also known as The Westchester Stormwater BMP Facility that would capture the Argo Drain sub-basin flows, transport the flows by gravity to a detention/retention basin, and then pump the flows into underground infiltration galleries to recharge groundwater.

BMP: Best Management Practices.

BOAC: Board of Airport Commissioners.

BOE: City of Los Angeles, Department of Public Works, Bureau of Engineering.

CEQA: California Environmental Quality Act.

CWA: The federal Clean Water Act, which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.

CPI: Consumer Price Index. LAWA lease rates and LA SAN SSC charges and the Facility's O&M charges associated with the Argo Drain Sub-basin Facility are subject to escalation rates equal to increases in the Consumer Price Index for the Los Angeles area.

HTP: Hyperion Treatment Plant, the City's wastewater treatment facility located at 12000 Vista del Mar, Playa del Rey.

Hyperion Connection: A potential new high-flow diversion structure to connect LAWA's stormwater runoff generated from within the Imperial/Pershing sub-basin to the Hyperion Treatment Plant; and

IGP: The 2014 Industrial General Permit issued to LAWA which becomes effective July 1, 2015. LAWA's 2014 IGP covers areas of industrial activities at LAX (i.e. mechanic shops, maintenance yards, aircraft fueling areas, and the like) located on LAWA's premises and does not apply to non-industrial areas of the airport.

Imperial Drain Sub-basin – A storm drain that encompasses approximately 1,250 acres within the south-central and southwestern portions of LAX. The Imperial/Pershing sub-basin is entirely within LAWA property and is south of, and adjacent to, but distinct from, the Argo Drain sub-basin.

Industrial Waste Discharge Permit: A potential permit issued by LA SAN to LAWA for LAWA's stormwater discharges to HTP.

LA SAN: City of Los Angeles, Department of Public Works, Bureau of Sanitation

LAWA: Los Angeles World Airports

LAX: Los Angeles International Airport, which is operated by LAWA.

LID: Low Impact Developments Program, a part of the 2012 National Pollutant Discharge Elimination System municipal stormwater permit (MS4) issued to the City by the Regional Water Quality Control Board – Los Angeles Region.

NEPA: National Environmental Policy Act.

NPDES: National Pollutant Discharge Elimination System, a permit program administered by the State Water Board to control water pollution by regulating point sources that discharge pollutants into waters of the United States

MS4: 2012 Municipal Separate Storm Sewer System NPDES Permit issued to the City by the Regional Water Board that covers the entire City of Los Angeles jurisdiction.

MOU: Memorandum of Understanding between LAWA and LA SAN

Proposition O: The \$500-million Clean Water Bond approved by City voters in November 2004. The bond proceeds are restricted to water quality projects and meeting water quality standards and objectives.

O&M: Operation and maintenance activities for the Argo Drain Sub-basin Facility

SFC: Sewerage Facilities Charges, a one-time payment to increase the amount of discharge to the City's sewer system.

SSC: Sewer Service Charge, an on-going payment for flow discharged to the City's sewer system.

SUSMP: Standard Urban Stormwater Mitigation Plan

State Water Board: California State Water Resources Control Board

ARTICLE 3 – MOU OBLIGATIONS

- A. Upon the effective date of this MOU, LAWA will pay to LA SAN the sum of \$2,739,530, to design the proposed Argo Drain Sub-basin Facility as described herein, and LA SAN will commence (with the assistance of the Bureau of Engineering) the design work for the proposed Argo Drain Sub-basin Facility for the purpose of developing a refined project description to be used in the environmental analysis and to assist in developing the terms of the definitive agreements needed to potentially implement the project.
- B. LA SAN will design the proposed Argo Drain Sub-basin Facility, in consultation with LAWA, to satisfy LAWA's IGP requirements and will size the proposed facility to accommodate the additional flows from LAWA's development/redevelopment projects, and as necessary to meet existing and future LID requirements. The Parties acknowledge the LA SAN design work will take into account that LAWA's additional contribution (beyond the design costs set forth in paragraph A above), if any, to a potential Argo Drainage Sub-basin Facility project, if approved after CEQA review, is not expected to exceed approximately \$4.3 million. The parties anticipate that this proposed approach to storm water management for the Argo storm water basin would provide compliance with SUSMP and LID requirements for all LAWA (and its tenants) projects performed within the Argo Drainage Sub-basin.
- C. LA SAN shall prepare the appropriate environmental documents pursuant to CEQA and NEPA for the proposed Argo Drain Sub-basin Facility. Nothing in this MOU precludes the parties from adopting alternatives, including the no project alternative, and adopting mitigation measures.
- D. LAWA will draft a proposed Lease Agreement for the proposed Argo Drain Sub-basin Facility site. The proposed Lease Agreement should contain LAWA standard terms, a term of 50 years and should include, but not be limited to, the

party's obligations re construction, management and operation of the proposed facility as well as rent obligations. The parties anticipate the annual rent would be set at fair market value for the land (currently estimated at \$500,000) and that LA SAN would operate and maintain the facility, with the Parties splitting the annual operation and maintenance costs (currently estimated at \$500,000) 50% to LAWA and 50% to LA SAN. LAWA's payment of costs for such operation and maintenance would take the form of an offsetting credit towards the LA SAN rent. The parties expect that LAWA's provision of a land lease for the proposed Argo Drain Sub-basin Facility will be deemed to fully offset the annual Argo Drain Sub-basin Facility O&M costs as well as the annual LA SAN SSC charges, notwithstanding any necessary escalation or adjustments. .

- E. LAWA will, at its own cost, design the proposed HTP Connection. The proposed HTP connection would require LA SAN to issue an Industrial Waste Permit to LAWA to allow up to 60 million gallons of LAX stormwater runoff to be discharged annually to the HTP, and would require LAWA to pay annual SSCs (estimated at this time to be approximately \$250,000 per year) and a onetime SFC (estimated at this time to be \$600,000). LAWA's payment of SSCs would take the form of offsetting credits towards LA SAN obligations to LAWA.
- F. The parties anticipate that this proposed additional approach to storm water management for the Imperial storm water basin, along with existing facilities, would provide compliance with SUSMP and LID requirements for all LAWA (and its tenants) projects performed within the Imperial Drainage Sub-basin.
- G. LAWA will prepare the appropriate environmental documents pursuant to CEQA and NEPA for the proposed HTP Connection. Nothing in this MOU precludes the parties from adopting alternatives, including the no project alternative, and adopting mitigation measures.
- H. The parties acknowledge that this MOU does not constitute approval to execute the proposed lease or permit the construction and operation of the Argo Drain Sub-basin Facility or the new Hyperion Connection. Upon completion of environmental review, the lease, environmental and permit documents will be presented to the Parties' respective Boards (BOAC and Board of Public Works) and City Council for consideration.
- I. Notwithstanding any provision of this MOU, LAWA shall not be required to make expenditures or take actions (i) that are prohibited by an FAA finding or any other regulatory authority, or (ii) for which the FAA or any other federal agency makes a determination that the expenditures or actions will result in withholding or demand for remittance of federal funds. When an FAA finding is made, LAWA shall fulfill requirements of this MOU and any future Lease Agreement consistent with the FAA finding.

ARTICLE 4 – ADDITIONAL TERMS

- A. **Effective Date.** The effective date ("Effective Date") of this MOU shall be the date of the last Party's signature, following approval by both BOAC and Council.
- B. **Terms of Termination.** This MOU shall continue in effect for five (5) years following its execution, unless earlier termination is agreed upon in writing by both Parties.
- C. **Effect of MOU:** This MOU is intended to provide a general framework for subsequent negotiations of definitive agreements, regarding the development of the proposed Argo Facility and Hyperion Connection projects, including the proposed Lease Agreement, and is not intended to create any binding contractual obligations (beyond those set forth in Article 3 above) on any Party or to commit any Party to a particular course of action. A transaction of this type involves many essential terms and conditions that have not yet been agreed upon, and it is expressly contemplated by the Parties that, in order to effectuate the potential Argo Facility and Hyperion Connection projects, binding agreement(s) will have to be negotiated, agreed to by the Parties and ultimately submitted to the Boards of the Parties and the City Council. This MOU may be amended or modified only by mutual written consent of both LAWA and LA SAN.
- D. Any correspondence, communication or contact concerning this MOU shall be directed to the following:

BOS: Enrique C. Zaldivar, P.E., Director
Los Angeles Bureau of Sanitation
1149 South Broadway, 9th Floor
Los Angeles, CA 90015

cc: Edward Jordan
Assistant City Attorney
200 North Main 7th Floor
Los Angeles CA 90012

LAWA: Gina Marie Lindsey, Executive Director
Los Angeles World Airports
1 World Way
Los Angeles, CA 90045

cc: General Counsel
Department of Airports
1 World Way

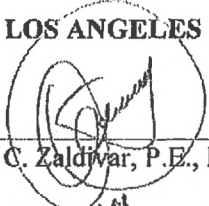
Los Angeles CA 90045

- E. Relationship of Parties. The Parties are and shall remain at all times as to each other, wholly independent entities. No Party to this MOU shall have power to incur any debt, obligation, or liability on behalf of another Party unless expressly provided to the contrary by this MOU. No employee, agent, or officer of a Party shall be deemed for any purpose whatsoever to be an agent, employee or officer of another Party.
- F. Amendments. The terms and provisions of this MOU may not be amended, modified or waived, except by written consent of both Parties.
- G. Execution of Counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original, but together, shall constitute but one and the same instrument.
- H. Indemnification. LAWA and LA SAN indemnifies and holds harmless the other party for any loss, costs, or expenses that may be imposed upon such other party by virtue of Government Code section 895.2, which imposes joint civil liability upon public entities solely by reason of such entities being parties to an agreement, as defined by Government Code section 895. In the event of third-party loss caused by negligence, wrongful act or omission by both parties, each party shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed or judicially determined. The provisions of Civil Code Section 2778 regarding interpretation of indemnity agreements are hereby incorporated
- I. Waiver. Waiver by any Party to this MOU of any term, condition, or covenant of this MOU shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party to any breach of the provisions of this MOU shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this MOU.
- J. No Presumption in Drafting. The Parties to this MOU agree that the general rule that an MOU is to be interpreted against the Party drafting it, or causing it to be prepared, shall not apply.

[The Remainder of This Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed by their respective officers, duly authorized.

For the LOS ANGELES SANITATION


Enrique C. Zaldivar, P.E., Director

Executed this 11th day of May, 2014.⁵

APPROVED AS TO FORM:

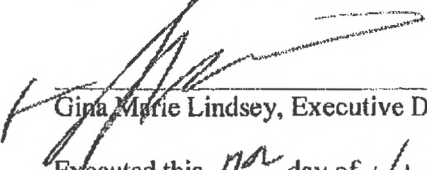
Michael N. Feuer

City Attorney

By: 
Assistant City Attorney

Executed this 6th day of May, 2014.⁵

For the LOS ANGELES WORLD AIRPORTS

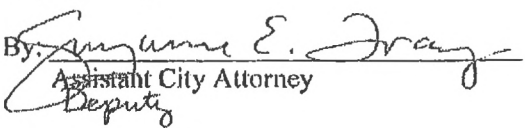

Gina Marie Lindsey, Executive Director

Executed this 12th day of November, 2014.

APPROVED AS TO FORM:

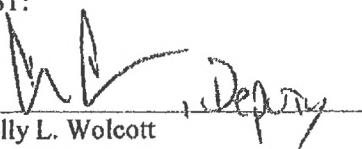
Michael N. Feuer

City Attorney

By: 
Assistant City Attorney
Deputy

Executed this 16th day of December, 2014.

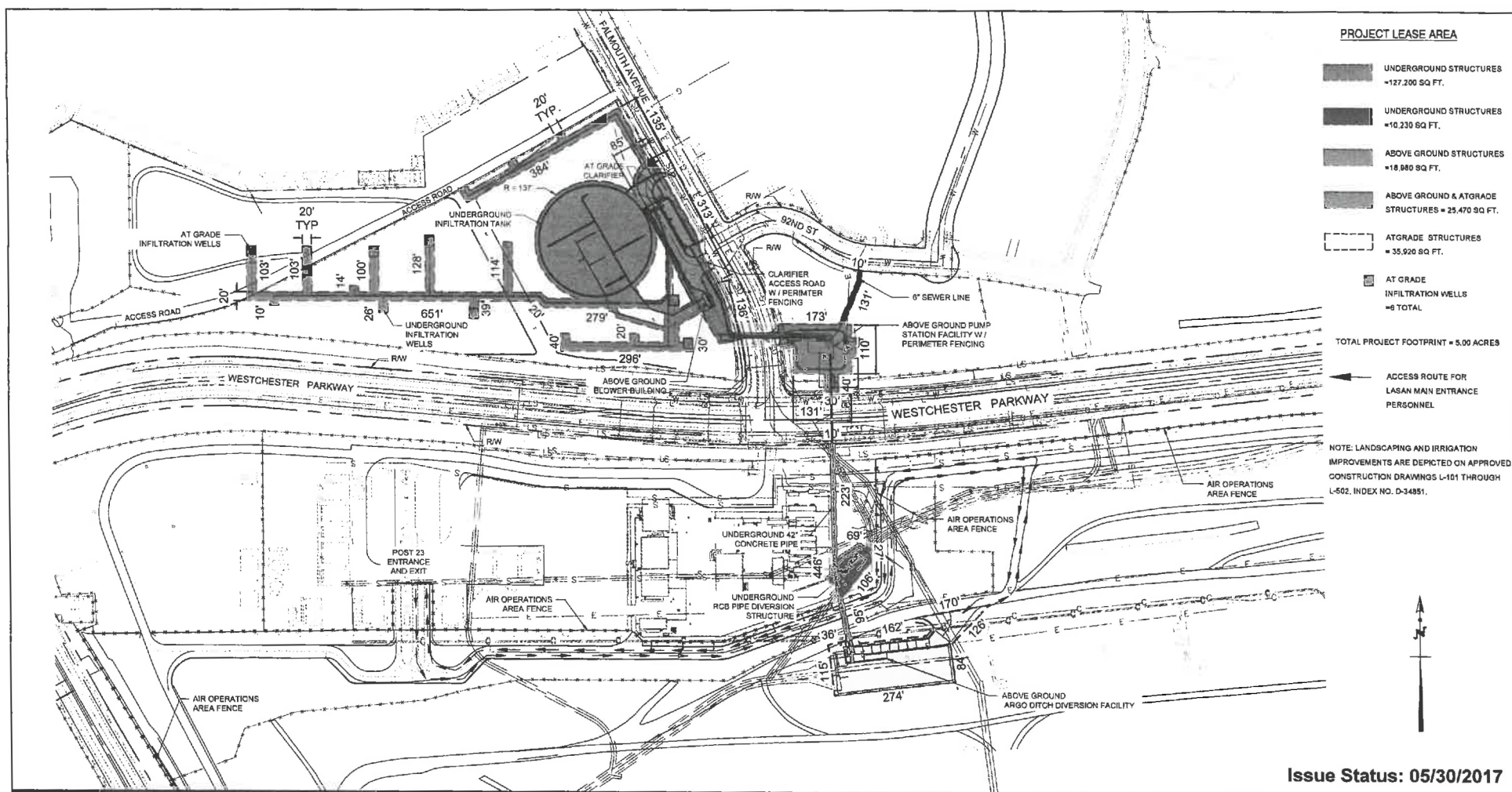
ATTEST:

By: 
Holly L. Wolcott
City Clerk

Executed this 19th day of May, 2014.⁵



EXHIBIT A



PROJECT LEASE AREA

- UNDERGROUND STRUCTURES
= 127,200 SQ. FT.
- UNDERGROUND STRUCTURES
= 10,230 SQ. FT.
- ABOVE GROUND STRUCTURES
= 18,980 SQ. FT.
- ABOVE GROUND & AT GRADE
STRUCTURES = 25,470 SQ. FT.
- AT GRADE STRUCTURES
= 35,920 SQ. FT.
- AT GRADE
INFILTRATION WELLS
= 6 TOTAL

TOTAL PROJECT FOOTPRINT = 5.00 ACRES

ACCESS ROUTE FOR
LASAN MAIN ENTRANCE
PERSONNEL

NOTE: LANDSCAPING AND IRRIGATION
IMPROVEMENTS ARE DEPICTED ON APPROVED
CONSTRUCTION DRAWINGS L-101 THROUGH
L-502, INDEX NO. D-34851.



Issue Status: 05/30/2017

ENGINEERING
CITY OF LOS ANGELES

50 YEARS LEASE EXHIBIT ARGO DRAIN SUB-BASIN FACILITY PROJECT

AECOM

ONE CALIFORNIA PLAZA
300 S. GRAND AVENUE
LOS ANGELES, CA 90071

aecom.com

EXHIBIT B

LOS ANGELES WORLD AIRPORTS

City of Los Angeles - Department of Public Works, Bureau of Sanitation
Argo Drain Sub-Basin Storm Water Facility (LAX)

PAYMENTS EXHIBIT¹

(Effective _____, 2017)

<u>Description</u>	<u>Area (Square Feet)</u>	<u>Rate/PSFPY</u>	<u>Annual Amount</u> ²
(Off & On Airport Industrial - Blended Rate)	210,470	\$2.44000	\$513,546.80
Pipeline	7,330	\$1.86000	\$13,633.80
Total Estimated Monthly Rent:			<u>\$527,180.60</u>

Note:

1. Rental, fees and other charges, as set forth in this Exhibit B are subject to an annual and 5-year periodic adjustment pursuant to the terms of this lease.
2. The amounts are shown rounded to the nearest cent. The actual amounts, as calculated by LAWA Accounting Services, are rounded to five decimal places, not two, and therefore, minor discrepancies may be noticed when making calculations due to rounding differences.

EXHIBIT C

MINIMUM STANDARDS FOR USE OF REAL PROPERTY AT LOS ANGELES WORLD AIRPORTS

1.0 INTRODUCTION

1.1 *Governing Policy*

Los Angeles World Airports (LAWA), a department of the City of Los Angeles (City), has through its Board of Airport Commissioners (Board), adopted a Leasing Policy (Policy) to provide a framework for making leasing and property management decisions for Los Angeles International Airport, Ontario International Airport, Van Nuys Airport, and Palmdale land holdings (collectively and individually referred to herein as Airport). Under the Policy, the Executive Director of LAWA is authorized to promulgate Executive Directives to implement the Policy.

1.2 *Purpose and Scope*

- 1.2.1 These Minimum Standards for Use of Real Property at Los Angeles World Airports (Minimum Standards) have been established by the Executive Director to (1) encourage the provision of high quality products, services, and facilities to Airport users; (2) promote safety; and (3) promote the economic health of Airport businesses. To this end, all entities desiring to use Airport property will be accorded reasonable opportunities, without unlawful discrimination, to engage in such activities, subject to these Minimum Standards.
- 1.2.2 These Minimum Standards specify the standards and requirements that must be met by any entity using Airport property. These Minimum Standards are not intended to be all-inclusive. Any entity using LAWA property will also be required to comply with all applicable regulatory measures pertaining to such activities.
- 1.2.3 Throughout these Minimum Standards, the words "standards" or "requirements" will be understood to be modified by the word "minimum" except where explicitly stated otherwise. Any required determinations, interpretations, or judgments regarding what constitutes an acceptable minimum standard, or regarding compliance with such standard, will be made by LAWA. All entities are encouraged to exceed the applicable minimum standards. No entity will be allowed to use Airport property under conditions that do not, in LAWA's discretion, meet these Minimum Standards.
- 1.2.4 Appropriate minimum standards may be developed on a case-by-case basis for certain activities, and promulgated by Executive

Directive or incorporated into agreements/permits relating to the occupancy or use of particular Airport land or improvements.

- 1.2.5 These Minimum Standards may be supplemented, amended, or modified by Executive Directive from time to time and in such manner and to such extent as is deemed appropriate by LAWA.

1.3 *Applicability*

- 1.3.1 These Minimum Standards will apply to all agreements relating to the occupancy or use of Airport property or improvements.
- 1.3.2 These Minimum Standards will not be deemed to modify any existing agreement under which an entity is required to exceed these Minimum Standards, nor will they prohibit LAWA from entering into or enforcing an agreement that requires an entity to exceed the Minimum Standards.

1.4 *Non-Compliance/Violations*

LAWA reserves the right to prohibit any entity from using Airport property upon determination by LAWA that such entity has not complied with these Minimum Standards, or has otherwise jeopardized the safety of other entities using the Airport.

1.5 *Severability*

If one or more clauses, sections, or provisions of these Minimum Standards are held to be unlawful, invalid, or unenforceable by final judgment of any court of competent jurisdiction, the invalidity of such clauses, sections, or provisions will not in any way affect other clauses, sections, or provisions of these Minimum Standards.

2.0 GENERAL REQUIREMENTS

All Users (hereinafter includes: lessees, licensees, permittees, facility users, operators, occupants, etc.) using Airport property must comply with the requirements of this Section.

2.1 *Experience/Capability*

- 2.1.1 User must have the capability of providing products, services, and facilities and engaging in activities in a good quality manner.

- 2.1.2 User must have the financial capability to, as appropriate, develop and maintain improvements; procure and maintain required vehicles, equipment, and/or aircraft; employ personnel, and engage in the activity, as may be required by the agreement.

2.2 Agreement/Approval

- 2.2.1 No entity may engage in an activity unless the entity has an agreement with LAWA authorizing such activity or the entity has received written approval from LAWA to sublease land or improvements from an authorized lessee to conduct the activity at the Airport.
- 2.2.2 An agreement will not reduce or limit User's obligations with respect to these Minimum Standards.
- 2.2.3 User must comply with all the provisions of the agreement between User and LAWA.

2.3 Payment of Rents, Fees, and Charges

- 2.3.1 User must pay the rents, fees, or other charges specified by LAWA for leasing or using land or improvements or engaging in activities.
- 2.3.2 No User will be permitted to engage in activities unless said User is current in the payment of all rents, fees, charges, or other sums due to LAWA under any and all agreements User has with LAWA.
- 2.3.3 User's failure to remain current in the payment of any and all rents, fees, charges, and other sums due to LAWA will be grounds for revocation of the agreement or approval authorizing the occupancy or use of land or improvements or the conduct of activities at the Airport.

2.4 Facility Maintenance

- 2.4.1 User must maintain the Premises (including all related and associated appurtenances, landscaping, paved areas, installed equipment and utility services, and security lighting) in a clean, neat, and orderly condition, as may be required by the agreement.
- 2.4.2 User must comply with the Airport's signage requirements.

2.5 *Products, Services, and Facilities*

- 2.5.1 Products, services, and facilities must be provided on a reasonable and non-discriminatory basis to all users of the Airport.
- 2.5.2 User must charge reasonable and non-discriminatory prices for each product or service, provided that User may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- 2.5.3 User must conduct its activities on and from the Premises in a safe, efficient, and professional manner consistent with the degree of care and skill exercised by experienced users providing comparable products, services, and facilities and engaging in similar activities from similar leaseholds in like markets.

2.6 *Non-Discrimination*

User must not discriminate against any person or class of persons by reason of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in providing any products or services or in the use of any of its facilities provided for the public, in any manner prohibited by applicable regulatory measures.

2.7 *Licenses, Permits, Certifications, and Ratings*

User (and/or User's personnel) must obtain and comply with, at User's sole expense, all necessary licenses, permits, certifications, or ratings required for the conduct of User's activities at the Airport as required by LAWA or any other duly authorized agency prior to engaging in any activity at the Airport. Upon request, User must provide copies of such licenses, permits, certifications, or ratings to LAWA in a timely manner.

2.8 *Personnel*

- 2.8.1 User must have in its employment (as employees), on duty, and on premises during operating hours, trained and courteous personnel in such numbers as to meet the reasonable demands of the aviation public for each activity being conducted in a courteous, prompt, safe, and efficient manner.
- 2.8.2 User must provide a responsible person on its Premises to supervise activities and such personnel will be authorized to represent and act for and on behalf of User during required hours of activities.

2.9 Equipment

All required equipment must be fully operational and functional at all times. Equipment not being used and not scheduled for repair must be removed from the Premises within a timely basis.

2.10 Regulatory Measures

User must engage in activities in accordance with all applicable regulatory measures, including the Certified Service Provider Program (CSPP) and these Minimum Standards.

2.11 Insurance

User must procure and maintain, during the term of an agreement, insurance policies required by law and the types and minimum limits set forth by LAWA. The insurance company or companies underwriting the required policies must be licensed or authorized to write such insurance in the state of California or be approved in writing by LAWA.

2.12 Suspension, Revocation of Privileges

LAWA reserves the right to suspend or revoke User's privileges (including the right to revoke ramp badges, if issued/required), on a temporary or permanent basis, for failing to abide by these Minimum Standards or any applicable regulatory measures governing the Airport. A cure period may be considered, if in LAWA's discretion one is appropriate and consistent with an agreement.

2.13 City of Los Angeles, Los Angeles World Airports, Board of Airport Commissioners, and Executive Director

The Airport is owned by the City of Los Angeles, operated by LAWA, and governed by and through the Board. Only the Executive Director can amend or modify these Minimum Standards.

EXHIBIT D

EXHIBIT D

MAINTENANCE

Lessee's Maintenance Responsibilities

Lessee shall, at Lessee's sole cost and expense, keep and maintain the Demised Premises in good repair and working order, reasonable wear and tear excepted, and in a clean, neat, attractive, properly maintained, and safe condition. All maintenance, repairs, and replacements shall be in accordance with applicable prevailing industry maintenance standards, maintenance requirements which Lessor may develop, and in compliance with all manufacturers' recommendations and federal, state, and local government rules and regulations.

Except as specifically identified herein as Lessor's responsibilities, Lessee is responsible for all maintenance and repair at the Demised Premises (including its Improvements, if any). Lessee is responsible for any corrective work required by any Authority Having Jurisdiction (AHJ).

Lessor may impose financial penalties on Lessee for its failure to perform its maintenance requirements. Lessor retains the right, but not the obligation, to make emergency repairs when, in the sole determination of the Executive Director, failure to take immediate action will damage the facilities or disrupt operations, at Lessee's sole cost and expense, plus an administrative fee in the amount of 15% of cost. Lessee shall, within 90 days of Lease Commencement, provide Lessor with a conceptual maintenance plan for the facility. Lessor staff will meet with the Lessee on a regular basis to review the condition of the Demised Premises and, if repairs are necessary, jointly develop a repair action plan. However, this does not relieve the Lessee of its responsibility to proactively fulfill its maintenance responsibilities.

Lessor's Maintenance Responsibilities

None; except as otherwise expressly stated in this Lease.

EXHIBIT E

INSURANCE REQUIREMENTS FOR LOS ANGELES WORLD AIRPORTS

NAME: City of Los Angeles Bureau of Sanitation (BOS)
AGREEMENT / ACTIVITY: Lease of ARGO Drain Sub-basin Stormwater Facility at LAX
LAWA DIVISION: Commercial Development Group

Lease includes airfield access. Insurance requirements pertain to BOS's Contractors

The insured must maintain insurance coverage at limits normally required of its type operation; however, the following coverage noted with an "X" are the minimum required and must be at least the level of the Combined Single Limits indicated.

LIMITS

(X) Workers' Compensation (Statutory)/Employer's Liability

Statutory

(X) Broad Form All States Endorsement

(X) Voluntary Compensation Endorsement

(X) Waiver of Subrogation, specifically naming LAWA.

(X) Automobile Liability - covering owned, non-owned & hired auto

\$ 10,000,000 CSL

(X) Aviation/Airport or Commercial General Liability, the following coverage

\$ 10,000,000 CSL

(X) Premises and Operations

(X) Contractual (Blanket/Schedule)

(X) Independent Contractors

(X) Products /Completed Operations

(X) Personal Injury

(X) Additional Insured Endorsement, specifically naming LAWA.

(X) Property Insurance

Value of Improvements

90% Co-Ins. () Actual Cash Value (X) Replacement Value () Agreed Amt.

(X) Covering Baggage Handling System improvements, w/waiver of subrogation

(**) Covering building structure

(X) All Risk Coverage's

(X) Fire & Basic Causes of Loss Form, including sprinkler leakage

(X) Vandalism and Malicious Mischief

(X) Debris Removal

*** Coverage for Hazardous Substances

Sudden Occurrence

\$ ***

Non-sudden Occurrence

\$ ***

** Builder's Risk Insurance - (All Risk Coverage)

Value of Improvements

Comments:

* if exposure exists, coverage is required.

** Required if property or building ultimately revert to City.

*** Must meet Federal and/or State requirements.

CONTRACTS SHALL BE HELD RESPONSIBLE FOR OWNED OR HIRED EQUIPMENT AND SHALL HOLD AIRPORT HARMLESS FROM LOSS, DAMAGE OR DESTRUCTION TO SUCH EQUIPMENT

INSURANCE COMPANIES WHICH DO NOT HAVE A BEST RATING OF A- OR BETTER, AND HAVE A MINIMUM FINANCIAL SIZE OF AT LEAST 4, MUST BE REVIEWED FOR ACCEPTABILITY BY RISK MANAGEMENT. PLEASE RETURN WITH EVIDENCE OF INSURANCE.

INSURANCE REQUIREMENTS FOR LOS ANGELES WORLD AIRPORTS (SUPPLEMENT)

The only evidence of insurance accepted will be either a Certificate of Insurance and/or a True and Certified copy of the policy. The following items must accompany the form of evidence provided:

- **Endorsements:**

1. Workers Compensation Waiver of Subrogation Endorsement
 - WC 04 03 06 or similar

2. General Liability Additional Insured Endorsement
 - ISO Standard Endorsements
 - Ongoing and products-completed operations

- A typed legible name of the Authorized Representative must accompany the signature on the Certificate of Insurance and/or the True and Certified copy of the policy.

- Certificate Holder:

Los Angeles World Airports
PO Box 92216
Los Angeles, CA 90009

EXHIBIT F

LOS ANGELES ADMINISTRATIVE CODE

Div. 10, Ch. 1, Art. 1

EQUAL EMPLOYMENT

Sec. 10.8.3. Equal Employment Practices Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$1,000 or more, and every construction contract for which the consideration is \$1,000 or more, shall contain the following provisions, which shall be designated as the **EQUAL EMPLOYMENT PRACTICES** provision of such contract:

A. During the performance of this contract, the contractor agrees and represents that it will provide equal employment practices and the contractor and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the City's supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, the contractor shall

certify in the specified format that he or she has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The contractor shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City contracts. On their or either of their request the contractor shall provide evidence that he or she has or will comply therewith.

E. The failure of any contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City contracts. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

F. Upon a finding duly made that the contractor has failed to comply with the Equal Employment Practices provisions of a City contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, such contractor shall be

EXHIBIT F EQUAL EMPLOYMENT

disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until the contractor shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the Office of Contract Compliance, and provide necessary forms and required language to the awarding authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish the contract compliance program.

I. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. At the time a supplier registers to do business with the City, or when an individual bid or proposal is submitted, the contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Hiring practices;
2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
3. Training and promotional opportunities; and
4. Reasonable accommodations for persons with disabilities.

L. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

SECTION HISTORY

Amended by: Ord. No.147,030, Eff. 4-28-75; Paragraphs A., B., C., Ord. No. 164,516, Eff. 4-13-89; Paragraphs C., Ord. No.168,244, Eff. 10-18-92; Ord. No. 173,186, Eff. 5-22-00; Subsec. F., Ord. No.173,285, Eff. 6-26-00, Oper. 7-1-00.

EXHIBIT F EQUAL EMPLOYMENT

EXHIBIT G

LOS ANGELES ADMINISTRATIVE CODE

Div. 10, Ch. 1, Art. 1

AFFIRMATIVE ACTION

Sec. 10.8.4. Affirmative Action Program Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the **AFFIRMATIVE ACTION PROGRAM** provisions of such contract:

A. During the performance of a City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

E. The failure of any contractor to comply with the Affirmative Action Program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding

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authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.

H. Notwithstanding any other provisions of a City contract the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.

J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. The contractor shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or

proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.

(1) Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

(2) A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.

L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.

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M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

N. Any adjustments which may be made in the contractor's or supplier's work force to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and

may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.

P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.

Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

SECTION HISTORY

Amended by Ord. No. 147,030, Eff. 4-28-75; Paragraphs A., B., C., Ord. No. 164,516, Eff. 4-13-89; Paragraphs B. and C., Ord. No. 168,244, Eff. 10-18-92; Title and Section, Ord. No. 173,186, Eff. 5-22-00; Subsec. F, Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00.

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EXHIBIT H

CHAPTER 1, ARTICLE 11

LIVING WAGE

Section

- 10.37 Legislative Findings.
- 10.37.1 Definitions.
- 10.37.2 Payment of Minimum Compensation to Employees.
- 10.37.3 Health Benefits.
- 10.37.4 Employer Reporting and Notification Requirements.
- 10.37.5 Retaliation Prohibited.
- 10.37.6 Enforcement.
- 10.37.7 Administration.
- 10.37.8 City is a Third Party Beneficiary of Contracts Between an Employer and Subcontractor for Purposes of Enforcement.
- 10.37.9 Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
- 10.37.10 Expenditures Covered.
- 10.37.11 Timing of Application.
- 10.37.12 Supersession by Collective Bargaining Agreement.
- 10.37.13 Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.
- 10.37.14 Contracts, Employers and Employees Not Subject to this Article.
- 10.37.15 Exemptions.
- 10.37.16 Severability.

Sec. 10.37. Legislative Findings.

The City awards many contracts to private firms to provide services to the public and to City government. Many lessees or licensees of City property perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. These expenditures serve to promote the goals established for the grant programs and for similar goals of the City. The City intends that the policies underlying this article serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

Experience indicates that procurement by contract of services has all too often resulted in the payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. The minimal compensation tends to inhibit the quantity and quality of services rendered by those employees to the City and to the public. Underpaying employees in this way fosters high turnover, absenteeism and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through this article, the City intends to require service contractors to provide a minimum level of compensation which will improve the level of services rendered to and for the City.

The inadequate compensation typically paid also fails to provide service employees with resources sufficient to afford life in Los Angeles. Contracting decisions involving the expenditure of City funds should not foster conditions that place a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this article benefits that interest.

In comparison with the wages paid at San Francisco International Airport, the wage for Los Angeles airport workers is often lower even though the airports are similar in the number of passengers they serve and have similar goals of providing a living wage to the airport workforce. Therefore, the City finds that a higher wage for airport employees is needed to reduce turnover and retain a qualified and stable workforce.

Nothing less than the living wage should be paid by employers that are the recipients of City financial assistance. Whether they be engaged in manufacturing or some other line of business, the City does not wish to foster an economic climate where a lesser wage is all that is offered to the working poor. The same adverse social consequences from such inadequate compensation emanate just as readily from manufacturing, for example, as service industries.

The City holds a proprietary interest in the work performed by many employees of City lessees and licensees

and by their service contractors and subcontractors. In a very real sense, the success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by such businesses. Inadequate compensation of these employees adversely impacts the performance by the City's lessee or licensee and thereby hinders the opportunity for success of City operations. A proprietary interest in providing a living wage is important for various reasons, including, but not limited to: 1) the public perception of the services or products rendered to them by a business; 2) security concerns related to the location of the business or any product or service the business produces; or 3) an employer's industry-specific job classification which is in the City's interest to cover by the living wage. This article is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage serves both proprietary and humanitarian concerns of the City. If an employer does not comply with this article, the City may: 1) declare a material breach of the contract; 2) declare the employer non-responsible and limit its ability to bid on future City contracts, leases or licenses; and 3) exercise any other remedies available.

SECTION HISTORY

Article and Section Added by Ord. No. 171,547, Eff. 5-5-97.
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In
Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Airport" means the Department of Airports and each of the airports which it operates.

(b) "Airport Employer" means an Employer, as the term is defined in this section, at the Airport.

(c) "Airport Employee" means an Employee, as the term is defined in this section, of an Airport Employer.

(d) "Awarding Authority" means that subordinate or component entity or person of the City (such as a department) or of the financial assistance recipient that awards or is otherwise responsible for the administration of a Service Contract, Public Lease or License, or, where there is no such subordinate or

component entity or person, then the City or the City Financial Assistance Recipient.

(e) "City" means the City of Los Angeles and all awarding authorities thereof, including those City departments which exercise independent control over their expenditure of funds.

(f) "City Financial Assistance Recipient" means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of \$1,000,000 or more in any 12-month period shall require compliance with this article for five years from the date such assistance reaches the \$1,000,000 threshold. For assistance in any 12-month period totaling less than \$1,000,000 but at least \$100,000, there shall be compliance for one year, with the period of compliance beginning when the accrual of continuing assistance reaches the \$100,000 threshold.

Categories of assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees.

A recipient shall be exempted from application of this article if:

(1) it is in its first year of existence, in which case the exemption shall last for one year;

(2) it employs fewer than five Employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year; or

(3) It obtains a waiver as a recipient who employs the long-term unemployed or provides trainee positions intended to prepare Employees for permanent positions. The recipient shall attest that compliance with this article would cause an economic hardship and shall apply in writing to the City department or office administering the assistance. The department or office shall forward the waiver application and the department's or office's recommended action to the City Council. Waivers shall be effected by Council resolution.

(g) "Contractor" means any person that enters into:

(1) a Service Contract with the City;

(2) a Service Contract with a proprietary lessee or licensee or sublessee or sublicensee; or

(3) a contract with a City Financial Assistance Recipient to assist the recipient in performing the work for which the assistance is being given. Vendors, such as service Contractors, of City Financial Assistance Recipients shall not be regarded as Contractors except to the extent provided in Subsection (i).

(h) "Designated Administrative Agency (DAA)" means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(i) "Employee" means any person who is not a managerial, supervisory or confidential employee and who is working for the Contractor in the United States:

(1) as a service Employee of a Contractor or Subcontractor on or under the authority of one or more Service Contracts and who expends any of his or her time thereon, including, but not limited to: hotel Employees; restaurant, food service or banquet Employees; janitorial Employees; security guards; parking attendants; nonprofessional health care Employees; gardeners; waste management Employees; and clerical Employees;

(2) as a service Employee of one of the following: a public lessee or licensee, or a sublessee or sublicensee of a public lessee or

licensee; a service Contractor or Subcontractor of a public lessee or licensee; or sublessee or sublicensee working on the leased or licensed premises;

(3) as an Employee of a City Financial Assistance Recipient who expends at least half of his or her time on the funded project; or

(4) as an Employee of a service Contractor or Subcontractor of a City Financial Assistance Recipient and who expends at least half of his or her time on the premises of the City Financial Assistance Recipient directly involved with the activities funded by the City.

(j) "Employer" means any person who is a City Financial Assistance Recipient, Contractor, Subcontractor, public lessee, public sublessee, public licensee or public sublicensee.

(k) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other entity that may employ individuals or enter into contracts.

(l) "Public Lease or License" means, except as provided in Section 10.37.15, a lease or license of City property (including, but not limited to, Non-Exclusive License Agreements, Air Carrier Operating Permits and Certified Service Provider License Agreements) on which services are rendered by Employees of the public lessee or licensee or sublessee or sublicensee, or of a Contractor or Subcontractor, but only where any of the following applies:

(1) The services are rendered on premises at least a portion of which is visited by members of the public (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities);

(2) Any of the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) The DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(m) "Service Contract" means a contract let to a Contractor by the City primarily for the furnishing of services to or for the City (as opposed to the purchase of goods or other property or the leasing or renting of property) and that involves an expenditure in excess of \$25,000 and a contract term of at least three months, but only where any of the following applies:

(1) at least some of the services are rendered by Employees whose work site is on property owned or controlled by the City;

(2) the services feasibly could be performed by City employees if the City had the requisite financial and staffing resources; or

(3) the DAA has determined in writing as approved by the Board of Public Works that coverage would further the proprietary interests of the City. Proprietary interest includes, but is not limited to:

(i) the public perception of the services or products rendered to them by a business;

(ii) security concerns related to the location of the business or any product or service the business produces; or

(iii) an Employer's industry-specific job classifications as defined in the regulations.

(n) "Subcontractor" means any person not an Employee who enters into a contract (and who employs Employees for such purpose) with:

(1) a Contractor or Subcontractor to assist the Contractor in performing a Service Contract; or

(2) a Contractor or Subcontractor of a proprietary lessee or licensee or sublessee or sublicensee to perform or assist in performing services on the leased or licensed premises. Vendors, such as service Contractors or Subcontractors, of City Financial Assistance Recipients shall not be regarded as Subcontractors except to the extent provided in Subsection (i).

(o) "Willful Violation" means that the Employer knew of its obligations under this article and deliberately failed or refused to comply with its provisions.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec.

(e), Ord. No. 176,155, Eff. 9-22-04; Subsec. (e), Ord. No.

176,283, Eff. 12-25-04, Oper. 9-22-04; Subsecs. (a) through

(l) re-lettered (d) through (o), respectively and new Subsecs.

(a), (b), and (c) added, Ord. No. 180,877, Eff. 10-19-09; In

Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.2. Payment of Minimum Compensation to Employees.

(a) Wages. An Employer shall pay an Employee for all hours worked on a City contract a wage of no less than the hourly rates set under the authority of this article.

(1) On July 1, 2016, Employee wages shall be no less than \$11.27 per hour with health benefits and no less than \$12.52 per hour without health benefits. On July 1, 2016, the wage for Airport Employees shall be no less than \$11.68 with health benefits and no less than \$16.73 without health benefits. On July 1, 2017, the wage for Airport Employees shall be no less than \$12.08 per hour with health benefits and no less than \$17.26 without health benefits, unless the annual increase provided in Section 10.37.2(a)(2) is higher. On July 1, 2018, the annual increase will continue as provided in Section 10.37.2(a)(2).

(2) The hourly rate with health benefits to be paid to all Employees and the hourly rate without health benefits to be paid to Airport Employees shall be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the Los Angeles City Employees Retirement System (LACERS), made by the LACERS Board of Administration under Section 4.1022. The City Administrative Officer shall so advise the DAA of any

such change by June 1 of each year and of the required new hourly rates, if any. On the basis of such report, the DAA shall publish a bulletin announcing the adjusted rates, which shall take effect on July 1 of each year.

(3) An Employer may not use tips or gratuities earned by an Employee to offset the wages required under this article.

(4) Regulations promulgated by the DAA shall establish the framework and procedures for payment of wages.

(b) **Compensated Time Off.** An Employer shall provide at least 96 compensated hours off per year for sick leave, vacation or personal necessity at the Employee's request. An Employer may not unreasonably deny an Employee's request to use the accrued compensated time off. The DAA, through regulations, will determine what is unreasonable.

(1) A full-time Employee is someone who works at least 40 hours a week or in accordance with the Employer's policy, if the Employer's established policy is overall more generous.

(2) A part-time Employee must accrue compensated hours off in increments proportional to that accrued by someone who works 40 hours a week.

(3) **General Rules for Compensated Time Off.**

(i) An Employee must be eligible to use accrued paid compensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner.

(ii) An Employer may not unreasonably deny an Employee's request to use the accrued compensated time off. The DAA, through regulations, will determine what is unreasonable.

(iii) The DAA may allow an Employer's established compensated time off policy to remain in place even though it does not meet these requirements, if the DAA determines that the Employer's established policy is overall more generous.

(iv) Unused accrued compensated time off will carry over until time off reaches a maximum

of 192 hours, unless the Employer's established policy is overall more generous.

(v) After an Employee reaches the maximum accrued compensated time off, an Employer shall provide a cash payment once every 30 days for accrued compensated time off over the maximum. An Employer may provide an Employee with the option of cashing out any portion of, or all of, the Employee's accrued compensated time off, but, an Employer shall not require an Employee to cash out any accrued compensated time off. Compensated time off cashed out shall be paid to the Employee at the wage rate that the Employee is earning at the time of cash out.

(vi) An Employer may not implement any unreasonable employment policy to count accrued compensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

(vii) Regulations promulgated by the DAA shall establish the framework and procedures for calculations of compensated time off.

(c) **Uncompensated Time Off.** Employers shall also permit full-time Employees to take at least 80 additional hours per year of uncompensated time to be used for sick leave for the illness of the Employee or a member of his or her immediate family where the Employee has exhausted his or her compensated time off for that year.

(1) A full-time Employee is someone who works at least 40 hours a week or in accordance with the Employer's policy, if the Employer's established policy is overall more generous.

(2) A part-time Employee must accrue uncompensated hours off in increments proportional to that accrued by someone who works 40 hours a week.

(3) **General Rules for Uncompensated Time Off.**

(i) An Employee must be eligible to use accrued uncompensated time off after the first 90 days of employment or consistent with company policies, whichever is sooner.

(ii) An Employer may not unreasonably deny an Employee's request to use the accrued uncompensated time off. The DAA, through regulations, will determine what is unreasonable.

(iii) Unused accrued uncompensated time off will carry over until the time off reaches a maximum of 80 hours, unless the Employer's established policy is overall more generous.

(iv) An Employer may not implement any unreasonable employment policy to count accrued uncompensated time off taken under this article as an absence that may result in discipline, discharge, suspension or any other adverse action.

(v) Regulations promulgated by the DAA shall establish the framework and procedures for calculations of uncompensated time off.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec.

(a), Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Subsec.

(a), Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.3. Health Benefits.

(a) **Health Benefits.** The health benefits required by this article shall consist of the payment by an Employer of at least \$1.25 per hour to Employees towards the provision of health care benefits for Employees and their dependents. On July 1, 2016, the health benefit rate for Airport Employees shall be \$5.05 per hour. On July 1, 2017, the health benefit rate for Airport Employees shall be at least \$5.18 per hour, unless the annual increase provided in Section 10.37.3(a)(5) is higher. On July 1, 2018, the annual increase will continue as provided in Section 10.37.3(a)(5).

(1) Proof of the provision of such benefits must be submitted to the Awarding Authority to qualify for the wage rate in Section 10.37.2(a) for Employees with health benefits.

(2) Health benefits include health coverage, dental, vision, mental health and disability income. For purposes of this article, retirement benefits, accidental death and dismemberment insurance, life insurance and other benefits that do not provide medical or health related coverage will not be credited toward the cost of providing Employees with health benefits.

(3) If the Employer's hourly health benefit payment is less than that required under this article, the difference shall be paid to the Employee's hourly wage.

(4) Health benefits are not required to be paid on overtime hours.

(5) Consistent with and as shall be reflected in the hourly rates payable to an Airport Employee as provided in 10.37.2(a) above, the amount of payment for health benefits by an Airport Employer shall be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the Los Angeles City Employees Retirement System (LACERS), made by the LACERS Board of Administration under Section 4.1022. The City Administrative Officer shall so advise the DAA of any such change by June 1 of each year and of the required new hourly payments, if any. On the basis of such report, the DAA shall publish a bulletin announcing the adjusted payment, which shall take effect on July 1 of each year.

(6) Regulations promulgated by the DAA shall establish any framework and procedures associated with the administration of this article.

(b) **Periodic Review.** At least once every three years, the City Administrative Officer shall review the health benefit payment by Airport Employers set forth in Section 10.37.3(a) to determine whether the payment accurately reflects the cost of health care and to assess the impacts of the health benefit payment on Airport Employers and Airport Employees and shall transmit a report with its findings to the Council.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In

Entirety, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.4. Employer Reporting and Notification Requirements.

(a) An Employer shall post in a prominent place in an area frequented by Employees a copy of the Living Wage Poster and the Notice Regarding Retaliation, both available from the DAA.

(b) An Employer shall inform an Employee of their possible right to the federal Earned Income Credit (EIC)

under Section 32 of the Internal Revenue Code of 1954, 26 U.S.C. § 32, and shall make available to an Employee forms informing them about the EIC and forms required to secure advance EIC payments from the Employer.

(c) An Employer is required to retain payroll records pertaining to its Employees for a period of at least four years, unless more than four years of retention is specified elsewhere in the contract or required by law.

(d) Contractors, public lessees and licensees, and City Financial Assistant Recipients are responsible for notifying all Subcontractors, sublessees, and sublicensees of their obligation under this article and requiring compliance with this article. Failure to comply shall be a material breach of the contract.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.5. Retaliation Prohibited.

Neither an Employer, as defined in this article, nor any other person employing individuals shall discharge, reduce in compensation, or otherwise discriminate against any Employee for complaining to the City with regard to the Employer's compliance or anticipated compliance with this article, for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.6. Enforcement.

(a) An Employee claiming violation of this article may bring an action in the Superior Court of the State of California against an Employer and may be awarded:

(1) For failure to pay wages required by this article, back pay shall be paid for each day during which the violation occurred.

(2) For failure to comply with health benefits requirements pursuant to this article, the Employee shall be paid the differential between the wage required by this article without health benefits and such wage with health benefits, less amounts paid, if any, toward health benefits.

(3) For retaliation the Employee shall receive reinstatement, back pay or other equitable relief the court may deem appropriate.

(4) For Willful Violations, the amount of monies to be paid under Subsections (1) - (3), above, shall be trebled.

(b) The court shall award reasonable attorney's fees and costs to an Employee who prevails in any such enforcement action and to an Employer who prevails and obtains a court determination that the Employee's lawsuit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies. Contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the Awarding Authority to terminate the contract and otherwise pursue legal remedies that may be available. Contracts shall also include an agreement that the Employer shall comply with federal law proscribing retaliation for union organizing.

(d) The DAA may audit an Employer at any time to verify compliance. Failure by the Employer to cooperate with the DAA's administrative and enforcement actions, including, but not limited to, requests for information or documentation to verify compliance with this article, may result in a DAA determination that the Employer has violated this article.

(e) An Employee claiming violation of this article may report the claimed violation to the DAA, which shall determine whether this article applies to the claimed violation.

(1) If the claimed violation is valid, the DAA will perform an audit the scope of which will not exceed four years from the date the complaint was received.

(2) If the claimed violation is filed after a contract has expired, and information needed for the review is no longer readily available, the DAA may determine this article no longer applies.

(3) In the event of a claimed violation of requirements relating to compensated time off, uncompensated time off or wages, the DAA may require the Employer to calculate the amount the Employee should have earned and compensate the Employee. Nothing shall limit the DAA's authority to evaluate the calculation.

(i) If the DAA determines that an Employer is in violation of Section 10.37.2(b), the time owed must be made available immediately. At the Employer's option, retroactive compensated time off in excess of 192 hours may be paid to the Employee at the current hourly wage rate.

(ii) If the DAA determines that an Employer is in violation of Section 10.37.2(c), the Employer shall calculate the amount of uncompensated time off that the Employee should have accrued. This time will be added to the uncompensated time off currently available to the Employee and must be available immediately.

(f) Where the DAA has determined that an Employer has violated this article, the DAA shall issue a written notice to the Employer that the violation is to be corrected within ten days or other time period determined appropriate by the DAA.

(g) In the event the Employer has not demonstrated to the DAA within such period that it has cured the violation, the DAA may then:

(1) Request the Awarding Authority to declare a material breach of the Service Contract, Public Lease or License, or financial assistance agreement and exercise its contractual remedies thereunder, which are to include, but not be limited to: (i) termination of the Service Contract, Public Lease or License, or financial assistance agreement; (ii) the return of monies paid by the City for services not yet rendered; and (iii) the return to the City of money held in retention (or other money payable on account of work performed by the Employer) when the DAA has documented the Employer's liability for unpaid wages, health benefits or compensated time off.

(2) Request the Awarding Authority to declare the Employer non-responsible from future City contracts, leases and licenses in accordance with the Contractor Responsibility Ordinance (LAAC Section 10.40 *et seq.*) and institute proceedings in a manner that is consistent with law.

(3) Impose a fine payable to the City in the amount of up to \$100 for each violation for each day the violation remains uncured.

(4) Exercise any other remedies available at law or in equity.

(h) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for violation of this article.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.

Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (d), Para. (1), Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.7. Administration.

The City Council shall, by resolution, designate a department or office which shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article (Designated Administrative Agency - DAA). The DAA shall monitor compliance, including the investigation of claimed violations, and shall promulgate implementing regulations consistent with this article. The DAA shall also issue determinations that persons are City Financial Assistance Recipients, that particular contracts shall be regarded as "Service Contracts" for purposes of Section 10.37.1(m), and that particular leases and licenses shall be regarded as "Public Leases" or "Public Licenses" for purposes of Section 10.37.1(l), when it receives an application for a determination of non-coverage or exemption as provided for in Section 10.37.14 and 10.37.15.

The DAA may require an Awarding Authority to inform the DAA about all contracts in the manner described by regulation. The DAA shall also establish Employer reporting requirements on Employee compensation and on notification about and usage of the federal Earned Income Credit referred to in Section 10.37.4. The DAA shall report on compliance to the City Council no less frequently than annually.

During the first, third and seventh years of this article's operation since May 5, 1997, and every third year thereafter, the City Administrative Officer and the Chief Legislative Analyst shall conduct or commission an evaluation of this article's operation and effects. The evaluation shall specifically address at least the following matters:

(a) how extensively affected Employers are complying with the article;

(b) how the article is affecting the workforce composition of affected Employers;

(c) how the article is affecting productivity and service quality of affected Employers;

(d) how the additional costs of the article have been distributed among Employees, their Employers and the City.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.8. City is a Third Party Beneficiary of Contracts Between an Employer and Subcontractor for Purposes of Enforcement.

Any contract an Employer executes with a Subcontractor, as defined in Section 10.37.1(n), shall contain a provision wherein the Subcontractor agrees to comply with this article and designates the City as an intended third party beneficiary for purposes of enforcement directly against the Subcontractor, as provided for in Section 10.37.6, of this article.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for violation of other minimum compensation laws.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.10. Expenditures Covered.

This article shall apply to the expenditure - whether through aid to City Financial Assistance Recipients, Service Contracts let by the City or Service Contracts let by its Financial Assistance Recipients - of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.11. Timing of Application.

The provisions of this article shall become operative 90 days following the effective date of the ordinance and are not retroactive.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; Subsec. (b), Subsec. (c) Added, Ord. No. 173,747, Eff. 2-24-01; Subsec. (d) Added, Ord. No. 180,877, Eff. 10-19-09; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.12. Supersession by Collective Bargaining Agreement.

Parties subject to this article may by collective bargaining agreement provide that such agreement shall supersede the requirements of this article. An Employer seeking supersession must submit the required documentation to the DAA.

SECTION HISTORY

Added by Ord. No. 171,547, Eff. 5-5-97.
Amended by: In Entirety, Ord. No. 172,336, Eff. 1-14-99; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of "City Financial Assistance Recipient" in Section 10.37.1(f), of "Public Lease or License" in Section 10.37.1(i), and of "Service Contract" in Section 10.37.1(m) shall be liberally interpreted so as to

further the policy objectives of this article. All City Financial Assistance Recipients meeting the monetary thresholds of Section 10.37.1(f), all City leases and licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services shall be presumed to meet the corresponding definition mentioned above, subject, however, to a determination by the DAA of non-coverage or exemption on any basis allowed by this article, including, but not limited to, non-coverage for failure to satisfy such definition. The DAA shall by regulation establish procedures for informing persons engaging in such transactions with the City of their opportunity to apply for a determination of non-coverage or exemption and procedures for making determinations on such applications.

SECTION HISTORY

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: Ord. No. 173,747, Eff. 2-24-01; In Entirety, Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.14. Contracts, Employers and Employees Not Subject to this Article.

The following contracts are not subject to the Living Wage Ordinance. An Awarding Authority, after consulting with the DAA, may determine whether contracts and/or Employers are not subject to the Living Wage Ordinance due to the following:

(a) a contract where an employee is covered under the Prevailing Wage requirements of Division 2, Part 7, of the California Labor Code unless the total of the Basic Hourly Rate and hourly Health and Welfare payments specified in the Director of Industrial Relations' General Prevailing Wage Determinations are less than, and are not paid more than, the minimum hourly rate as required by Section 10.37.2(a)(1) of this article.

(b) a contract with a governmental entity, including a public educational institution or a public hospital.

(c) a contract for work done directly by a utility company pursuant to an order of the Public Utilities Commission.

SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.15. Exemptions.

Upon the request of an Employer, the DAA may exempt compliance with this article. An Employer seeking an exemption must submit the required documentation to the DAA for approval before the exemption takes effect.

(a) **Small Business.** A Public Lessee or Licensee shall be exempt from the requirements of this article subject to the following limitations:

(1) The lessee or licensee employs no more than seven people total on and off City property. A lessee or licensee shall be deemed to employ no more than seven people if the company's entire workforce worked an average of no more than 1,214 hours per month for at least three-fourths of the previous calendar year;

(2) To qualify for this exemption, the lessee or licensee must provide proof of the number of people it employs in the company's entire workforce to the Awarding Authority as required by regulation;

(3) Public Leases and Licenses shall be deemed to include public subleases and sublicenses; and

(4) If a Public Lease or License has a term of more than two years, the exemption granted pursuant to this section shall expire after two years, but shall be renewable in two-year increments upon meeting the requirements therefor at the time of the renewal application or a period established by regulation.

(b) **Non-Profit Organizations.** Corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), whose chief executive officer earns a salary which, when calculated on an hourly basis, is less than eight times the lowest wage paid by the corporation, shall be exempted as to all Employees other than child care workers. The Employer must submit documentation to the DAA.

(c) **Students.** High school and college students employed in a work study or employment program lasting less than three months shall be exempt. Other students participating in a work-study program shall be exempt if the Employer can verify to the DAA that:

(1) The program involves work/training for class or college credit and student participation in the work-study program is for a limited duration, with definite start and end dates; or

(2) The student mutually agrees with the Employer to accept a wage below this article's requirements based on a training component desired by the student.

(d) Nothing in this article shall limit the right of the City Council to waive the provisions herein.

(e) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to and at the request of an individual Employee who is eligible for benefits under a health plan in which the Employee's spouse, domestic partner or parent is a participant or subscriber to another health plan. An Employee who receives this waiver shall not be entitled to the hourly rate without health benefits pursuant to Section 10.37.2.

SECTION HISTORY

Added by Ord. No. 184,318, Eff. 7-7-16.

Sec. 10.37.16. Severability.

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION HISTORY

Added by Ord. No. 172,336, Eff. 1-14-99.

Amended by: In Entirety, Ord. No. 184,318, Eff. 7-7-16.

EXHIBIT I

CHAPTER 1, ARTICLE 10

SERVICE CONTRACTOR WORKER RETENTION

Section	
10.36	Findings and Statement of Policy.
10.36.1	Definitions.
10.36.2	Transition Employment Period.
10.36.3	Enforcement.
10.36.4	Exemption for Contractor or Contractor's Prior Employees.
10.36.5	Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.
10.36.6	Expenditures Covered by this Article.
10.36.7	Promulgation of Implementing Rules.
10.36.8	Severability.

Sec. 10.36. Findings and Statement of Policy.

The City awards many contracts to private firms to provide services to the public and to City government. The City also provides financial assistance and funding to other firms for the purpose of economic development or job growth. At the conclusion of the term of a service contract with the City or with those receiving financial assistance from the City, a different firm often receives the successor contract to perform the City services.

The City obtains benefits achieved through the competitive process of entering into new contracts. It is the experience of the City that reasons for change do not necessarily include a need to replace workers presently performing services who already have useful knowledge about the workplace where the services are performed.

Incumbent workers have invaluable existing knowledge and experience with the work schedules, practices and clients. Replacing these workers with workers without these experiences decreases efficiency and results in a disservice to the City and City financed or assisted projects.

Retaining existing service workers when a change in contractor occurs reduces the likelihood of labor disputes and disruptions. The reduction of the likelihood of labor disputes and disruptions results in the assured continuity of services to City constituents and visitors who receive services provided by the City or by City financed or assisted projects.

Contracting decisions involving the expenditure of City funds should avoid a potential effect of creating unemployment and the consequential need for social services. The City, as a principal provider of social support services, has an interest in the stability of employment under contracts with the City or by those receiving financial assistance from the City. The retention of existing workers benefits that interest.

SECTION HISTORY

Article and Section Added by Ord. No. 170,784, Eff. 1-13-96.
Amended by: Article and Section, Ord. No. 171,004, Eff. 5-18-96;
In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Awarding Authority" means that subordinate or component entity or person of the City (such as a department) or of the City Financial Assistance Recipient that awards or is otherwise responsible for the administration of a Service Contract or, if none, then the City or the City Financial Assistance Recipient.

(b) "City" means the City of Los Angeles and all Awarding Authorities thereof.

(c) "City Financial Assistance Recipient" means any person who receives from the City in any 12-month period discrete financial assistance for economic development or job growth expressly articulated and identified by the City totaling at least \$100,000; provided, however, that corporations organized under Section 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), with annual operating budgets of less than \$5,000,000, or that regularly employ homeless persons, persons who are chronically unemployed, or persons receiving public assistance, shall be exempt.

CHAPTER 1, ARTICLE 9

BID PREFERENCES

Section

10.35 Bid Preference Based on Location of Firm.

Sec. 10.35. Bid Preference Based on Location of Firm.

Section 371(a) of the City Charter authorizes bid preferences based on the geographical location of a bidder. Only the Council shall grant such preference and no preference shall be granted other than for the award of the contracts for the automated refuse collection containers. The Council, in determining the particular geographical area, be it within the State of California or County of Los Angeles, or any sub-area thereof, in which a business needs to be located, or agree to locate, in order to qualify for a bid preference, shall state the reason for such determination. The Council shall further determine the nature and extent of such preference. The adoption of this section shall be deemed authorization for any action by the City Council granting such preference. What constitutes the locating of a business within the geographical area, as to the award of a particular contract, shall also be determined by the City Council.

SECTION HISTORY

Added by Ord. No. 168,236, Eff. 10-16-92.

Amended by: Ord. No. 173,285, Eff. 6-26-00, Oper. 7-1-00.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan at market rate shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§ 1274(d) and 7872(f). A recipient shall not be deemed to include lessees and sublessees. Service Contracts for economic development or job growth shall be deemed providing such assistance once the \$100,000 threshold is reached.

(d) "Contractor" means any person that enters into a Service Contract with the City or a City Financial Assistance Recipient. Governmental entities, including public educational institutions and public hospitals, are not Contractors and are not subject to this article.

(e) "Designated Administrative Agency (DAA)" means the Department of Public Works, Bureau of Contract Administration, which shall bear administrative responsibilities under this article.

(f) "Employee" means any person employed as a service Employee of a Contractor or Subcontractor earning no more than twice the hourly wage without health benefits available under the Living Wage Ordinance, Los Angeles Administrative Code Section 10.37 *et seq.*, whose primary place of employment is in the City on or under the authority of a Service Contract. Examples of Employee includes: hotel Employees; restaurant, food service or banquet Employees; janitorial Employees; security guards; parking attendants; nonprofessional health care Employees; gardeners; waste management Employees; and clerical Employees. Employee does not include a person who is a managerial, supervisory or confidential Employee. An Employee must have been employed by a terminated Contractor for the preceding 12 months or longer.

(g) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association or other

entity that may employ individuals or enter into contracts.

(h) "Service Contract" means a contract let to a Contractor by the City or a City Financial Assistance Recipient primarily for the furnishing of services to or for the City or City Financial Assistance Recipient (as opposed to the purchase of goods or other property) and that involves an expenditure or receipt in excess of \$25,000 and a contract term of at least three months.

(i) "Subcontractor" means any person not an Employee who enters into a contract with a Contractor to assist the Contractor in performing a Service Contract and who employs Employees for such purpose.

(j) "Successor Service Contract" means a Service Contract where the services to be performed are substantially similar to the Service Contract recently terminated. Termination includes, but is not limited to: (1) the completion of the Service Contract; (2) early termination of the Service Contract in whole or in part; and (3) an amendment that reduces services provided under the Service Contract, in whole or in part.

SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (c), Ord. No. 172,843, Eff. 11-4-99; Subsec. (j) added, Ord. No. 176,155, Eff. 9-22-04; Subsec. (j), Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.2. Transition Employment Period.

(a) Where an Awarding Authority has given notice that a Service Contract has been terminated, or where a Contractor has given notice of termination, upon receiving or giving the notice the terminated Contractor shall within ten days thereafter provide to the Contractor with a Successor Service Contract the name, address, date of hire, and employment occupation classification of each Employee in employment, of itself or Subcontractors, at the time of contract termination. If the terminated Contractor has not learned the identity of the Contractor with a Successor Service Contract, if any, by the time that notice was given of contract termination, the terminated Contractor shall obtain such information from the Awarding Authority. If a Successor Service Contract has not been awarded by the end of the ten-day period, the employment information referred

to earlier in this subsection shall be provided to the Awarding Authority. Where a subcontract of a Service Contract has been terminated prior to the termination of the Service Contract, the terminated Subcontractor shall for purposes of this Article be deemed a terminated Contractor.

(1) Where a Service Contract or Contracts are being let where the same or similar services were rendered under multiple Service Contracts, the Awarding Authority shall pool the Employees, ordered by seniority within job classification, under the prior contracts. The successor Contractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used. The notice must include the following:

- (A) the reason why pooling is necessary;
- (B) the total number of Employees required under the Successor Service Contract;
- (C) a breakdown of the number of Employees required within each job classification and seniority within each class; and
- (D) an indication as to which Employees within each job classification shall be offered employment under this article.

The written notice must be provided no later than ten days after the successor Contractor receives the listing of the terminated Contractor's Employees. The DAA shall notify the successor Contractor whether pooling will be permitted.

(2) Where the use of Subcontractors has occurred under the terminated Service Contract or where the use of Subcontractors is to be permitted under the Successor Service Contract, or where both circumstances arise, the Awarding Authority shall pool, when applicable, the Employees, ordered by seniority within job classification, under such prior Service Contracts or subcontracts where required by, and in accordance with, rules authorized by this article. The successor Contractor or Subcontractor shall provide written notice to the Awarding Authority and the DAA that the Awarding Authority's pool list will be used. The DAA shall notify the successor Contractor or Subcontractor whether pooling will be permitted.

(b) If work-related requirements for a particular job classification under the Successor Service Contract differ

from the terminated Service Contract, the successor Contractor (or Subcontractor, where applicable) shall give notice to the Awarding Authority and the DAA and provide an explanation including:

- (1) the different work-related requirements needed; and
- (2) the reason why the different work-related requirements are necessary for the Successor Service Contract.

(c) Within ten days of receipt of the list of Employees from the terminated Contractor, the Successor Contractor shall make written offers for a 90-day transition employment period to the eligible Employees by letters sent certified mail. The letters shall ask an Employee to return the offers to the successor Contractor with the Employee's signature indicating acceptance or rejection of the offer of employment. The letters should state that if an Employee fails to return a written acceptance of the offer within ten days of the date of mailing of the successor Contractor's certified letter, then the Employee will be presumed to have declined the offer.

The successor Contractor shall provide copies of the letters offering employment to the Awarding Authority and proof of mailing.

(d) A successor Contractor shall retain Employees for a 90-day transition employment period. Where pooling of Employees has occurred, the successor Contractor shall draw from such pools in accordance with rules established under this article. During such 90-day period, Employees so hired shall be employed under the terms and conditions established by the successor Contractor (or Subcontractor) or as required by law.

(e) If at any time the successor Contractor determines that fewer Employees are required to perform the new Service Contract than were required by the terminated Contractor (and Subcontractors, if any), the successor Contractor shall retain Employees by seniority within job classification. The successor Contractor shall give notice to the Awarding Authority and the DAA and provide an explanation including:

- (1) the reason that fewer Employees will be needed;
- (2) the total number of Employees required under the Successor Service Contract;

(3) a breakdown of the number of Employees required within each job classification;

(4) a listing of the terminated Contractor's Employees by job classification and seniority within each class; and

(5) an indication as to which Employees within each job classification shall be offered employment under this article.

The notice must be provided no later than ten days after the successor Contractor receives the list of the terminated Contractor's Employees pursuant to Section 10.36.2(a).

Letters offering employment shall be made by seniority within each job classification. If an Employee in a job classification declines an offer of employment or fails to respond within ten days pursuant to Section 10.36.2(a), the successor Contractor shall issue a letter offering employment to the next Employee in that job classification. The successor Contractor shall continue to offer employment in this manner until all required positions are filled for the Successor Service Contract or until all Employees have been offered employment.

(f) During such 90-day transition employment period, the successor Contractor (or Subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered Employees not retained by the successor Contractor (or Subcontractor) from which the successor Contractor (or Subcontractor) shall hire additional Employees, if needed.

(g) During such 90-day transition employment period, the successor Contractor (or Subcontractor, where applicable) shall not discharge without cause an Employee retained pursuant to this article. "Cause" for this purpose shall include, but not be limited to, the definition in California Labor Code Section 2924.

(h) At the end of such 90-day transition employment period, the successor Contractor (or Subcontractor, where applicable) shall perform a written performance evaluation for each Employee retained pursuant to this article. If the Employee's performance during such 90-day period is satisfactory, the successor Contractor (or Subcontractor) shall offer the Employee continued employment under terms and conditions established by the successor Contractor (or Subcontractor) or as required by law.

(i) If the City or a City Financial Assistance Recipient enters into a Service Contract for the performance of work that prior to the Service Contract was performed by

the City's or the City Financial Assistance Recipient's own service Employees, the City or the City Financial Assistance Recipient shall be deemed to be a terminated Contractor within the meaning of this article and the Contractor under the Service Contract shall be deemed to be a Contractor with a Successor Service Contract within the meaning of this article.

SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.

Amended by: Ord. No. 171,004, Eff. 5-18-96; Subsec. (g) added, Ord. No. 172,349, Eff. 1-29-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.3. Enforcement.

(a) An Employee who has been discharged in violation of this article by a successor Contractor or its Subcontractor may bring an action in the Superior Court of the State of California against the successor Contractor and, where applicable, its Subcontractor, and may be awarded:

(1) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of:

(A) The average regular rate of pay received by the Employee during the last three years of the Employee's employment in the same occupation classification; or

(B) The final regular rate received by the Employee.

(2) Costs of benefits the successor Contractor would have incurred for the Employee under the successor Contractor's (or Subcontractor's, where applicable) benefit plan.

(b) If the Employee is the prevailing party in any such legal action, the court shall award reasonable attorney's fees and costs as part of the costs recoverable.

(c) Compliance with this article shall be required in all City contracts to which it applies, and the contracts shall provide that violation of this article shall entitle the City to terminate the contract and otherwise pursue legal remedies that may be available.

(d) If the DAA determines that a Contractor or Subcontractor violated this article, the DAA may recommend that the Awarding Authority take any or all of the following actions:

(1) Document the determination in the Awarding Authority's Contractor Evaluation required under Los Angeles Administrative Code Section 10.39 *et seq.*;

(2) Require that the Contractor or Subcontractor document the determination in each of the Contractor's or Subcontractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Section 10.40 *et seq.*;

(3) Terminate the Service Contract; or

(4) Recommend to the Awarding Authority to withhold payments due to the Contractor or Subcontractor.

(e) Notwithstanding any provision of this Code or any other law to the contrary, no criminal penalties shall attach for any violation of this article.

SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.4. Exemption for Contractor or Contractor's Prior Employees.

(a) An Awarding Authority shall, upon application by a Contractor or Subcontractor, exempt from the requirements of this article a person employed by the Contractor or Subcontractor continuously for at least 12 months prior to the commencement of the Successor Service Contract who is proposed to work on the Successor Service Contract as an Employee in a capacity similar to the prior employment, where the application demonstrates that: (a) the person would otherwise be laid off work; and (b) his or her retention would appear to be helpful to the Contractor or Subcontractor in performing the Successor Service Contract. Once a person so exempted commences work under a Successor Service Contract, he or she shall be deemed an Employee as defined in this article.

(b) Nothing in this article shall limit the right of the DAA to waive the provisions herein with respect to a Contractor if it finds it is not in the best interest of the City.

SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.5. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an Employee's right to bring legal action for wrongful termination.

SECTION HISTORY

Added by Ord. No. 170,784, Eff. 1-13-96.
Amended by: Ord. No. 171,004, Eff. 5-18-96; In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.6. Expenditures Covered by this Article.

This article shall apply to the expenditure, whether through Service Contracts let by the City or by City Financial Assistance Recipients, of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds. City Financial Assistance Recipients shall apply this article to the expenditure of non-City funds for Service Contracts to be performed in the City by complying with Section 10.36.2(i) and by contractually requiring their Contractors with Service Contracts to comply with this article. Such requirement shall be imposed by the recipient until the City financial assistance has been fully expended.

SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.
Amended by: Ord. No. 172,337, Eff. 1-14-99; Ord. No. 172,843, Eff. 11-4-99; In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.7. Promulgation of Implementing Rules.

The DAA shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article.

SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.
Amended by: Ord. No. 176,155, Eff. 9-22-04; Ord. No. 176,283, Eff. 12-25-04, Oper. 9-22-04; In Entirety, Ord. No. 184,293, Eff. 6-27-16.

Sec. 10.36.8. Severability.

If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not

affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.

Amended by: In Entirety, Ord. No. 184,293, Eff. 6-27-16.

EXHIBIT J

LOS ANGELES ADMINISTRATIVE CODE

Div. 10, Ch. 1, Art. 1

CHILD SUPPORT

Sec. 10.10. Child Support Assignment Orders.

a. Definitions.

1. **Awarding Authority** means a subordinate or component entity or person of the City (such as a City department or Board of Commissioners) that has the authority to enter into a contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.

2. **Contract** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies, or the rendering of any service to the City of Los Angeles or to the public which is let, awarded or entered into with, or on behalf of, the City of Los Angeles or any awarding authority thereof.

3. **Contractor** means any person, firm, corporation, partnership or any combination thereof which submits a bid or proposal or enters into a contract with any awarding authority of the City of Los Angeles.

4. **Subcontractor** means any person, firm, corporation, partnership or any combination thereof who enters into a contract with a contractor to perform or provide a portion of any contract with the City.

5. **Principal Owner** means any person who owns an interest of 10 percent or more in a contractor or subcontractor as defined herein.

b. Mandatory Contract Provisions.

Every contract that is let, awarded or entered into with or on behalf of the City of Los Angeles shall contain a provision obligating the contractor or subcontractor to fully comply with all applicable State and Federal employment reporting requirements for the contractor or subcontractor's employees. The contractor or subcontractor will also be required to certify that the principal owner(s) thereof are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them

personally, that the contractor or subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code §§ 5230 *et seq.* and that the contractor or subcontractor will maintain such compliance throughout the term of the contract.

Failure of a contractor or subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under the contract. Failure of the contractor or subcontractor or principal owner thereof to cure the default within 90 days of notice of such default by the City shall subject the contract to termination.

c. Notice to Bidders.

Each awarding authority shall be responsible for giving notice of the provisions of this ordinance to those who bid on, or submit proposals for, prospective contracts with the City.

d. Current Contractor Compliance.

Within 30 days of the operative date of this ordinance, the City, through its operating departments, shall serve upon existing contractors a written request that they and their subcontractors (if any) comply with all applicable State and Federal employment reporting requirements for the contractor and subcontractor's employees, that they certify that the principal owner(s) of the contractor and any subcontractor are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor and subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code § 5230 *et seq.* and that the contractor and subcontractor will maintain such compliance throughout the term of the contract.

e. City's Compliance with California Family Code.

The City shall maintain its compliance with the provisions of California Family Code §§ 5230 *et seq.* and all other applicable law regarding its obligations as an employer to implement lawfully served Wage and Earnings Assignments and Notices of Assignment.

f. Report of Employees' Names to District Attorney.

1. The City shall maintain its current practice of assisting the District Attorney's support enforcement activities by annually reporting to the Los Angeles County District Attorney the names of all of its employees and retirees so that the District Attorney may identify those employees and retirees subject to Wage and Earnings Assignment Orders and Notices of Assignment and may establish court orders for support, where appropriate. Should the District Attorney so request it, the City will provide such information on a more frequent basis.

2. All applicants for employment with the City of Los Angeles will be asked to acknowledge their responsibility to comply with any court ordered support obligations and will be advised of the City's practice of assisting the District Attorney as described in the provisions of Subsection f.1., above.

SECTION HISTORY

Added by Ord. No. 172,401, Eff. 2-13-99.

EXHIBIT K

FIRST SOURCE HIRING PROGRAM FOR AIRPORT EMPLOYEES

- I. Purpose. The purpose of this First Source Hiring Program is to facilitate the employment of Targeted Applicants by Airport Employers. It is a goal of this First Source Hiring Program that this Program benefit Airport Employers by providing a pool of qualified job applicants through a non-exclusive referral system.
- II. Definitions. As used in this Program, the following capitalized terms shall have the following meanings. All definitions include both the singular and plural form.

"Airport" shall mean Los Angeles International Airport.

"Airport Employer" shall mean a party that, through a contract, lease, licensing arrangement, or other arrangement, agrees to comply with this First Source Hiring Program with regard to Airport Jobs. Operators of transportation charter party limousines, non-tenant shuttles, and taxis shall not be considered Airport Employers.

"Airport Job" shall mean a job that either (i) is performed On-Site, or (ii) is directly related to a contract, lease, licensing arrangement, or other arrangement under which the employer is an Airport Employer. Positions for which City's Worker Retention Policy requires hiring of particular individuals shall not constitute Airport Jobs for purposes of this Program.

"City" shall mean the City of Los Angeles.

"Coalition" shall mean the LAX Coalition for Economic, Environmental, and Educational Justice, an unincorporated association comprised exclusively of the following organizations: AGENDA; AME Minister's Alliance; Clergy and Laity United for Economic Justice; Coalition for Clean Air; Communities for a Better Environment; Community Coalition; Community Coalition for Change; Environmental Defense; Inglewood Coalition for Drug and Violence Prevention; Inglewood Democratic Club; Lennox Coordinating Council; Los Angeles Alliance for a New Economy; Los Angeles Council of Churches; Nation of Islam; Natural Resources Defense Council; Physicians for Social Responsibility Los Angeles; Service Employees International Union Local 347; and Teamsters Local 911.

"Coalition Representative" shall mean the following: The Coalition shall designate one individual as the "Coalition Representative" authorized to speak or act on behalf of the Coalition for all purposes under the Cooperation Agreement. The Coalition Representative may designate one or more assistants to assist the Coalition Representative in speaking or acting on behalf of the Coalition with respect to any

specific program or activity or any other matter. The Coalition shall provide LAWA with contact information for the Coalition Representative upon request.

"Cooperation Agreement" shall mean the Cooperation Agreement between LAWA and the LAX Coalition for Economic, Environmental and Educational Justice.

"LAWA" shall mean Los Angeles World Airports.

"Low-Income Individual" shall mean an individual whose household income is no greater than 80% of the median income, adjusted for household size, for the Primary Metropolitan Statistical Area.

"On-Site" shall mean physically located on property owned or leased by LAWA and pertaining to Airport.

"Program" shall mean this First Source Hiring Program.

"Project Impact Area" shall have the meaning set forth in the "Final Environmental Impact Report" for the LAX Master Plan Program, dated April 2004, as supplemented by one or more EIR Addenda prior to certification of the EIR by the City Council.

"Referral System" shall mean the referral system established to provide applicant referrals for the Program.

"Special Needs Individuals" shall mean: (i) individuals who receive or have received public assistance through the [Temporary Assistance for Needy Families Program], within the past 24 months; (ii) individuals who are homeless; (iii) ex-offenders, (iv) chronically unemployed, and (v) dislocated airport workers.

"Targeted Applicants" shall have the meaning set forth in Section IV below.

III. Coverage. This Program shall apply to hiring by Airport Employers for all Airport Jobs, except for jobs for which the hiring procedures are governed by a collective bargaining contract that conflicts with this Program.

IV. Targeted Applicants. Referrals under the Program shall, to the extent permissible by law, be made in the order of priority set forth below.

• First Priority: Low-Income Individuals living in the Project Impact Area for at least one year and Special Needs Individuals; and

• Second Priority: Low-Income Individuals residing in City.

V. Initial Airport Employer Roles.

A. Liaison. Each Airport Employer shall designate a liaison for issues related to the Program. The liaison shall work with LAWA, the Coalition Representative, the

Referral System provider, and relevant public officials to facilitate effective implementation of this Program.

- B. Long-Range Planning. Any entity that becomes an Airport Employer at least two (2) months prior to commencing operations related to Airport shall, at least two months prior to commencing operations related to Airport, provide to the Referral System the approximate number and type of Airport Jobs that it will fill and the basic qualifications necessary.

VI. Airport Employer Hiring Process.

- A. Notification of Job Opportunities. Prior to hiring for any Airport Job, an Airport Employer shall notify the Referral System, by e-mail or fax, of available job openings and provide a description of job responsibilities and qualifications, including expectations, salary, work schedule, duration of employment, required standard of appearance, and any special requirements (e.g., language skills, driver's license, etc.). Job qualifications shall be limited to skills directly related to performance of job duties.
- B. Referrals. After receiving a notification under Section VI.A above, the Referral System shall within five days, or longer time frame agreed to by the Referral System and Airport Employer, refer to the Airport Employer one or more Targeted Applicants who meet the Airport Employer's qualifications.
- C. Hiring.
 - 1. New Employer Targeted Hiring Period. When making initial hires for the commencement of an Airport Employer's operations related to Airport, the Airport Employer shall consider and hire only Targeted Applicants for a two week period following provision of the notification described in Section VI.A. After this period, the Airport Employer shall make good-faith efforts to hire Targeted Applicants, but may consider and hire applicants referred or recruited through any source.
 - 2. Established Employer Targeted Hiring Period. When making hires after the commencement of operations related to Airport, an Airport Employer shall consider and hire only Targeted Applicants for a five-day period following provision of the notification described in Section VI.A. After this period, the Airport Employer shall make good-faith efforts to hire Targeted Applicants, but may consider and hire applicants referred or recruited through any source.
 - 3. Hiring Procedure During Targeted Hiring Periods. During the periods described in Sections VI.C.1 and VI.C.2 above, Airport Employers may hire Targeted Applicants recruited or referred through any source. During such periods Airport Employers shall use normal hiring practices,

including interviews, to consider all applicants referred by the Referral System.

4. No Referral Fees. No Airport Employer or referred job candidate shall be required to pay any fee, cost or expense of the Referral System or this Program in connection with referrals.

VIII. Reporting and Recordkeeping.

- A. Reports. During the time that this Program is applicable to any Airport Employer, that Airport Employer shall, on a quarterly basis, notify the Referral System of the number, by job classification, of Targeted Applicants hired by the Airport Employer during that quarter, and the total number of employees hired by the Airport Employer for Airport Jobs during that quarter. Any Airport Employer who has not had hiring activity for the quarter, shall also notify the Referral System of such inactivity.
- B. Recordkeeping. During the time that this Program is applicable to any Airport Employer, that Airport Employer shall retain records sufficient for monitoring of compliance with this Program with regard to each Airport Job, including records of notifications sent to the Referral System, referrals from the Referral System, job applications received from any source, number of Targeted Applicants hired, and total number of employees hired for Airport Jobs. To the extent allowed by law, and upon reasonable notice, these records shall be made available to LAWA and to the Referral System for inspection upon request. The Coalition Representative may request that LAWA provide such records at anytime. Records may be redacted so that individuals are not identified by name and so that information required by law to remain confidential is excluded.
- C. Complaints. If LAWA, the Coalition, or the Referral System believes that an Airport Employer is not complying with this Program, then the designated LAWA office shall be notified to ensure compliance with this program.
- D. Liquidated Damages. Each Airport Employer agrees to pay to LAWA liquidated damages in the amount of One Thousand Dollars (\$1,000) where LAWA finds that the Airport Employer has violated this Program with regard to hiring for a particular Airport Job. LAWA shall establish procedures providing to Airport Employers notice and an opportunity to present all relevant evidence prior to LAWA's final determination regarding an alleged violation. This liquidated damages provision does not preclude LAWA from obtaining any other form of available relief to ensure compliance with this Program, including injunctive relief.

IX. Miscellaneous.

- A. Compliance with State and Federal Law. This Program shall be implemented only to the extent that it is consistent with the laws of the State of California and the United States. If any provision of this Program is held by a court of law to be in conflict with state or federal law, the applicable law shall prevail over the terms of this Program, and the conflicting provisions of this Program shall not be enforceable.
- B. Severability Clause. If any term, provision, covenant or condition of this Program is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall continue in full force and effect.
- C. Binding on Successors. This Program shall be binding upon and inure to the benefit of the successors in interest, transferees, assigns, present and future partners, subsidiary corporations, affiliates, agents, representatives, heirs, and administrators of any party that has committed to comply with it. Any reference in this Program to a party shall be deemed to apply to any successor in interest, transferee, assign, present or future partner, subsidiary corporation, affiliate, agent, representative, heir or administrator of such party; provided, however, that any assignment, transfer or encumbrance of a lease agreement, permit or contract in which this Program is incorporated shall only be made in strict compliance with the terms of such lease agreement, permit or contract and the foregoing shall not constitute consent to any such assignment, transfer or encumbrance.
- D. Lease Agreements and Contracts. Airport Employers shall not execute any sublease agreement or other contract under which Airport Jobs may occur directly or indirectly, unless the entirety of this Program is included as a material term thereof, binding on all parties.
- E. Assurance Regarding Preexisting Contracts. Each Airport Employer warrants and represents that as of the date of execution of this Program, it has executed no sublease agreement or other contract that would violate any provision of this Program had it been executed after the date of incorporation of this Program into a binding contract.
- F. Intended Beneficiaries. LAWA, the Coalition, and the Referral System are intended third-party beneficiaries of contracts and other agreements that incorporate this Program with regard to the terms and provisions of this Program. However, the parties recognize that only LAWA has the sole responsibility to enforce the provisions of this Program.
- G. Material Terms. All provisions of this Program shall be material terms of any lease agreement or contract in which it is incorporated.
- H. Effective Date. Section VI of this Program shall become effective on the effective date of the contract or agreement into which it is incorporated.

- I. Construction. Any party incorporating this Program into a binding contract has had the opportunity to be advised by counsel with regard to this Program. Accordingly, this Program shall not be strictly construed against any party, and the rule of construction that any ambiguities be resolved against the drafting party shall not apply to this Program.
- J. Entire Contract. This Program contains the entire agreement between the parties on the subjects described herein, and supersedes any prior agreements, whether written or oral. This Program may not be altered, amended or modified except by an instrument in writing signed in writing by all parties to the contract in which it is incorporated.

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EXHIBIT L

LOS ANGELES WORLD AIRPORTS



CONTRACTOR RESPONSIBILITY PROGRAM

RULES AND REGULATIONS FOR LEASES

Effective date: July 1, 2012

Procurement Services Division
7301 World Way West, 4th Floor
Los Angeles, CA 900145
(424) 646-5380
(424) 646-9262 (Fax)

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These Rules and Regulations are promulgated pursuant to Board Resolution #21601, the Los Angeles World Airports Contractor Responsibility Program (CRP). Each Requesting LAWA Division shall cooperate to the fullest extent with the Executive Director in the administration of the CRP. The Executive Director may amend these Rules and Regulations from time to time as required for the implementation of the CRP.

A. DEFINITIONS

- (a) **"Awarding Authority"** means either the Executive Director or the Board or the Board's designee.
- (b) **"Bid"** means an application submitted by a bidder in response to an Invitation for Bid, Request for Proposal or Request for Qualifications or other procurement process.
- (c) **"Bidder"** means any person or entity that applies for any contract whether or not the application process is through an Invitation for Bid, Request for Proposal, Request for Qualifications or other procurement process.
- (d) **"Board"** means the City of Los Angeles Board of Airport Commissioners.
- (e) **"Contract"** means any agreement for the performance of any work or service, the provisions of any goods, equipment, materials or supplies, or the rendition of any service to LAWA or to the public or the grant of a Public Lease, which is awarded or entered into by or on behalf of LAWA. The provisions of these Rules and Regulations shall apply to all leases that require Board approval.
- (f) **"Contractor"** means any person, firm, corporation, partnership, association or any combination thereof, which enters into a Contract with LAWA and includes a Public Lessee.
- (g) **"CRP Pledge of Compliance"** means the CRP Pledge of Compliance developed by PSD. The CRP Pledge of Compliance shall require Public Lessees and Public Sublessees to sign under penalty of perjury that the Public Lessees and Public Sublessees will:
 - (1) Comply with all applicable Federal, State, and local laws and regulations during the performance of the lease, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
 - (2) Notify LAWA within 30 calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that

the tenant or did not comply with subparagraph (g)(1) above in the performance of the contract.

- (3) Notify LAWA within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the Public Lessee or Public Sublessee has violated subparagraph (g)(1) above in the performance of the Public Lease.
- (4) Provide LAWA within 30 calendar days updated responses to the CRP Questionnaire if any change occurs which would change any response contained within the completed CRP Questionnaire. Note: This provision does not apply to amendments of Public Leases not subject to the CRP and to Public Sublessees not required to submit a CRP Questionnaire.
- (5) Ensure that Public Lessees and Public Sublessees with LAWA leases shall complete, sign and submit a CRP Pledge of Compliance attesting under penalty of perjury to compliance with subparagraphs (u)(1) through (4).
- (6) Notify LAWA within 30 days of becoming aware of an investigation, violation or finding of any applicable Federal, State, or local law involving Public Sublessees in the performance of a LAWA contract.
- (7) Cooperate fully with LAWA during an investigation and to respond to request(s) for information within ten (10) working days from the date of the Notice to Respond.
- (h) **"CRP Questionnaire"** means the set of questions developed by PSD that will assist LAWA in determining a bidder, proposer's or contractor's responsibility. Information solicited from the CRP Questionnaire may include but is not limited to: ownership and name changes, financial resources and responsibility, satisfactory performance of other contracts, satisfactory record of compliance with relevant laws and regulations, and satisfactory record of business integrity. PSD may amend the CRP Questionnaire from time to time.
- (i) **"Executive Director"** means the Executive Director of the City of Los Angeles Department of Airports.
- (j) **"Invitation for Bid" ("IFB")** means the process through which the City solicits Bids including Request for Proposals ("RFP") and Requests for Qualifications ("RFQ").
- (k) **"Los Angeles World Airports"** means the City of Los Angeles Department of Airports.
- (l) **"PSD"** means LAWA's Procurement Services Division.
- (m) **"Public Lease"** means a lease of LAWA property.
- (n) **"Public Lessee"** means a Contractor that leases LAWA property under a Public Lease.

- (o) **"Public Sublessee"** means a Subcontractor that subleases LAWA property from a Public Lessee.
- (p) **"PSD"** means LAWA's Procurement Services Division.
- (q) **"Subcontractor"** means any person not an employee who enters into a contract with a Contractor to assist the Contractor in performing a Contract, including a Contractor or subcontractor of a Public Lessee or Public Sublessee, to perform or assist in performing services on the leased premises.
- (r) **"Prospective Lessee"** means any person, firm, corporation, partnership, association or any combination thereof that currently does not have a Public Lease.
- (s) **"Prospective Sublessee"** means any person, firm, corporation, partnership, association or any combination thereof that currently does not sublease LAWA property from a Public Lessee.
- (t) **"Requesting LAWA Division"** means the LAWA division(s) which issued the RFB, RFP or RFQ.
- (u) **"Responsibility"** means possessing the necessary "trustworthiness" and "quality, fitness and capacity" to perform the work set forth in the contract.

B. SUBMISSION OF CRP QUESTIONNAIRES

- 1. Prospective Lessees** are required to submit a completed and signed CRP Questionnaire for determination of responsibility prior to award of a Public Lease.
- 2. Public Lessees, Prospective Sublessees and Public Sublessees** are not required to submit a completed and signed CRP Questionnaire.

C. LAWA REVIEW OF SUBMITTED CRP QUESTIONNAIRES (APPLICABLE TO PROSPECTIVE LESSEES ONLY)

1. Posting of CRP Questionnaires and Sublessee Lists:

The Requesting LAWA Division will forward to PSD the completed CRP Questionnaires and sublessee list(s), if any, submitted by the Prospective Lessees to make available for public review and comment for a minimum of fourteen (14) calendar days prior to the award of the Public Lease.

2. Departmental Review of CRP Questionnaires

- a. PSD will determine Contractor Responsibility from the completeness and accuracy of the information in the submitted CRP Questionnaire; information from various

compliance and regulatory agencies; accuracy and completeness of the information received from the public; and through PSD's own reviews and investigations.

- b. PSD may submit written requests to the Prospective Lessee for clarification or additional documentation. Failure to respond to these requests within the specified time may render the Prospective Lessee non-responsible and disqualified.
- c. PSD will report its findings and determination to the Requesting LAWA Division.
- d. No award of a Public Lease will be made by LAWA until after the CRP Questionnaire review and Contractor Responsibility determination has been made.
- e. The CRP Questionnaire of the Prospective Lessee that is awarded a Public Lease will be retained by PSD. The CRP Questionnaires of the Prospective Lessees that are not awarded a Public Lease will also be retained by PSD.

3. Claims Resulting from Public Review and Comments

Prospective Lessees:

- a. Claims regarding a Prospective Lessee's responsibility must be submitted to PSD in writing. However, PSD may investigate a claim regarding a Prospective Lessee's responsibility, whether or not it is submitted in writing.
- b. If PSD receives information which calls into question a Prospective Lessee's responsibility, and the information was received **before** LAWA awards a Public Lease to the Prospective Lessee, PSD shall:
 - (1) Notify the Requesting LAWA Division in writing that LAWA will not award a Public Lease, until PSD has completed investigation into the matter.
 - (2) Investigate the complaint, collect necessary documentation, and determine the complaint's validity.
 - (3) Upon completion of the investigation, notify the Requesting LAWA Division in writing of the results of the investigation.
 - (4) Findings from the PSD investigation received by the Requesting LAWA Division will be considered by the Awarding Authority as part of the determination of the Prospective Lessee's responsibility.

Public Lessee:

- a. Claims regarding a Public Lessee's responsibility must be submitted to PSD in writing. However, PSD may investigate a claim regarding a Public Lessee's responsibility, whether or not it is submitted in writing.

- b. If PSD receives written information that calls into question a Public Lessee's responsibility, PSD shall investigate the matter as required in Section G, LAWA Investigation.

D. AWARD AND EXECUTION OF PUBLIC LEASES

1. Determination of Responsibility and Award of Public Lease

- a. PSD shall determine whether a Prospective Lessee is a responsible lessee with the necessary trustworthiness, quality, fitness and capacity to comply with the terms of the Public Lease by considering the following:
 - (1) Completeness and accuracy of the information contained in the CRP Questionnaire;
 - (2) Completeness and accuracy of the information received from the public;
 - (3) Information and documentation from PSD's own investigation; and
 - (4) Information that may be available from any compliance or regulatory governmental agency.
- b. The Awarding Authority may award and execute a Public Lease to a Prospective Lessee only if:
 - (1) The Prospective Lessee's CRP Questionnaire, and sublessee's list(s), if any, has been made available for public review for at least fourteen (14) calendar days unless otherwise exempted from the posting requirement by the CRP;
 - (2) The Prospective Lessee is not being investigated pursuant to the CRP;
 - (3) The Prospective Lessee has not been found to be a non-responsible lessee pursuant to the CRP;
 - (4) The Prospective Lessee does not appear on any City list of debarred bidders or contractors; and
 - (5) The Prospective Lessee has met all other applicable City requirements.

2. Submission of Pledge of Compliance

Prospective Lessees/Prospective Sublessees:

- a. Unless otherwise exempt from the CRP, all Prospective Lessees and Prospective Sublessees are required to submit a CRP Pledge of Compliance signed under penalty of perjury. Failure to submit a CRP Pledge of Compliance as required may render the Prospective Lessees or Prospective Sublessees, as applicable, non-compliant with the terms of the Public Lease or a consent to sublease, as applicable, and subject to sanctions.

Public Sublessees:

- b. Prior to LAWA's execution of a consent to sublease with a Prospective Sublessee, the Public Lessee shall submit to LAWA a signed CRP Pledge of Compliance from each Public Sublessee listed as occupying space on the leasehold premises.

3. Public Sublessee Responsibility

- a. Public Lessees shall ensure that their sublessees meet the criteria for responsibility set forth in the CRP and these Rules and Regulations.
- b. Public Lessees shall ensure that sublessees occupying space on the LAWA leasehold premises shall complete and submit a signed CRP Pledge of Compliance.
- c. Public Lessees shall not sublease to any sublessee that has been determined or found to be a non-responsible contractor by LAWA or the City.
- d. Subject to approval by the Awarding Authority, Public Lessees may substitute a non-responsible sublessee with another sublessee.

4. Execution of Public Leases/Consent to Subleases

Prospective Lessees:

- a. Unless exempt from the CRP, all Public Leases subject to the CRP shall contain language obligating the Public Lessee to comply with the CRP.
- b. No Public Lease may be awarded unless:
 - (1) The Prospective Lessee's CRP Questionnaire, unless otherwise exempt, has been made available for public review for at least fourteen (14) calendar days
 - (2) The Prospective Lessee has submitted a signed CRP Pledge of Compliance.
 - (3) The Prospective Lessee's sublessee list, if any, has been made available for public review for at least fourteen (14) calendar days.
 - (4) The Prospective Lessee is determined by LAWA to be a Responsible Contractor.

Prospective Sublessee:

- a. Unless exempt from the CRP, all subleases subject to the CRP shall contain language obligating the Public Sublessee to comply with the CRP.
- b. No consent to sublease will be executed by LAWA unless the Public Lessee has submitted a signed CRP Pledge of Compliance by the Prospective Sublessee.

E. LEASE AMENDMENTS

Compliance with the CRP is required in any amendment to a Public Lease if the initial lease was not subject to the CRP, but the total term and amount of the lease, inclusive of all amendments, would make the lease subject to the CRP.

- a. A Public Lessee subject to the CRP because of an amendment to the Public Lease shall submit a CRP Pledge of Compliance to LAWA before the amendment can be executed by LAWA.
- b. Unless exempt from the CRP, all Public Lease amendments shall contain contract language obligating the Public Lessee to comply with the CRP.

F. NOTIFICATION OF INVESTIGATIONS AND UPDATE OF INFORMATION

1. Notification of Investigations

Public Lessees shall:

- a. Notify LAWA within 30 calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the Public Lessees is not in compliance with any applicable Federal, State, or local law that apply to the Public Lease or City lease agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.
- b. Notify LAWA within 30 calendar days of receiving notice of any findings by a government agency or court of competent jurisdiction that the Public Lessee violated any applicable Federal, State, or local law that apply to the Public Lease or City lease agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.

2. Public Sublessee Notification of Investigations

Public Lessees shall ensure that Public Sublessees occupying the LAWA leasehold premises abide by these same updating requirements, including the requirement to:

- a. Notify LAWA within 30 calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the Public Sublessee did not comply with any applicable Federal, State, or local law that apply to the Public Lease or City lease agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.

- b. Notify LAWA within 30 calendar days of all findings by a government agency or court of competent jurisdiction that the Public Sublessee violated any applicable Federal, State, or local law that apply to the Public Lease or City lease agreement, including but not limited to laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.

3. Update of CRP Questionnaire Information – applies to Public Lessees only.

- a. Updates of information contained in the Public Lessee's responses to the CRP Questionnaire shall be submitted to LAWA within thirty (30) days of any changes to the responses if the change would affect the Public Lessee's fitness and ability to comply with the terms of the Public Lease.
- b. PSD, or the Requesting LAWA Division, shall determine whether a Public Lessee in a specific situation should have provided updated information.
 - (1) If PSD, or the Requesting LAWA Division, becomes aware of new information concerning a Public Lessee and determines that the Public Lessee should have provided information or updated LAWA of such information, but the Public Lessee has not done so, PSD shall issue a written notice to the Public Lessee requiring the Public Lessee to submit the required information within (ten) 10 calendar days.
 - (2) If PSD or the Requesting LAWA Division becomes aware of new information concerning a Public Sublessee and determines that the Public Sublessee should have provided information or updated LAWA of such information, but the Public Sublessee has not done so, PSD shall issue a written notice to the Public Lessee requiring the Public Sublessee to submit the required information within (ten) 10 calendar days of receipt of the written notice.
- c. The Public Lessee's failure to provide information or updated information when required by LAWA, the CRP or these Rules and Regulations, may be considered a material breach of the Public Lease, and LAWA may initiate a "Non-Responsibility Hearing" pursuant to the procedures set forth in Section I of these Rules and Regulations.

4. Submission of CRP Questionnaire and Updates of CRP Questionnaire Responses Not Applicable to Sublessees: The requirement that Public Lessees submit to LAWA CRP Questionnaires and updates to the CRP Questionnaire responses does not apply to Public Sublessees.

G. LAWA INVESTIGATION

- 1. Reporting of Alleged Violations:** Allegations of violations of the CRP or these Rules and Regulations shall be reported to PSD. Complaints regarding a Prospective

Lessee's or Public Lessee's responsibility should be submitted to PSD in writing. However, PSD may investigate any claim or complaint regarding a Prospective Lessee's or Public Lessee's responsibility, whether or not it is submitted in writing. Whether based on a written complaint or otherwise, PSD shall be responsible for investigating such alleged violations.

2. Process:

- a. Upon receipt of a complaint or upon initiation of an investigation, PSD shall notify the Requesting LAWA Division, the Awarding Authority, and the Prospective Lessee or Public Lessee, as applicable, in writing that an investigation has been initiated.
- b. The Prospective Lessee or Public Lessee, as applicable, shall cooperate fully with PSD in providing information. If the Prospective Lessee or Public Lessee, as applicable, fails to cooperate with PSD's investigation or fails to timely respond to PSD's requests for information, LAWA may initiate a non-responsibility hearing as set forth in Section I of these Rules and Regulations. A failure to cooperate by a Public Lessee may be deemed a material breach of the Public Lease, and the City may pursue all available remedies.
- c. To the extent permissible, PSD shall maintain the identity of the complainant, if any, confidential.
- d. Upon completion of the investigation, PSD shall prepare a written report of the findings and notify the Requesting LAWA Division, the Awarding Authority, and the Prospective Lessee or Public Lessee, as applicable, of the results.

3. Results of Investigation

Prospective Lessee

- a. When an investigation is completed before a Public Lease is awarded, PSD shall notify the Requesting LAWA Division and the Awarding Authority of the results, and the Requesting LAWA Division and the Awarding Authority will consider the information as part of the determination of a Prospective Lessee's responsibility during the bid/proposal review process.

Public Lessees

- b. When an investigation is completed after the execution of a Public Lease:
 - (1) If violations of the CRP are found, PSD shall notify the Requesting LAWA Division and the Public Lessee of the violation and require the Public Lessee to make corrections or take reasonable measures within 10 calendar days.
 - (2) If the Public Lessee fails to make corrections as required, PSD shall notify the

Requesting LAWA Division and the Awarding Authority and may recommend that the Awarding Authority:

- (i) Terminate the Public Lease.
- (ii) Initiate a hearing to declare the Public Lessee a non-responsible lessee.

H. VIOLATIONS OF THE CRP OR ITS RULES AND REGULATIONS

1. Violations of the CRP or of these Rules and Regulations may be considered a material breach of the Public Lease and may entitle LAWA or the City to terminate the Public Lease.
2. Alleged violations of the CRP or of these Rules and Regulations shall be reported to the PSD which will investigate all such complaints.
3. When a violation of the CRP or of these Rules and Regulations is found, PSD shall notify the Public Lessee and the Awarding Authority of the violation. PSD shall require the Public Lessee to correct the violation within 10 calendar days. Failure to correct violations or take reasonable measures to correct violations within 10 calendar days may result in PSD:
 - a. Recommending that the Awarding Authority declare a material breach of the Public Lease and that the Awarding Authority exercise all contractual and legal remedies available, including but not limited to termination of the Public Lease.
 - b. Recommending that the Awarding Authority declare the Public Lessee a non-responsible lessee by initiating, within 30 calendar days or as soon as practicable, a non-responsibility hearing in accordance with Section I of these Rules and Regulations.

I. NON-RESPONSIBILITY HEARING

1. The process of declaring a Prospective Lessee or a Public Lessee a non-responsible lessee shall be initiated by the Awarding Authority after consultation with the City Attorney's Office.
2. Before a Prospective Lessee or a Public Lessee may be declared non-responsible, the Prospective Lessee or a Public Lessee shall be notified of the proposed determination of non-responsibility and provided with an opportunity for a hearing.
3. The Awarding Authority or the Executive Director's designee shall preside over the non-responsibility hearing and shall provide the Prospective Lessee or Public Lessee with the following:

- a. The Prospective Lessee or Public Lessee shall be provided with written Notice of intent to declare the Prospective Lessee or Public Lessee non-responsible ("Notice") which shall state that the Awarding Authority intends to declare the Prospective Lessee or Public Lessee a non-responsible bidder, proposer or lessee.
- b. The Notice shall provide the Prospective Lessee or Public Lessee with the following information:
 - (1) That the Awarding Authority intends to declare the Prospective Lessee or Public Lessee a non-responsible bidder, proposer or lessee.
 - (2) A summary of the information upon which the Awarding Authority is relying.
 - (3) That the Prospective Lessee or Public Lessee has a right to respond to the information by requesting a hearing to rebut adverse information and to present evidence of its necessary trustworthiness, quality, fitness and capacity to comply with the terms of the Public Lease or proposed Public Lease.
 - (4) That the Prospective Lessee or Public Lessee must exercise the right to a hearing by submitting to the Awarding Authority a **written request** for a hearing **within 10 working days** of the date of the Notice.
 - (5) That failure to submit a written request for hearing within 10 working days of the date of the Notice shall be considered a waiver of the right to a hearing that allows the Awarding Authority to proceed with the determination of non-responsibility.
- c. If the Prospective Lessee or Public Lessee submits a written request for a hearing, the hearing may be held by the Awarding Authority for recommendation to the Board, which shall make the final decision.
- d. The hearing must allow the Prospective Lessee or Public Lessee an opportunity to address the issues contained in the Notice of Intent to declare the Prospective Lessee or a Public Lessee non-responsible.
- e. The Awarding Authority may determine that the Prospective Lessee or Public Lessee:
 - (1) Does not possess the necessary trustworthiness, quality, fitness, or capacity to comply with the terms of the Public Lease or proposed Public Lease, should be declared a non-responsible bidder, proposer or lessee, and recommend to the Board invocation of the remedies set forth in Section J of these Rules and Regulations.
 - (2) Should not be declared a non-responsible bidder, proposer or lessee.
- f. The Board's determination shall be final and constitute exhaustion of administrative remedies.
- g. The Board's final decision shall be in writing and shall be provided to the Prospective Lessee or Public Lessee, the LAWA Requesting Division and to PSD. If the Prospective Lessee or Public Lessee is declared to be non-responsible, a copy of the final decision shall also be provided to the CAO.

J. NON-RESPONSIBILITY SANCTIONS

Sanctions for Airline Tenants:

Airline lessees that do not comply with the CRP requirements or are determined non-responsible by LAWA will be declared to have a material breach of the Public Lease. LAWA may exercise its legal remedies thereunder, which are to include, but are not limited to:

1. Non-issuance of a successor air carrier operating permit, resulting in the payment of higher landing fees as a non-permitted carrier.
2. Termination of the Public Lease, which may result in the loss of exclusive or preferential gate assignments.

Sanctions for Non-Airline Tenants:

1. **Prospective Lessees** that do not comply with CRP requirements and/or are determined non-responsible by LAWA will be disqualified and will not be awarded a Public Lease.
2. **Public Lessees** that do not comply with CRP requirements and/or are determined non-responsible will be declared to have a material breach of the Public Lease. LAWA may exercise its legal remedies thereunder, which are to include, but not limited to the termination of the Public Lease.

Such lessee shall not occupy any leasehold premises in the proposed Public Lease, whether as a master lessee, a sublessee, a partner in a partnership, a participant in a joint venture, a member of a consortium, or in any other capacity.

3. Upon final determination of a Prospective Lessee or Public Lessee as a non-responsible lessee, PSD shall provide the LAWA Requesting Division and the Prospective Lessee or Public Lessee, as applicable, with a written notice summarizing the findings and applicable sanctions.
4. PSD shall maintain a listing of Prospective Lessees/Public Lessees who have been found non-responsible by LAWA pursuant to the CRP.

K. EXEMPTIONS

1. **Categorical Exemption:** The following types of Public Leases are categorically exempt from the CRP and these Rules and Regulations:

Public Leases with a governmental entity such as the United States of America, the State of California, a county, city or public agency of such entities, or a public or quasi-public corporation located therein and declared by law to have such public status.

2. **Board approval required for CRP Exemptions:** The following types of Public Leases are exempt from the requirement to submit a Questionnaire but remain subject to the

requirement that the Public Lessee submit a Pledge of Compliance and notify the Awarding Authority within 30 days of any information regarding investigations of the results of investigations by any governmental agency into the Public Lessee's compliance with applicable laws.

- a. Public Leases awarded on the basis of exigent circumstances when the Board finds that LAWA would suffer a financial loss or that LAWA operations would be adversely impacted.
 - (1) The Awarding Authority shall submit a request to PSD for waiver along with written certification that the required conditions exist.
 - (2) No contract may be exempted under this provision unless PSD has granted written approval of the waiver.
- b. Public Leases entered into based on Charter Section 371(e)(6). The Awarding Authority must certify in writing that the Public Lease is entered into in accordance with Charter Section 371(e)(6).

L. EFFECTIVE DATE OF RULES AND REGULATIONS

- 1. These Rules and Regulations apply to RFBs and RFPs issued after the Executive Director has approved these Rules and Regulations.
- 2. These Rules and Regulations apply to Public Leases entered into by LAWA after the Executive Director has approved these Rules and Regulations.
- 3. Public Leases amended after these Rules and Regulations are approved by the Executive Director will become subject to CRP and these Rules and Regulations if they meet definitions contained in the CRP and these Rules and Regulations.

M. CONSISTENCY WITH FEDERAL AND STATE LAW

The CRP and these Rules and Regulations do not apply in instances where application would be prohibited by Federal and State law or where the application would violate or be inconsistent with the terms and conditions of a grant or contract with the Federal or State agency.

N. SEVERABILITY

If any provision of the CRP or these Rules and Regulations are declared legally invalid by any court of competent jurisdiction, the remaining provisions remain in full force and effect.

EXHIBIT M

ALTERNATIVE FUEL VEHICLE REQUIREMENT PROGRAM (LAX ONLY)

I. Definitions.

The following capitalized terms shall have the following meanings. All definitions include both the singular and plural form.

"Airport Contract" shall mean a contract awarded by LAWA and pertaining to LAX, and subcontracts of any level under such a contract.

"Airport Contractor" shall mean (i) any entity awarded an Airport Contract, and subcontractors of any level working under an Airport Contract; (ii) any contractors that have entered into a contract with an Airport Lessee to perform work on property owned by LAWA and pertaining to LAX, and any subcontractors working in furtherance of such a contract; and (iii) any contractor that have entered into a contract with an Airport Licensee to perform work pertaining to LAX, and any subcontractors working under such a contract.

"Airport Lessee" shall mean any entity that leases or subleases any property owned by LAWA and pertaining to LAX.

"Airport Licensee" shall mean any entity issued a license or permit by LAWA for operations that pertain to LAX.

"Alternative-Fuel Vehicle" shall mean a vehicle that is not powered by petroleum-derived gasoline or diesel fuel. Alternative-Fuel Vehicles include, but are not limited to, vehicles powered by compressed or liquefied natural gas, liquefied petroleum gas, methanol, ethanol, electricity, fuel cells, or other advanced technologies. Vehicles that are powered with a fuel that includes petroleum-derived gasoline or diesel are Alternative-Fuel Vehicles only if the petroleum-derived energy content of the fuel is no more than twenty percent (20%) of the total energy content of the fuel. Vehicles powered by dual fuel technologies are Alternative-Fuel Vehicles only if no more than twenty-percent (20%) of the fuel used by the engine comes from a petroleum-derived fuel. Vehicles powered by fuels that are derived from sources other than petroleum, but that can be used in conventional spark or combustion-ignition engines, are Alternative-Fuel Vehicles.

EXHIBIT M

"GARB" shall mean the California Air Resources Board.

"Comparable Emissions Vehicle" shall mean a vehicle powered by an engine certified by GARB operating on petroleum-derived gasoline or diesel fuel that has criteria pollutant emissions less than or equal to a comparable alternative fuel engine.

"Covered Vehicles" is defined in Section II below.

"EPA" shall mean the United States Environmental Protection Agency.

"Independent Third Party Monitor" shall mean a person or entity empowered by LAWA to monitor compliance with and/or implementation of particular requirements in this policy.

"LAWA" shall mean Los Angeles World Airports. "LAX" shall mean Los Angeles International Airport.

"Least-Polluting Available Vehicle" shall mean a vehicle that (i) is determined by an Independent Third Party Monitor to be (x) commercially available, (y) suitable for performance of a particular task, and (z) certified by CARB or EPA to meet the applicable engines emission standard in effect at the time of purchase; and (ii) is equipped with a retrofit device that reduces NOx emissions by at least twenty-five percent (25%) and reduces particulate matter by at least eighty-five percent (85%). Where more than one vehicle meets these requirements for a particular task, LAWA, working with the Independent Third Party Monitor, will designate as the Least-Polluting Available Vehicle the vehicle that emits the least amount of criteria air pollutants.

"Operator" shall mean any Airport Contractor, Airport Lessee, or Airport Licensee.

II. Covered Vehicles. The requirements under this Attachment shall apply to all on-road vehicles, including trucks, shuttles, passenger vans, and buses that are 8,500 lbs gross vehicle weight rating or more and are used in operations related to LAX ("Covered Vehicles").

III. Conversion Schedule.

- A By January 31, 2010, fifty percent (50%) of the Covered Vehicles operated by an Operator shall be Alternative-Fuel Vehicles or Comparable Emissions Vehicles.
- B. By January 31, 2015, one hundred percent (100%) of the Covered Vehicles operated by an Operator shall be Alternative-Fuel Vehicles or Comparable Emissions Vehicles.

EXHIBIT M

IV. Least-Polluting Available Vehicles. In cases where an Operator cannot comply with the requirements established pursuant to Section III above because neither Alternative-Fuel Vehicles nor Comparable Emissions Vehicles are commercially available for performance of particular tasks, LAWA will instead require Operators to use Least-Polluting Available Vehicles for such tasks. An Independent Third Party Monitor will determine on an annual basis whether Alternative-Fuel Vehicles or Comparable Emissions Vehicles are commercially available to perform particular tasks, and, in cases where Alternative-Fuel Vehicles are not commercially available for performance of a particular task, will identify the Least-Polluting Available Vehicle for performance of that task.

V. Written Reports. Operator shall complete and submit to LAWA the vehicle information required on the reporting form accessible on-line at <https://online.lawa.org/altfuel/> on a semi-annual basis. The reporting form may be amended from time to time by LAWA.

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EXHIBIT M

EXHIBIT N

LETTER OF ASSENT

[To be signed by all Contractors Undertaking Work on the TENANT NAME Improvement (Tenant Project) and covered by the Los Angeles World Airports Project Labor Agreement.]

(Contractor Letterhead)

c/o Parsons Constructors Inc.
100 West Walnut Street
Pasadena, California 91124
Attn: Jessica Jones

Re: Los Angeles International Airport Project
Labor Agreement – Letter of Assent

Dear Sir:

This is to confirm that (Name of Company) agrees to be a party to and bound by the Los Angeles International Airport Project Labor Agreement (the "Agreement") as entered into by and between Parsons Constructors Inc., its successors or assignees, and the Building and Construction Trades Department, AFL-CIO and other Building and Construction Trades Councils and signatory unions, dated November 19, 1999, as such agreement may, from time to time, be amended by the negotiating parties or interpreted pursuant to its terms.

Such obligation to be a party to and bound by this Agreement shall extend to all construction work undertaken by this Company pursuant to Construction Contract No. ____, issued to this Company for work on the TENANT NAME Improvement (Tenant Project). This Company shall require all its subcontractors, of whatever tier, to be similarly bound for all their construction work within the Scope of the Agreement by signing an identical Letter of Assent.

Sincerely,

(Name of Construction Company)

By:

(Name of Title of Authorized Executive)

Cc: City of Los Angeles, Department of Airports

(Copies of this Letter will be available for inspection or copying on request of the Union).

EXHIBIT O

EXHIBIT O

Operation and Maintenance - Estimated Requirements for Argo Drain Stormwater Project

Project Elements	Recommended Maintenance	Annual Frequency		Estimated Annual Cost
		Dry Season	Wet Season	
Diversion at Argo Ditch	Inspect diversion structure for obstructions	2	7	\$ 74,696
Diversion Structure at County Drain	Inspect diversion structure for obstructions	2	7	\$ 65,046
Pipes	CCTV of all piping infrastructure and clear any obstructions	1	7	\$ 37,700
Pumps	Inspect and provide routine maintenance for pumps per manufacture; inspect inlet structure for obstructions	2	7	\$ 33,137
Clarifier	Inspect and remove excess accumulated debris	2	7	\$ 149,239
Infiltration Gallery (Tank)	Inspect and remove excess accumulated debris	2	7	\$ 49,892
Infiltration Gallery (Wells)	Inspect and clean as necessary	2	7	\$ 22,689
Methane mitigation System	Inspect and repair/replace parts as needed	2	7	\$ 7,223
Landscaping/Irrigation	Maintain, de-weed, remove trash, replace mulch, repair irrigation	26	26	\$ 36,670
Utility Costs (including methane mitigation system)				\$ 30,000
Replacement Costs				\$ 5,000
				\$ 511,291

Notes:

1. Staff Indirect Costs based on CAP 39, Fiscal Yr 2016-17

2. Equipment costs based on Caltrans Labor Surcharge and Equipment Rental Rates Effective April 1, 2017 through March 31, 2018

EXHIBIT P

Exhibit P

LAX NCOS (Imperial Drainage Basin Project)

Estimated One time Sewer Facility Charge (SFC) and Annual recurring Sewer Service Charge (SSC), Inspection and Control (IC) and Significant Industrial User Fees (SIU)

One time SFC				592,170
SSC	per quarter	69,392		
	per year	x 4	277,567	
Inspection and Control Fees as of July 1 2017				\$1,749
SIU fee as of July 1 2017				\$3,607
Total recurring Annual Charges and fees				<u>\$ 282,923</u>

Note 1: Until actual flow data during dry and wet weather conditions is available, estimated average daily flow rate based on annual flow rate of 60 MGY within a calendar year

Note 2: SSC and IC, SIU Fees increase annually per LAMC Sec 64.00

Note 3: SFC charge per LAMC Sec 64.11.3 (\$344.00 per 100 gallons per day average flow, \$159.00 per pound per day of BOD and \$147.00 per pound per day of SS from the premises)



Los Angeles
World Airports

BPW-2017-1053

RESOLUTION NO. 26359

LAX

Van Nuy

City of Los Angeles

Eric Garcetti
Mayor

Board of Airport
Commissioners

Sean O. Burton
President

Valeria C. Velasco
Vice President

Jeffery J. Daar
Gabriel L. Eshaghian
Beatrice C. Hsu
Thomas S. Sayles
Dr. Cynthia A. Telles

Deborah Flint
Chief Executive Officer

BE IT RESOLVED that the Board of Airport Commissioners approved a fifty (50)-Year Lease with the City of Los Angeles Department of Public Works, Bureau of Sanitation, for the Argo Drain Sub-Basin Storm Water Facility at Los Angeles International Airport, as referenced in the Board-adopted staff report attached hereto and made part hereof; and

BE IT FURTHER RESOLVED that the Board of Airport Commissioners authorized the Chief Executive Officer to execute said Lease upon approval as to form by the City Attorney and upon approval by the Los Angeles City Council; and

BE IT FURTHER RESOLVED that the LAX Northside Plan Update EIR was certified by the Board on March 12, 2015 (Resolution 25654). An addendum to the LAX Northside Plan Update EIR was approved for the Argo Drain Sub-Basin Storm Water Facility by the Board on March 17, 2016. There have been no changes to the underlying project described in the March 2016 Addendum to the certified EIR prepared for the LAX Northside Plan Update, or to the circumstances under which the project is undertaken, that would require any revisions to the Addendum or the EIR. Therefore, further review or documentation under CEQA pursuant to the Public Resources Code Section §21166 and CEQA Guidelines §15162 is not required; and

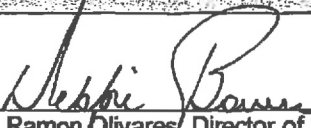
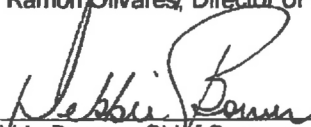
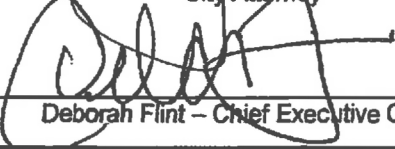
BE IT FURTHER RESOLVED that actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 607.

o0o

I hereby certify that this Resolution No. 26359 is true and correct, as adopted by the Board of Airport Commissioners at its Regular Meeting held on Thursday, October 5, 2017.

Sandra J. Miller – Secretary
BOARD OF AIRPORT COMMISSIONERS



 Los Angeles World Airport REPORT TO THE BOARD OF AIRPORT COMMISSIONERS		Rep Number 11																				
 Approved by: Ramon Olivares, Director of Property Services  Reviewed by: Debbie Bowers, Chief Commercial Officer  City Attorney  Deborah Flint - Chief Executive Officer		Meeting Date: 10/5/2017 CAO Review: ☐ Completed ☒ Pending ☐ N/A <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Reviewed for</th> <th>Date</th> <th>Approval Status</th> <th>By</th> </tr> </thead> <tbody> <tr> <td>Finance</td> <td>8/31/2017</td> <td>☒ Y ☐ N ☐ NA</td> <td>RW</td> </tr> <tr> <td>CEQA</td> <td>8/31/2017</td> <td>☒ Y ☐ N</td> <td>AE</td> </tr> <tr> <td>Procurement</td> <td>9/1/2017</td> <td>☒ Y ☐ N ☐ Cond</td> <td>MT</td> </tr> <tr> <td>Guest Experience</td> <td>9/7/2017</td> <td>☒ Y ☐ N</td> <td>BY</td> </tr> </tbody> </table>	Reviewed for	Date	Approval Status	By	Finance	8/31/2017	☒ Y ☐ N ☐ NA	RW	CEQA	8/31/2017	☒ Y ☐ N	AE	Procurement	9/1/2017	☒ Y ☐ N ☐ Cond	MT	Guest Experience	9/7/2017	☒ Y ☐ N	BY
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Procurement	9/1/2017	☒ Y ☐ N ☐ Cond	MT																			
Guest Experience	9/7/2017	☒ Y ☐ N	BY																			

SUBJECT: Approval of a 50-Year Lease with the City of Los Angeles Department of Public Works, Bureau of Sanitation, for the Argo Drain Sub-Basin Storm Water Facility at Los Angeles International Airport generating approximately \$527,181 in annual rental revenue.

Approve the Lease with the City of Los Angeles Department of Public Works, Bureau of Sanitation, for approximately 5-acres of land for the Argo Drain Sub-Basin Storm Water Facility, at Los Angeles International Airport which will generate approximately \$527,181 in annual rental revenue, but which will be reduced or offset by rent credits for certain LAWA costs.

RECOMMENDATIONS:

Management RECOMMENDS that the Board of Airport Commissioners:

1. ADOPT the Staff Report.
2. DETERMINE that there have been no changes to the underlying project described in the March 2016 Addendum to the certified environmental impact report (EIR) prepared for the LAX Northside Plan Update, or to the circumstances under which the project is undertaken, that would require any revisions to the Addendum or the EIR and, as such, the recommended BOAC action is not subject to further review or documentation under CEQA pursuant to the Public Resources Code Section §21166 and CEQA Guidelines §15162.
3. APPROVE the Lease with City of Los Angeles, Department of Public Works, Bureau of Sanitation, as referenced in this report.

4. AUTHORIZE the Chief Executive Officer to execute the Lease with the Department of Public Works, Bureau of Sanitation, upon approval as to form by the City Attorney and approval by the Los Angeles City Council.

DISCUSSION:

1. Purpose

To provide for the construction, operation and maintenance of a drainage basin solution to storm water issues at Los Angeles International Airport (LAX) with an infiltration treatment facility known as the Argo Drain Sub-Basin Storm Water Facility.

2. Prior Related Actions

- November 6, 2014 - Board Resolution 25560 (DA-4959)
The Board of Airport Commissioners (Board) approved a Memorandum of Understanding (MOU) with the City of Los Angeles Department of Public Works, Bureau of Sanitation (BOS), to pursue drainage basin solutions to storm water issues at LAX.
- March 12, 2015 – Board Resolution 25654
The Board of Airport Commissioners certified The LAX Northside Plan Update Environmental Impact Report (EIR).
- March 17, 2016 – Board Resolution 25922
The Board approved an addendum to the LAX Northside Plan Update EIR for the Argo Drain Sub-Basin Storm Water Facility.

3. Current Action

Background

On November 2, 2004, voters in the City of Los Angeles approved Proposition O, which authorized the issuance of a series of general obligation bonds for up to \$500 million for projects to comply with the federal Clean Water Act and to protect public health by cleaning up pollution, including bacteria and trash, in the City's watersheds. Since that time, Proposition O has funded many improvement projects in the City of Los Angeles.

On April 1, 2014 the California State Water Resources Control Board (SWRCB) modified the California Industrial General Permit (IGP) by adopting significantly more stringent and restrictive regulations for the permitting, monitoring, and reporting process for stormwater-related discharges from industrial facilities, which apply to LAX. The IGP applies to industrial activities at LAX such as fueling and maintenance of aircraft and vehicles that presently occur and will continue to occur into the foreseeable future. The new IGP became effective on July 1, 2015, and requires Los Angeles World Airports (LAWA) to construct Advanced Best Management Practices (BMPs) such as structural BMPs to address specific pollutants that exceed certain established levels.

Over the past few years, LAWA has been developing a comprehensive stormwater management strategy for LAX to address discharges to both Santa Monica Bay (Argo and Imperial Drains) and the Dominguez Channel watershed. The proposed Argo Drain Sub-

Basin Storm Water Facility (Facility) is a regional BMP that is a key element to this comprehensive strategy, as it allows for centralized BMP implementation (and operations and maintenance) outside the immediate runway area. The Facility will provide LAWA with stormwater quality treatment and will mitigate runoff contributions for approximately 1100 acres of LAX airport property. The Facility will assist with LAWA's compliance with Municipal Separate Storm Sewer (MS4) Permit requirements that include Total Maximum Daily Loads (TMDLs), which are implemented through Enhanced Watershed Management Program (EWMP) requirements. The Facility provides LAWA with compliance under the Low Impact Development stormwater ordinance for new and planned development. Approximately 490 acres of new development that are anticipated to require LID mitigation would be addressed by the proposed Facility. Additionally, the Facility is anticipated to assist with compliance with the IGP for LAX, which is enforced by the Regional Water Quality Control Board.

Memorandum of Understanding

The MOU, approved by the Board and by BOS, established the framework for LAWA and BOS to comply with the new IGP. Specifically, the MOU provides that BOS will construct and operate Facility that will capture the Argo Drain sub-basin flows, transport the flows by gravity to a detention/retention basin, and then pump the flows into underground infiltration galleries to recharge the groundwater. This Facility would be constructed on LAWA property primarily north of Westchester Parkway between Falmouth Avenue and Pershing, and will include some areas south of Westchester Parkway. In addition to construction of the Facility by BOS, LAWA will construct an Imperial/Pershing sub-basin connection to the Hyperion Treatment Plant to comply with the state's Standard Urban Stormwater Mitigation Program requirements.

The MOU contemplated that LAWA and BOS would negotiate the terms and conditions of a long-term lease providing for the development of the Facility. The proposed lease substantially complies with the terms of the MOU. The table below summarizes key Lease terms:

Proposed Lease Summary	
Term:	50 years
Effective Date:	Upon Date of Execution by LAWA
Expiration Date:	50-Years from Date of Execution
Termination:	24-month advance notice by LAWA
Premises:	
Land	210, 470 square feet (approx. 4.83 acres)
Pipeline	7,330 square feet (approx. 0.17 acres)
Rental Rates:	
Blended Rate (Off & On Airport Industrial)	\$2.44 per square foot per year
Pipeline	\$1.86 per square foot per year *
Total Annual Revenue, Year 1:	\$527,181*

*Does not include annual increases nor five-year periodic increases to market value.

Other key Lease terms include the following:

- **Sewer Facilities Charge** – LAWA to pay BOS a one-time Sewer Facilities Charge associated with LAWA's sewer connection to the Hyperion Treatment Plant.
- **Required Improvements** – BOS to be fully responsible for construction, maintenance, and operation of the Facility; LAWA has no responsibility for these items.
- **Construction Payment** – LAWA to pay up to \$6,760,470 into the BOS Capital Improvement Expenditure Program for its share of Facility construction costs, in addition to the \$2,739,530 already paid by LAWA for its proportional share of design costs, approved under the MOU.
- **Project Labor Agreement** – BOS will require its general contractor(s) to sign a Letter of Assent, agreeing to be subject to the terms of the Department of Public Works' Project Labor Agreement, as applicable.

- **Project Management Costs** – LAWA will incur approximately \$600,000 in Project and Labor Agreement Management and Administration expenses associated with the Project.
- **Payments and Credits** – Under terms of the Lease, (i) BOS will pay ground rent, (ii) BOS and LAWA will share Facility operation and maintenance costs, and (iii) LAWA will pay an annual Sewer Service Charge for the Hyperion Treatment Plant connection. Amounts for these items will be offsetting, with a reconciliation completed by LAWA and BOS each year.

Action Requested

Staff requests the Board approve the 50-year Lease with the City of Los Angeles Department of Public Works, Bureau of Sanitation, and authorize the Chief Executive Officer to execute the Lease after approval as to form by the City Attorney and approval by the Los Angeles City Council.

Fiscal Impact

Approval of this item will result in rental revenue of approximately \$527,181 for the first lease year, subject to rent off-sets for LAWA fees associated with the Project. LAWA will contribute a Not-to-Exceed amount of \$6,760,470 to the Bureau of Sanitation for construction and development costs and also incur approximately \$600,000 in Project Management Costs. The Board previously approved payment of \$2,739,530 for design costs bringing LAWA's total Capital Costs for this project to \$10,100,000.

4. Alternatives Considered

- ***Take No Action***

Taking no action is not recommended. The proposed lease assists LAWA with compliance with federal, state, and local regulatory requirements associated with the Clean Water Act and meets LAWA's obligation under the Memorandum of Understanding with the City of Los Angeles Department of Public Works, Bureau of Sanitation.

APPROPRIATIONS:

Staff requests that funds be appropriated and allocated from the LAX Revenue Fund in the not-to-exceed amount of \$7,360,470 (\$6,760,470 plus \$600,000) to WBS Element 1.15.10-700 (Argo Drain Sub-Basin Facility) as may be required to fund LAWA's portion of construction costs and LAWA Project Management expenses associated with the development of the Argo Drain Sub-Basin Storm Water Facility Project.

STANDARD PROVISIONS:

1. The LAX Northside Plan Update Environmental Impact Report (EIR) was certified by the Board of Airport Commissioners on March 12, 2015 (Resolution No. 25654). An addendum to the LAX Northside Plan Update EIR was approved for the Argo Drain Sub-Basin Storm Water Facility by the Board of Airport Commissioners on March 17, 2016. There have been no changes to the underlying project described in the March 2016 Addendum to the certified environmental impact report (EIR) prepared for the LAX Northside Plan Update, or to the

circumstances under which the project is undertaken, that would require any revisions to the Addendum or the EIR. Therefore, further review or documentation under CEQA pursuant to the Public Resources Code Section §21166 and CEQA Guidelines §15162 is not required.

2. This agreement will be approved as to form by the City Attorney.
3. Actions taken on this item by the Board of Airport Commissioners will become final pursuant to the provisions of Los Angeles City Charter Section 607.
4. This action is statutorily exempt from the provisions of the Living Wage/Service Contractor Worker Retention Ordinances.
5. This action is not subject to the provisions of the SBE/LBE/LSBE/DVBE Program.
6. This action is not subject to the provisions of the Affirmative Action Program.
7. This action does not require a Business Tax Registration Certificate number.
8. This action is not subject to the provisions of the Child Support Obligations Ordinance.
9. As a governmental agency, the City of Los Angeles Department of Public Works, Bureau of Sanitation is self-insured.
10. This action is not subject to the provisions of Charter Section 1022 (Use of Independent Contractors).
11. This action is not subject to the provisions of the Contractor Responsibility Program.
12. This action is not subject to the provisions of the Equal Benefits Ordinance.
13. This action is not subject to the provisions of the First Source Hiring Program.
14. This action is not subject to the provisions of Bidder Contributions CEC Form 55.

